



**RHODE ISLAND**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
**OFFICE OF AIR RESOURCES**  
235 Promenade Street, Room 230  
Providence, Rhode Island 02908

10 February 2017

Mr. David B. Conroy  
USEPA, Region 1  
5 Post Office Square – Suite 100  
Boston, MA 02109-3912

Dear Mr. Conroy:

The Office of Air Resources is hereby submitting the enclosed, amended Air Pollution Control Regulations as a revision to the Rhode Island State Implementation Plan. Enclosed are:

- Air Pollution Control Regulation No. 8 “Sulfur Content of Fuels”
- Air Pollution Control Regulation No. 19 “Control of Volatile Organic Compounds from Surface Coating Operations”
- Air Pollution Control Regulation No. 27 “Control of Nitrogen Oxide Emissions”
- Air Pollution Control Regulation No. 35 “Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations”
- Air Pollution Control Regulation No. 36 “Control of Emissions from Organic Solvent Cleaning”
- Rhode Island Air Pollution Control General Definitions Regulation

The amended regulations became effective on January 9, 2017. The SIP submittal previously submitted on 17 January 2017 for these six regulations should be withdrawn.

A public notice announcing a public hearing and comment period on the proposed adoption of the amended regulations was posted on the RI DEM and the Rhode Island Office of Secretary of State websites and was mailed to interested parties on May 5, 2016. The notice stated that a public hearing would be held if requested by twenty five or more people, a governmental agency or subdivisions, or an association having not less than twenty five members. No requests for a public hearing were received. The public comment period ended at 4:00 PM on 6 June 2016. Responses to comments received are included in the hearing officer’s Decision document included as part of this submittal.

The amended regulation is authorized pursuant to R.I. General Laws Section 42-17.1-2(s) and 23-23, as amended, and has been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. General Laws Chapter 42-35.

The following support documents are included:

1. A copy of the Notice of Public Hearing and Comment Period signed May 5, 2016;
2. A copy of the mailing list for the notice;
3. A copy of the hearing officer's Decision; and
4. A copy of each of the final Air Pollution Control Regulations.

If you should have any questions, feel free to contact me at 401-222-2808, ext 7011.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas McVay". The signature is fluid and cursive, with the first name "Douglas" and last name "McVay" clearly distinguishable.

Douglas McVay, Chief  
Office of Air Resources

Enclosure

cc: Anne Arnold, EPA Region 1 w/o enclosures  
Ida McDonnell, EPA Region 1 w/o enclosures

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF AIR RESOURCES**

**NOTICE OF PUBLIC COMMENT PERIOD**

**IN RE: Proposed revisions to Air Pollution Control Regulation  
Nos. 8, 19, 27, 35, 36 and the General Definitions**

The Director of the Rhode Island Department of Environmental Management (DEM) proposes to revise several Air Pollution Control (APC) Regulations and gives notice of intent to receive public comment on the proposed regulation revisions and to afford interested parties an opportunity to submit data, views, or arguments in writing on the proposed regulation revisions. A public hearing on the proposed revisions will be held if DEM receives requests from twenty-five (25) people, a governmental agency or subdivision, or an association having not less than twenty-five (25) members. If a public hearing is held, a notice will be published announcing the date, time and place of such hearing.

The proposed revisions to these regulations are intended to either clarify or update regulation's requirements or provide some degree of regulatory relief. There are no new requirements being proposed. A fact sheet that more fully describes the proposed revision to each regulations as well as copies of the proposed, revised regulations is available on the Department's website from the Office of Air Resources homepage

(<http://www.dem.ri.gov/programs/benviron/air/index.htm>).

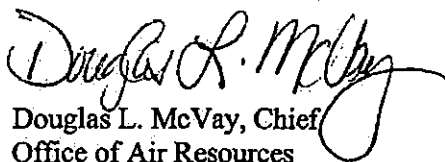
Copies are also available at DEM's Office of Air Resources 235 Promenade St., Providence, RI. Any additional requests can be made by contacting the Office of Air Resources at 222-2808, weekdays, 8:30 AM- 4:00 PM.

DEM encourages the submission of written comments. Written comments, to be considered part of the administrative record must be submitted during the public comment period. Written comments may be mailed or e-mailed to the Office of Air Resources and received no later than 4:00 PM, June 6, 2016, at which time the public comment period will close. The mailing address for comments is:

Douglas McVay, Chief  
Department of Environmental Management  
Office of Air Resources  
235 Promenade Street  
Providence, RI 02908-5767

The e-mail address for comments is: [doug.mcvay@dem.ri.gov](mailto:doug.mcvay@dem.ri.gov)

Signed this 5th day of May, 2016

  
Douglas L. McVay, Chief  
Office of Air Resources

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State of Rhode Island  
Department of Environmental Management  
Office of Air Resources

**In re: Proposed revisions to Air Pollution Control Regulation  
Nos. 8, 19, 27, 35, 36 and the General Definitions.**

**DECISION**

**Introduction**

On 5 May 2016 a notice was posted on the websites of the Rhode Island Department of Environmental Management (RI DEM) and the Rhode Island Office of Secretary of State and was sent to interested parties announcing a public comment period to accept comments on the adoption of proposed revisions to Air Pollution Control Regulation Nos. 8, 19, 27, 35, 36 and the General Definitions. The notice stated that a public hearing would be held if requested by twenty five or more people, a governmental agency or subdivisions, or an association having not less than twenty five members. No requests for a public hearing were received. The public comment period ended at 4:00 PM on 6 June 2016.

The proposed revisions to these regulations are intended to either clarify or update regulation requirements or provide some degree of regulatory relief. There are no new requirements being proposed.

A description of the amendments to each of these regulations is as follows:

- **Air Pollution Control Regulation No. 8 “Sulfur Content of Fuels”**

The purpose of this regulation is to limit the sulfur content of fuels. The proposed amendment will correct a mistake that was made when this regulation was revised in 2014. This regulation was revised in 2014 to lower the allowable sulfur content of fuels. Prior to that revision, the allowable sulfur content of alternative fuels was the same as that for residual fuel oils. In the 2014 revision, the allowable sulfur content of alternative fuels was changed to be the same as that for distillate fuel oils. This was a mistake and evidence has been provided to the Department to show that it is impossible to achieve those limits for waste oils. The change will restore the allowable sulfur content for alternative fuels to be the same as that for residual fuel oils as it was prior to 2014.

- **Air Pollution Control Regulation No. 19 “Control of Volatile Organic Compounds from Surface Coating Operations”**

The purpose of this regulation is to limit emissions of volatile organic compounds from surface coating operations. The emission limits in this regulation and Air Pollution Control Regulation No. 44 “Control of Volatile Organic Compounds from Adhesives and Sealants” can apply to the

same processes. Regulatory language is being added to clarify that the emission limitations in this regulation do not apply if you are subject to the requirements in APC Regulation No. 44. Additionally, the registration requirements in this regulation are being revised to be consistent with the requirements in the Department's Air Pollution Control Regulation No. 14 "Record Keeping and Reporting."

- **Air Pollution Control Regulation No. 27 "Control of Nitrogen Oxides Emissions"**

The purpose of this regulation is to limit nitrogen oxide emissions stationary sources. The Department is proposing to revise this regulation to:

- Reduce the frequency of compliance testing required under the regulation from annually to once every five years
- Reduce the frequency of tune-ups required for industrial-commercial-institutional boilers from annually to biennially
- Allow the tune-up procedure for boilers specified in federal regulations (40 CFR 63, Subpart JJJJJ) as an acceptable substitute procedure for the procedure specified in Appendix A of the regulation
- Revise the method for determining compliance with the emission limits to allow compliance be demonstrated based upon the average results of three-one hour test runs, rather than demonstrating compliance with each individual test run to be consistent with federal requirements
- Update/eliminate some outdated provisions of the regulation
- Add Figures 1 and 2 back into Appendix A, as they were inadvertently omitted from the regulation.

