

under this part, the Collective shall retain the required payment in a segregated trust account for a period of 3 years from the date of payment. No claim to such payment shall be valid after the expiration of the 3-year period. After the expiration of this period, the Collective may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3). The foregoing shall apply notwithstanding the common law or statutes of any State.

Dated: March 20, 2008.

James Scott Sledge,

Chief Copyright Royalty Judge.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2007-1176; A-1-FRL-8546-9]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Diesel Anti-Idling Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a State Implementation Plan (SIP) revision submitted on November 29, 2007 by the State of Rhode Island. This SIP revision includes a regulation that prohibits the unnecessary idling of diesel engines and vehicles in Rhode Island. The regulation sets limits for the amount of time and under what conditions diesel engines may idle. EPA is approving the rule because the standards and requirements set by the rule will strengthen the Rhode Island SIP. The intended effect of this action is to approve this rule into the Rhode Island SIP. EPA is approving this rule pursuant to the Clean Air Act.

DATES: This direct final rule will be effective May 27, 2008, unless EPA receives adverse comments by April 28, 2008. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2007-1176 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. E-mail: arnold.anne@epa.gov.
3. Fax: (617) 918-0047.

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2007-1176," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023, or

5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2007-1176. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov>, or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov/index>. 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 in <http://www.regulations.gov> or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, 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.

In addition, copies of the state submittal and EPA's technical support document (TSD) are also available for public inspection during normal business hours, by appointment at the State Air Agency; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, Office of Ecosystem Protection, EPA New England, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023; 617-918-1045 (phone); 617-918-0045 (fax); e-mail at judge.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. What Action Is EPA Taking?
- II. What are the Requirements of Rhode Island's Regulation Number 45?
- III. Why is EPA Approving Rhode Island's Rule?
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is approving Rhode Island's Regulation Number 45, "Rhode Island Diesel Engine Anti-Idling Program," and incorporating this rule into the Rhode Island SIP.

Regulation Number 45 was adopted by the State of Rhode Island following the passage of a State law prescribing that such a rule be adopted to minimize the adverse health effects of unnecessary idling. The regulation was effective in the State of Rhode Island on July 19, 2007, and on November 29, 2007, the State submitted this rule to EPA as a SIP revision.

II. What Are the Requirements of Rhode Island's Regulation Number 45?

Pursuant to Regulation Number 45, with specified exceptions, diesel motor vehicles may not idle for longer than 5 minutes in any 60 minute period (per section 45.3), and nonroad engines may not idle unnecessarily (per section 45.4). Exceptions to these requirements are specified in section 45.5 of the rule and include: temperature based exemptions for excessively hot or cold days; allowances for vehicle repair; vehicle inspections; emergency vehicles in emergency operations; vehicles which are stuck in traffic; and the use of sleeper berths during federally mandated rest periods. The TSD prepared for this action includes more detail on these exemptions, or the regulation itself can be reviewed for details on how these exemptions apply.

Per section 45.2 of this rule, this rule applies "to any person, entity, owner or operator with control over the operations of diesel engines." Persons violating this rule may be fined under State law in accordance with penalty provisions of State law, as described in section 45.6 of the regulation. This rule was adopted pursuant to Rhode Island General Laws Section 31-16.1-2, and applies throughout the entire State of Rhode Island.

III. Why Is EPA Approving Rhode Island's Rule?

Rhode Island's Regulation Number 45 will result in emission reductions of volatile organic compounds, nitrogen oxides, carbon monoxide, and fine particulate matter. The approval of this rule will strengthen the Rhode Island SIP and assist the state in meeting and maintaining compliance with air quality standards, including the standard for ground level ozone.

Rhode Island's Regulation Number 45 is generally consistent with EPA's "Model State Idling Law" (EPA420-S-06-001, April 2006). This model rule was developed with input from the States and industry to address idling issues in a consistent and understandable manner from state to state, to aid in compliance.

IV. Final Action

EPA is approving Rhode Island's Air Pollution Control Regulation Number 45, entitled "Rhode Island Diesel Engine Anti-Idling Program," and incorporating this rule into the Rhode Island SIP. The rule is intended to eliminate unnecessary idling from diesel motor vehicle engines and non-road diesel engines in Rhode Island. This rule is being approved because EPA has found

that the rule will help prevent emissions of volatile organic compounds, nitrogen oxides, carbon monoxide, and fine particles and will strengthen the Rhode Island SIP.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective May 27, 2008 without further notice unless the Agency receives relevant adverse comments by April 28, 2008.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 27, 2008 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond

that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 May 27, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 14, 2008.

Robert W. Varney,

Regional Administrator, EPA New England.

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

PART 52—[AMENDED]

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

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

Subpart OO—Rhode Island

■ 2. In § 52.2070 (c), the table entitled "EPA Approved Rhode Island Regulations," is amended by adding a new entry, "Air Pollution Control Regulation Number 45" in numerical order to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * *	* * *	* * *	* * *	* * *
Air Pollution Control Regulation Number 45.	Rhode Island Diesel Engine Anti-Idling Program.	July 19, 2007	March 27, 2008; [Insert Federal Register page number where the document begins].	Limits idling for diesel on-highway and non-road engines.
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[FR Doc. E8-6183 Filed 3-26-08; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA-HQ-OAR-2007-1173, FRL-8545-6]

RIN 2060-APO3

Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is making a finding concerning whether or not each State has submitted a complete State Implementation Plan (SIP) that provides the basic program elements specified in Clean Air Act (Act or CAA) section 110(a)(2) necessary to implement the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). By this

action, EPA is identifying those States that: Have failed to make a complete submission for all requirements; have failed to make a complete submission for specific requirements; or have made a complete submission. The findings of failure to submit for all or a portion of a State's SIP establish a 24-month deadline for EPA to promulgate Federal Implementation Plans (FIPs) to address the outstanding SIP elements unless, prior to that time, the affected States submit, and EPA approves, the required SIPs. The findings that all, or portions of a State's SIP submission, are complete establish a 12-month deadline for EPA to take action upon the complete SIP elements in accordance with section 110(k).

DATES: The effective date of this rule is April 28, 2008.

FOR FURTHER INFORMATION CONTACT:

General questions concerning this notice should be addressed to Mr. Larry D. Wallace, PhD, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C504-2, 109 TW Alexander Drive, Research Triangle

Park, NC 27709; telephone (919) 541-0906.

SUPPLEMENTARY INFORMATION: Section 553 of the Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions, or incomplete submissions, to meet the requirement by the statutory date. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

For questions related to a specific State please contact the appropriate regional office: