

*Sections 15.3.7–15.3.10*

The main issue associated with this action concerns the generic nature of Sections 15.3.7–15.3.9. Section 182(b)(2) of the Clean Air Act requires that a SIP revision be submitted by November 15, 1992 including “provisions to require the implementation of reasonably available control technology ....” In addition, the necessary SIP revision is required to “provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.” For major non-CTG sources of VOCs not regulated under the Act prior to the 1990 Amendments, the addition of 15.3.7–15.3.10 sets forth both presumptive RACT norms and processes by which RACT can be established for those sources that cannot meet the presumptive norms. However, Section 182(b)(2) of the Clean Air Act requires that a SIP revision be submitted by November 15, 1992 including “provisions to require the implementation of reasonably available control technology ....” In addition, the necessary SIP revision is required to “provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.”

Since Section 15.3.10 defines presumptive norms for RACT, and is consistent with EPA’s Model VOC RACT Rules for “Other Facilities that Emit Volatile Organic Compounds,” that portion of the regulation meets the requirements of Section 182. However, since the option for meeting RACT defined in Sections 15.3.7 through 15.3.9 describes a process by which RACT can be defined but does not specifically define RACT for each source to which such option applies, that portion of the rule is not approvable at this time. Therefore, EPA is proposing a limited approval/limited disapproval of Regulation 15. To receive full approval, Rhode Island will need to define explicitly, and have approved by EPA, RACT for all of those sources which do not choose to conform to the presumptive RACT options outlined in the regulation. Alternatively, if it is determined that none of the affected sources will rely on Sections 15.3.7 through 15.3.9 to implement RACT, Regulation 15 can be fully approved upon Rhode Island making such a demonstration.<sup>1</sup>

<sup>1</sup> According to information provided verbally by Rhode Island DEM staff on June 13, 1995, the State will be submitting single source SIP revisions for the following sources: Hoechst Celanese; CCL Custom Manufacturing, Inc.; and Cranston Print Works.

*Section 21.2*

Sections 21.2.1 and 21.2.4 change the applicability of the regulation from potential to emit 100 tons per year to potential to emit 50 tons per year. This change was made to address, in part, the requirement that Rhode Island impose RACT requirements on all major sources. EPA had made the determination that RACT, as originally defined for graphic arts sources greater than 100 TPY, is appropriate for sources down to 50 tons per year. Section 21.2.2 exempts emissions from equipment used for research, so long as emissions from all such equipment at the facility do not exceed 450 pounds in any month. This exemption is consistent with the model rule. (See XX.3001(c) of the model rule, which allows equipment at a facility to be exempted if the equipment is used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance if the total actual emissions do not exceed 450 lbs/month.)

*Section 21.3.2*

Section 21.3.2 has been amended to allow carbon adsorbers a 7-day rolling average compliance time. This change is similar to the change made to Section 15.3.5, and is consistent with EPA’s model rule.

**Proposed Action**

EPA has evaluated Rhode Island’s submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is proposing to approve Rhode Island’s negative declaration for the SOCM I Reactors and SOCM I Distillation source categories as meeting the requirements of Section 182(b)(2) of the Act for these source categories. In addition, EPA has determined that the changes made to Regulation 21 of Rhode Island’s Air Pollution Control Regulations meet the requirements of Section 182(b)(2) of the Act. Therefore, EPA is proposing approval under Section 110(k)(3) of Regulation 21.

However, EPA has determined that Sections 15.3.7, 15.3.8, and 15.3.9 of Regulation 15, do not meet all of the Act’s requirements for the reasons described above. EPA believes that approval of Regulation 15 will strengthen the SIP but because of the above-mentioned deficiencies, the rule does not meet the requirements of Section 182(b)(2) of the CAA. In light of such deficiencies, EPA cannot grant full approval of this rule under Section 110(k)(3) and Part D. However, EPA may grant a limited approval of the submitted rule under Section 110(k)(3)

and EPA’s authority pursuant to Section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA’s action also includes a limited disapproval, due to the fact that this rule does not meet the requirement of Section 182(b)(2) because of the deficiencies noted above. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of Rhode Island’s Regulation 15 under Section 110(k)(3) and 301(a) of the CAA. As stated, EPA is also proposing a limited disapproval of Regulation 15 under Sections 110(k)(3) and 301(a) of the Act because the rule contains deficiencies that have not been corrected as the Act requires.

Under Section 179(a)(2), if the Administrator disapproves a submission under Section 110(k) for an area designated nonattainment based on the submission’s failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in Section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18-month period referred to in Section 179(a) will begin on the effective date established in the final limited disapproval. If the deficiency is not corrected within 6 months of the imposition of the first sanction, the second sanction will apply. This sanctions process is set forth at 59 FR 39832 (Aug. 4, 1994), to be codified at 40 CFR 52.31. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under Section 110(c).

EPA is not taking action on Section 15.2.2., the last sentence of Section 15.1.2, the last sentence of Section 21.1.7., and Section 21.2.3, as these were not submitted by the State as part of the January 25, 1993 or November 1, 1994 submittals.

EPA’s evaluation of all the submitted regulations is detailed in memoranda, dated 11/2/94 and 1/9/95 entitled “Technical Support Document for Rhode Island’s Revised Regulations for Non-CTG RACT” and “Technical Support Document for Rhode Island’s Revised Regulations for Non-CTG RACT—Addendum.” Copies of these documents are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this action.

Nothing in this action should be construed as permitting or allowing or