- **Air Pollution Control Regulation No. 35 "Control of Volatile Organic Compounds and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations"**

The purpose of this regulation is to limit emissions of volatile organic compounds and hazardous air pollutants from wood products manufacturing operations. The Department is proposing to revise this regulation to revise the applicability threshold. Currently this regulation applies to any wood products facility which has the potential to emit 25 tons per year or more of volatile organic compounds (VOC) from wood products manufacturing operations or which is located at a major source of Hazardous Air Pollutants (HAP).

Under the proposed revisions, this regulation would change the applicability threshold with respect to HAPs. To be subject to the regulation a facility would have to be a major source of

Hazardous Air Pollutants (HAP) *from wood products manufacturing operations* as opposed to all operations at the facility.

Currently the regulation applies to several facilities that are major sources of HAPs, however, their wood products manufacturing operations are a very small part of the business.

- **Air Pollution Control Regulation No. 36 “Control of Emissions from Organic Solvent Cleaning”**

The purpose of this regulation is to limit emissions of volatile organic compounds from cleaning operations. The Department is proposing to revise this regulation to:

- Provide an exemption from certain requirements for small cold cleaners (internal volume less than 1 liter)
- Provide an alternative means of compliance for spray gun cleaning operations
- Clarify the performance standard when an air pollution control system is used as an alternative to low vapor pressure solvents, and
- Revise recordkeeping requirements to allow users of certain machines additional time to compile monthly records to be consistent with the requirements we impose in other regulations and permits.

The proposed changes do not impose any new requirements for the entities covered by this regulation.

- **Rhode Island Air Pollution Control General Definitions Regulation**

The purpose of this regulation is to provide a consistent set of definitions and abbreviations for terms used in more than one of the Rhode Island Air Pollution Control Regulations. The Department is proposing to revise this regulation to amend the definition of “volatile organic compound” to be consistent with the current, federal definition. The proposed change does not impose any new requirements for the entities covered by the air pollution control regulations.

Written comments were received from the United States Environmental Protection Agency, Naval Undersea Warfare Center Division (Newport), Kenyon Industries, Raymond Regulatory Resources (3R), LLC and the American Coatings Association. Some of the comments below have been paraphrased. Similar comments have been grouped together. The following is the Office of Air Resources’ responses to the comments received:

## Response to Comments

**Comment:** The Notice of Public Comment Period for these proposed revisions states that Rhode Island will hold a public hearing if it "receives requests from twenty-five (25) people, a governmental agency or subdivision, or an association having not less than twenty-five (25) members". This is inconsistent with the public hearing requirements in 40 CFR 51.102, which states that a hearing must be held if "a request is received". In order to address this issue, RI DEM should indicate in the response to comments for this rulemaking whether or not any requests for a hearing were received. RI DEM should use language in the public notice that is consistent with 40 CFR 51.102. (USEPA)

**Response:** No requests for a public hearing were received.

**Comment:** The "application" section which appears at the end of many of Rhode Island's regulations, including those being proposed today, is problematic for EPA to federally approve because it states that "this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies". While this provision may be appropriate as a matter of state law, this provision provides Rhode Island with broad discretion, akin to a Director's discretion provision, which is problematic to approve into the State Implementation Plan (SIP). For example, EPA would be approving language that is not sufficiently defined in a way that EPA or the public could know what the "purposes of state law, goals and policies" happen to be for the individual regulation in question. Therefore, we request that when Rhode Island submits these rules to EPA as a SIP revision, this provision be stricken from each regulation. (USEPA)

**Response:** If DEM submits any of these regulations to EPA as a revision to the RI SIP, the Application section in the regulation will be stricken.

**Comment:** The term "alternative fuel" is not defined in APC Regulation No. 8, nor in Rhode Island's General Definitions regulation. Although the term is defined in APC Regulation No. 20, the language preceding the definition in that rule states, "As used in this regulation, the following terms shall, where the context permits, be construed as follows". Therefore, EPA recommends that RI DEM add a definition of the term "alternative fuel" to APC Regulation No. 8 or to the General Definitions regulation. (USEPA)

**Response:** The definition of "alternative fuel" in APC Regulation No. 20 has been added to APC Regulation No. 8 in response to this comment.

**Comment:** The proposed exemption in paragraph 19.2.6 of APC Regulation No. 19 should be revised to apply only when the operation is subject to the emission limits of APC

Regulation No. 44. Therefore we recommend paragraph 19.2.6 be revised to read as follows (*USEPA*):

*The emissions limits in Section 19.3 shall not apply to the use of any adhesive, sealant, adhesive primer or sealant primer in an operation that is subject to the emission limits of Rhode Island Air Pollution Control Regulation No. 44, "Control of Volatile Organic Compounds from Adhesives and Sealants."*

**Response:** Subsection 19.2.6 has been revised as suggested by EPA.

**Comment:** As has been done in the past, Section 19.2.2 should be stricken in the version of the rule submitted to EPA as a SIP revision. (*USEPA*)

**Response:** DEM will strike Section 19.2.2 from the version of the regulation submitted to EPA as a SIP revision.

**Comment:** In Section 27.5.7, Rhode Island proposes to reduce the annual emissions testing requirement for emission units at five facilities from once per year to once every five years, and provided recent test data to support this change. We suggest that this testing relief be shortened to once every two years to minimize the length of time that excess emissions could possibly occur due to undetected equipment malfunction that occurs after a test is performed. Additionally, although the test data provided is reasonably consistent from year to year, some of the units do show a fair amount of variability between test cycles. For example, the tested NOx emission rate for unit B001 at the University of Rhode Island (URI) went from 0.059 pounds per million BTU (lbs/mmBTU) in 2007 to 0.071 lbs/mmBTU in 2008. This 20 percent increase put the unit close to its emission limit of 0.076 lbs/mmBTU. Similarly, the tested NOx emission rate for boiler B002 at the Naval Station in Newport went from 0.08 lbs/mmBTU in 2011 to 0.095 lbs/mmBTU in 2012. This 19 percent increase put the unit close to its emission limit of 0.1 lbs/mmBTU. (*USEPA*)

**Response:** DEM looked at required testing for NOx RACT regulations in the other New England states as well as the required testing frequency in certain federal regulations to determine an appropriate frequency.

None of the other New England states require testing be conducted every two years. Maine, Vermont and Massachusetts (sources with heat input between 50 to 100 MMBtu/hr) do not have any specific re-test requirements. New Hampshire requires retesting every three years, while Connecticut only requires retesting every five years if units are not equipped with a continuous emissions monitoring system.

40 CFR 63, Subpart DDDDD requires testing annually, with provisions to test every three years if results for two consecutive tests show, for a given pollutant that the emissions are at or below 75% to 100% of the emission limit, depending on the pollutant. Pollutants required to be measured are: particulates, metals. Mercury, hydrogen chloride and carbon monoxide.

40 CFR 63, Subpart JJJJJ requires boilers with a heat input capacity of 10 MMBtu/hr or greater to test every three years. Testing is required for particulates, mercury and carbon monoxide. However, if the results of the initial compliance test for particulate matter are less than or equal to half of the emission limit, no further testing for particulate matter is required.

There is no consistent testing frequency in either the New England states or in federal regulations. New Hampshire is the only state in the region that requires testing more frequently than what DEM had proposed in its amended regulation.

No changes to the proposed regulation will be made in response to this comment.

**Comment:** A justification should be provided for removing the requirement located at 27.6.10(e) which requires sources to "Maintain records to certify that the ignition timing of the engine has been inspected and adjusted at least once every three (3) years.". (USEPA)

**Response:** Ignition timing adjustment only applies to spark ignited engines (natural gas or propane fired). Over 95% of the emergency generators at Rhode Island sources subject to APC Regulation No. 27 are compression ignition (diesel fired).

