



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2013-0028; A-1-FRL-9797-3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Massachusetts. These SIP revisions consist of a demonstration that Massachusetts meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_x) and volatile organic compounds (VOC) set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard. Additionally, we are approving updates to two existing regulations limiting emissions of volatile organic compounds. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2013-0028. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 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. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1046, fax number (617) 918-0046, email mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose.
- II. Final Action.
- III. Statutory and Executive Order Reviews.

I. Background and Purpose.

On February 14, 2013 (78 FR 10583), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Massachusetts. The NPR proposed approval of Massachusetts' January 31, 2008 SIP submittal that demonstrates that the state has adopted air pollution control strategies that represent RACT for purposes of compliance with the 1997 8-hour ozone standard. In addition, the NPR proposed approval of two revised regulations (and associated definitions) submitted by Massachusetts as a SIP revision on June 1, 2010: 310 CMR 7.18(8), "Solvent Metal Degreasing," and 310 CMR 7.24(6), "Dispensing of Motor Vehicle Fuel."

The specific details of the January 31, 2008 RACT demonstration and the two revised regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the RACT certification in Massachusetts' January 31, 2008 SIP submittal that demonstrates that the state has adopted air pollution control strategies that represent RACT for purposes of compliance with the 1997 8-hour ozone standard. EPA previously approved other portions of Massachusetts' January 31, 2008 SIP submittal on August 22, 2012 (77 FR 50595), and Massachusetts withdrew certain other portions of the submittal in a letter dated January 18, 2013. Therefore, with today's final action, EPA has completed its action on Massachusetts' January 31, 2008 SIP submittal. Nothing more regarding this submittal is pending before EPA.

In addition, we are approving two revised regulations submitted by Massachusetts on June 1, 2010: 310 CMR 7.18(8), “Solvent Metal Degreasing;” and 310 CMR 7.24(6), “Dispensing of Motor Vehicle Fuel.” Furthermore, we are also approving the following new and revised definitions in 310 CMR 7.00 that are associated with these regulations: isolate; minor modification; routine maintenance; solvent metal degreasing; special and extreme solvent metal cleaning; and substantial modification.

III. 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. 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 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 action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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.

Dated: March 22, 2013

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 -APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart W - Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(138) to read as follows:

§ 52.1120 Identification of plan

* * * * *

(c) * * *

(138) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on June 1, 2010.

(i) Incorporation by reference.

(A) Massachusetts Regulation 310 CMR 7.18(8), “U Solvent Metal Degreasing,” effective on March 6, 2009.

(B) Massachusetts Regulation 310 CMR 7.24(6), “U Dispensing of Motor Vehicle Fuel,” effective on March 1, 2009.

(C) The definitions of the following terms contained in Massachusetts Regulation 310 CMR 7.00, “Statutory Authority; Legend; Preamble; Definitions,” effective on March 1, 2009: isolate; minor modification; routine maintenance; solvent metal degreasing; special and extreme solvent metal cleaning; substantial modification.

3. Section 52.1129 is amended by adding paragraph (j) to read as follows:

§ 52.1129 Control strategy: Ozone.

* * * * *

(j) Approval – Reasonably Available Control Technology Demonstration for the 1997 8-hour ozone standard submitted by the Massachusetts Department of Environmental Protection on January 31, 2008. The revision consists of the state’s certification that with regard to the 1997 8-hour ozone standard, Reasonably Available Control Technology controls have been implemented for all sources in the state covered by EPA’s Control Techniques Guidelines (CTG) and for all major sources of volatile organic compound and nitrogen oxide emissions. The submittal also includes negative declaration for several CTG categories.

4. In § 52.1167, Table 52.1167 is amended by adding new entries to existing state citations for 310 CMR 7.18(8) and 310 CMR 7.24(6) in order of “Date approved by EPA” to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

Table 52.1167 - EPA-Approved Rules and Regulations

[See Notes at end of Table]

State citation	Title/subject	Date submitted by State	Date approved by EPA	<u>Federal Register</u> citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(8)	Solvent Metal Degreasing	6/1/10	[Insert date of FR publication]	[Insert <u>Federal Register</u> page number where the document begins]	[Insert next available paragraph number in sequence]	

*	*	*	*	*	*	*
310 CMR 7.24(6)	Dispensing of Motor Vehicle Fuel	6/1/10	[Insert date of <u>FR</u> publication]	[Insert <u>Federal</u> <u>Register</u> page number where the document begins]	[Insert next available paragraph number in sequence]	
*	*	*	*	*	*	*

Notes:

1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.
2. The regulations are effective statewide unless otherwise stated in comments or title section.

[FR Doc. 2013-21618 Filed 09/06/2013 at 8:45 am; Publication Date: 09/09/2013]