



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2024-0188; FRL-12928-01-R1]

### **Air Plan Approval; Rhode Island; Decommissioning of Stage II Vapor Recovery Systems**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision removes requirements for Stage II vapor recovery equipment at gasoline dispensing facilities (GDFs). This revision also includes minor updates to Stage I vapor recovery regulatory amendments. The intended effect of this action is to propose approval of Rhode Island's revised vapor recovery regulations. This action is being taken under the Clean Air Act.

**DATES:** Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2024-0188 at <https://www.regulations.gov>, or via email to [martinelli.ayla@epa.gov](mailto:martinelli.ayla@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please

contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection.

**FOR FURTHER INFORMATION CONTACT:** Ayla Martinelli, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square – Suite 100, (Mail code 5-MI), Boston, MA 02109 – 3912, tel. (617) 918- 1057, email: [martinelli.ayla@epa.gov](mailto:martinelli.ayla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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**I. Background and Purpose**

*A. Stage II Vapor Recovery*

Rhode Island adopted its Stage II Vapor Recovery Program in 1992 in order to satisfy the requirements of sections 182(b)(3) and 184(b)(2) of the CAA. The Rhode Island Stage II vapor recovery program requirements were codified in Rhode Island Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and EPA approved the program into the Rhode Island SIP on December 17, 1993 (58 FR 65930). Rhode Island's rule required gasoline dispensing facilities (GDFs) throughout the state to install Stage II vapor recovery systems.

Stage II vapor recovery and onboard refueling vapor recovery (ORVR) systems are two types of emission control systems that capture fuel vapors from vehicle gas tanks during refueling. Stage II vapor recovery systems are installed at GDFs and capture the refueling fuel vapors at the gasoline pump. The system carries the vapors back to the underground storage tank at the GDF to prevent the vapors from escaping to the atmosphere. ORVR systems are carbon canisters installed directly on automobiles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle. The fuel vapors captured in the carbon canisters are then combusted in the engine when the automobile is in operation.

Stage II vapor recovery systems and vehicle ORVR systems were initially both required by the 1990 Amendments to the Clean Air Act (CAA). Section 182(b)(3) of the CAA requires Moderate and above ozone nonattainment areas to implement Stage II vapor recovery programs. Also, under CAA section 184(b)(2), states located in the Ozone Transport Region (OTR) are required to implement Stage II or comparable measures. CAA section 202(a)(6) required EPA to promulgate regulations for ORVR for light-duty vehicles (passenger cars). EPA adopted these requirements in 1994, at which point Moderate ozone nonattainment areas were no longer subject to the CAA section 182(b)(3) Stage II vapor recovery requirements; however, areas classified as Serious nonattainment and above for ozone, continued to be subject to the CAA section 182(b)(3) Stage II vapor recover requirements. ORVR equipment has been phased in for new passenger vehicles beginning with model year 1998 and starting with model year 2001 for light-duty trucks and most heavy-duty gasoline powered vehicles. ORVR equipment has been installed on nearly all new gasoline powered light-duty vehicles, light-duty trucks, and heavy-duty vehicles since 2006.

During the phase-in of ORVR controls, Stage II provided volatile organic compound (VOC) reductions in ozone nonattainment areas and in the OTR. Congress recognized that ORVR systems would eventually make Stage II vapor recovery systems largely redundant technologies, and provided authority to EPA to allow states to remove Stage II vapor recovery programs from