Although emergency generators are allowed to operate as much as 500 hours/year, in practice they typically operate less than 100 hours/year. DEM decided to remove this recordkeeping requirement because it applied to only a small portion of the emergency generators located at sources subject to APC Regulation No. 27 and since it applies to natural gas-fired engines, the emission benefits are minimal.

**Comment:** As has been done in the past, Section 35.2.3 should be stricken in the version of the rule submitted to EPA as a SIP revision. (USEPA)

**Response:** DEM will strike Section 35.2.3 from the version of the regulation submitted to EPA as a SIP revision.

**Comment:** The proposed revisions include new provisions for spray gun cold cleaning operations in Section 36.9. In addition, the applicability section includes a new provision (36.2.6) which states that spray gun cleaning operations subject to these new requirements are exempt from the requirements in Sections 36.4 through



36.8. It is not clear why this exemption is included. For example, some of the general requirements in Section 36.4, such as wiping up spills (36.4.6) and operator training (36.4.14), would still be appropriate in conjunction with the new spray gun cleaning provisions in Section 36.9. Similarly, it is not clear why spray gun cleaning would now be exempted from the solvent vapor pressure requirements in Section 36.5.7 which have been in effect since April 1, 2009 and have been approved into the Rhode Island State Implementation Plan. Furthermore, we note that any revisions to SIP-approved rules must meet the Clean Air Act Section 110(l) anti-back sliding requirements. (USEPA)

**Response:** The proposed spray gun cold cleaning provisions were modeled after those in 40 CFR 63, Subpart HHHHHH, National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources. These standards do not have a vapor pressure requirement for the cleaning solvent nor do they have the types of general requirements in APC Regulation No. 36.

The requirements in Sections 36.5, 36.6, 36.7 and 36.8 apply to specific cleaning methods in cleaning machines. DEM believes that spray gun cleaning conducted pursuant to the proposed Section 36.9 requirements is a distinct and different type of cleaning and therefore it is appropriate to exempt spray gun cleaning operations subject to these requirements from these provisions.

DEM does agree with the commenter that all of the general requirements in Section 36.4 would still be appropriate for spray gun cleaning. DEM will amend the exemption in subsection 36.2.6 and eliminate the exemption from Section 36.4.

**Comment:** As has been done in the past, Section 36.2.2 should be stricken in the version of the rule submitted to EPA as a SIP revision. (USEPA)

**Response:** DEM will strike Section 36.2.2 from the version of the regulation submitted to EPA as a SIP revision.

**Comment:** The proposed revisions include amendments to the definition of the term "volatile organic compound". The compounds RI DEM is adding to the list of exempted compounds are consistent with EPA's definition of volatile organic compound (VOC) at 40 CFR 51.100(s). EPA, however, also recently updated its VOC definition to remove the recordkeeping and reporting requirements for t-butyl acetate that had been included in the VOC definition. See 81 FR 9339; February 25, 2016. RI DEM may wish to consider making similar revisions to its VOC definition. (USEPA)

**Response:** The definition of VOC has been revised as suggested by EPA to be fully consistent with the federal definition.

**Comment:** We are requesting clarification of the following points in relation to APC Regulation No. 36, Control of Emissions from Organic Solvent Cleaning:

- a. What qualifies as a cold cleaning unit? Does the definition include test tubes and small containers?
- b. Is there a Volatile Organic Compound (VOC) content limit on the solvent used in cold cleaning operations if the cold cleaning unit's internal volume is < 1 liter?
- c. If spray guns are cleaned according to the method outlined in subsection 36.9.1(b), is there a VOC content or vapor pressure limit applicable to the cleaning solvent used? Specifically, subsection 44.3.4(a) of APC Regulation No. 44 lists a vapor pressure limit of 45 mm Hg at 20°C and subsection 44.3.4 (b)(2) list a VOC content limit of 70 grams/liter for cleanup solvents. Do these limits apply despite compliance with subsection 36.9.1(b)? (*Naval Undersea Warfare Center Division (Newport)*)

**Response:** The following are DEM's responses to the specific questions posed by the commenter:

- a. What qualifies as a cold cleaning unit? Does the definition include test tubes and small containers? *Per the definition in subsection 36.1.7 a cold cleaning machine is any device that uses heated, non-boiling solvent to clean parts. Test tubes and small containers could be cold cleaning machines. However, if the device's internal volume is less than 1 liter, the requirements of the regulation (except for certain recordkeeping requirements) would not apply.*
- b. Is there a Volatile Organic Compound (VOC) content limit on the solvent used in cold cleaning operations if the cold cleaning unit's internal volume is < 1 liter? *No.*
- c. If spray guns are cleaned according to the method outlined in subsection 36.9.1(b), is there a VOC content or vapor pressure limit applicable to the cleaning solvent used? Specifically, subsection 44.3.4(a) of APC Regulation No. 44 lists a vapor pressure limit of 45 mm Hg at 20°C and subsection 44.3.4 (b)(2) list a VOC content limit of 70 grams/liter for cleanup solvents. Do these limits apply despite compliance with subsection 36.9.1(b)? *The vapor pressure requirements in APC Regulation*

*No. 44 would only apply to the cleaning of spray guns that are used in the application of any adhesive, sealant, adhesive primer or sealant primer (i.e. materials regulated under APC Regulation No. 44).*

To clarify this distinction, subsection 36.2.6 has been revised in response to this comment.

**Comment:** The revision of APC Regulation No. 27 to allow for the tune-up procedure for boilers specified in the federal regulations to be used as an acceptable substitute for the tune-up procedure specified in Appendix A of APC Regulation No. 27 makes good sense. However, the proposed revision only references as an acceptable substitute, the tune-up procedure set forth under 40 CFR 63 Subpart JJJJJ, covering large boilers at area source facilities. We would like to see the proposed revision be expanded to also reference as an acceptable substitute the tune-up procedure set forth under 40 CFR 63, Subpart DDDDD, applicable to large boilers located at major HAP sources. *(Kenyon Industries)*

**Response:** The tune-up procedures specified in Subpart JJJJJ and Subpart DDDDD are essentially the same, with only minor differences. DEM has revised the regulation to allow sources subject to 40 CFR 63, Subpart DDDDD to use the tune-up procedure specified in that regulation as a substitute for the procedure specified in APC Regulation No. 27.

**Comment:** ACA supports revising the General Provisions to amend the definition of "volatile organic compound" to be consistent with the current, federal definition, since this would for example add 2-amino-2-methyl-1-propanol (AMP) to the list of exempt Volatile Organic Compounds (VOCs). The coatings industry is under constant pressure to reformulate products to lower and lower VOC content. As a result there is a critical and urgent need for safe, effective and affordable exempt compounds solvents like AMP and coating formulators need all available tools to formulate both lower VOC and reactivity coatings.

ACA also supports the proposed revision to APC Regulation No. 35 that would change the applicability threshold such that a facility would have to be a major source of Hazardous Air Pollutants (HAP) from wood products manufacturing operations as opposed to all operations at the facility. *(American Coatings Association)*

**Response:** No changes to the regulations are required in response to this comment

**Comment:** We would appreciate for trans-1-chloro-3,3,3-trifluoropropene the addition of the synonym HFO-1233zd, likewise for trans 1,3,3,3 tetra fluoropropene the addition of the synonym HFO-1234ze. The additions are consistent with your other listings for HFC's and HFE's. *(Raymond Regulatory Resources (3R))*

**Response:** The regulation has been revised as requested by the commenter.

**Decision**

It is the decision of the Office of Air Resources to amend the proposed revisions to Air Pollution Control Regulation Nos. 8, 19, 27, 36 and the General Definitions as indicated in the response to comments above. Air Pollution Control Regulation No. 35 will be finalized as proposed. The final amended regulations are appended to this Decision.

12/16/16  
Date

Douglas McVay  
Douglas McVay, Chief  
Office of Air Resources

Approved:

12/16/16  
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