their SIPs after EPA finds that ORVR is in “widespread use.” In a final rule, published by EPA May 16, 2012 (77 FR 28772), EPA determined that ORVR systems are in widespread use nationwide for control of gasoline emissions during refueling of vehicles at GDFs. In this rulemaking, EPA indicated that more than 75 percent of gasoline refueling nationwide occurs with ORVR-equipped vehicles. Thus, Stage II vapor recovery programs have become redundant control systems and achieve an ever-declining emissions benefit as more ORVR-equipped vehicles continue to enter the on-road motor vehicle fleet.<sup>1</sup> In that rulemaking, EPA also exercised its authority under CAA section 202(a)(6) to waive certain federal statutory requirements for Stage II vapor recovery systems at GDFs. EPA’s May 16, 2012, rulemaking waived the requirements for states to implement Stage II vapor recovery programs in ozone nonattainment areas classified as Serious or above. Finally, EPA’s May 16, 2012, rulemaking also noted that any state currently implementing Stage II vapor recovery programs may submit SIP revisions that would allow for the phase-out of Stage II vapor recovery systems. On August 7, 2012, EPA also issued guidance to states on the process for phasing out Stage II vapor recovery systems, titled “Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures,”<sup>2</sup> hereafter referred to as EPA’s 2012 Guidance Document.

On June 9, 2015 (80 FR 32469) EPA approved a State Implementation Plan (SIP) submitted by the Rhode Island Department of Environmental Management, which allowed GDFs to decommission their Stage II vapor recovery systems starting on December 25, 2013, and required Stage II vapor recovery systems to be fully decommissioned by December 22, 2017. Most recently, non-substantive changes were made in 2020 to Rhode Island’s Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, to address Rhode Island’s

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<sup>1</sup> In areas where certain types of vacuum-assist Stage II vapor recovery systems are used, the differences in operational design characteristics between ORVR and some configurations of these Stage II vapor recovery systems result in the reduction of overall control system efficiency compared to what could have been achieved relative to the individual control efficiencies of either ORVR or stage II emissions from the vehicle fuel tank.

<sup>2</sup> A copy of this guidance can be found in the docket of this proposed rulemaking.

RACT requirements, which EPA approved into the Rhode Island SIP on September 3, 2020 (85 FR 54924).

On February 24, 2025, the Rhode Island Department of Environmental Management submitted a revision to its SIP. The SIP revision updates Rhode Island's Air Pollution Control Regulation No. 11 to completely remove reference to Stage II vapor recovery systems at GDFs and to strengthen Stage I vapor recovery requirements.

### *B. Stage I Vapor Recovery*

Stage I vapor recovery employs systems that capture vapors displaced from storage tanks at GDFs during gasoline tank truck deliveries. When gasoline is delivered into an above ground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the delivery truck's tank. Some vapors are vented when the storage tank exceeds a specified pressure threshold, however the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

Stage I vapor recovery systems have been in place since the 1970s. EPA has issued guidance regarding Stage I systems, "Design Criteria for Stage I Vapor Control Systems— Gasoline Service Stations,"<sup>3</sup> which is regarded as the control techniques guideline (CTG) for the control of VOC emissions from this source category; and the EPA document "Model Volatile Organic Compound Rules for Reasonably Available Control Technology" contains a model Stage I regulation.<sup>4</sup>

In more recent years, the California Air Resources Board (CARB) has required Stage I vapor recovery systems capable of achieving vapor control efficiencies higher than those achieved by traditional systems. These systems are commonly referred to as Enhanced Vapor Recovery (EVR) systems.

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<sup>3</sup> A copy of this guidance can be found in the docket of this proposed rulemaking.

<sup>4</sup> A copy of this guidance can be found in the docket of this proposed rulemaking.

On June 9, 2015 (80 FR 32469), EPA approved into Rhode Island's SIP state regulations that required all GDFs to upgrade their Stage I vapor recovery systems to CARB-certified Stage I EVR systems or a Stage I vapor recovery system composed of EVR system components (Stage I EVR component systems) by December 25, 2020.

## **II. Summary of Rhode Island's SIP Revision**

On February 24, 2025, Rhode Island submitted a SIP revision consisting of its revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*. This SIP revision removes the entire section of 11.14 currently in the SIP, regarding Stage II vapor controls of GDFs. The revision also contains updates to the following sections currently in the SIP, regarding Stage I vapor controls: 11.4 ("Incorporated Materials"), 11.5 ("Definitions"), 11.7 ("Bulk Gasoline Terminal"), and 11.9 ("Gasoline Dispensing Facility Stage I Vapor Controls and General Requirements").

In particular, the SIP revision incorporates CARB's Vapor Recovery Phase I EVR Executive Orders by reference in the "Incorporated Materials" section (renumbered in the February 24, 2025, SIP submittal as section 11.2). To reflect this change, the revision adds two definitions for the following terms to the "Definitions" section (renumbered in the February 24, 2025, SIP submittal as section 11.3): "California Air Resources Board (CARB) certified enhanced vapor recovery (EVR) Stage I component or CARB-certified EVR Stage 1 component" and "California Air Resources Board (CARB) certified enhanced vapor recovery (EVR) stage I vapor control system or CARB-certified EVR stage I vapor control system." A definition for "Motor Vehicle Fuel" has been added as well, along with minor edits to existing definitions.

The SIP submittal also revises the language of section 11.9, which underlines the required conditions of a GDF Stage I vapor control system. For example, the revision clarifies that an owner of a gasoline storage or delivery vessel must adhere to two other Rhode Island regulations when making modifications or repairs to their vehicles. Additionally, subsection 11.9.2(F) now

specifies that GDFs must be equipped with a dual-point CARB-certified Stage I EVR system or a CARB-certified EVR Stage I Component System and cannot install a coaxial Stage 1 system, with allowance to repair an already existing one.

Furthermore, the SIP submittal clarifies the “Stage I Operation, Maintenance and Compliance Testing” requirements (renumbered in the February 24, 2025, SIP submittal as subsection 11.7.3) by adding various Stage I vapor control system tests as well as clarifying language in accordance with applicable CARB Executive Orders added to section 11.2 (“Incorporated Materials”) of the regulation. Rhode Island also formulated a new subsection, 11.7.4 to maintain existing recordkeeping and reporting of Stage 1 vapor recovery systems. Lastly, the SIP revision contains other minor changes such as an update to the bulk gas terminals prohibition regulations in subsection 11.7.1 and minor numerical, grammatical, format and reference changes throughout the regulation.

### **III. EPA’s Evaluation of Rhode Island’s SIP Revision**

EPA has reviewed Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and has made the preliminary determination that approval into Rhode Island’s SIP is consistent with the CAA. As an initial matter, EPA previously found that Rhode Island’s phase-out of Stage II vapor recovery systems by 2017 was consistent with EPA's widespread use rule (77 FR 28772) and EPA’s 2012 Guidance Document. At the same time, EPA also concluded that the phase-out was consistent with CAA section 110(l) anti-backsliding requirements for Stage II decommissioning. 80 FR 32469. Accordingly, EPA approved the phase-out into the SIP in 2015. *Id.* Now that Rhode Island has completed the phase-out and GDFs in the State no longer employ Stage II vapor recovery systems, the revision striking section 11.14 from the SIP would simply remove now-obsolete provisions that are no longer applicable to any GDFs in the State. As a result, the revision is an administrative change that will not impact emissions. With respect to Stage I vapor recovery requirements, the revisions, by incorporating the CARB Executive Orders, remove ambiguity about which Stage I vapor control

systems satisfy Rhode Island's requirements. The revisions also provide important clarifications regarding testing procedures required for the Stage I systems. For these reasons, Rhode Island's revised Regulation No. 11 is equally as stringent, or more stringent, than the previously approved version of the rule. Thus, Rhode Island meets the CAA section 110(l) anti-back sliding requirements.

#### **IV. Proposed Action**

EPA is proposing to approve Rhode Island's February 24, 2025, SIP revision to their Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, and incorporate it into the Rhode Island SIP. This SIP revision meets all applicable requirements of the Clean Air Act and EPA 2012 Guidance Document.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

#### **V. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the aforementioned Rhode Island's revised Air Pollution Control Regulation No. 11, *Petroleum Liquids Marketing and Storage*, subsections identified in section II of this proposal. The EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### **VI. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C.

7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: August 4, 2025.

**Mark Sanborn,**  
*Regional Administrator,*  
*EPA Region 1.*

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