

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

**In re: Proposed revisions to Air Pollution Control Regulation
No. 13 “Particulate Emissions from Fossil Fuel Fired Steam or Hot Water Generating
Units”**

DECISION

Introduction

On September 11, 2018 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 No. 13, Particulate Emissions from Fossil Fuel Fired Steam or Hot Water Generating Units (250-RICR-120-05-13). 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 October 11, 2018.

The proposed revisions to the rule reflect current RI Code of Regulations formatting requirements. The Department is proposing to eliminate sections 13.8 B(2) and 13.8 B(3) of this regulation since these sections no longer apply. There are no new requirements being proposed.

Written comments were received from the United States Environmental Protection Agency. The following are the Office of Air Resources' responses to the comments received:

Response to Comments

Comment: We have reviewed Rhode Island's proposal and agree that revisions are technical corrections that do not change the regulation substantively. In particular, we agree that it is appropriate to remove §§ 13.8(B) from the regulation as this section refers to subsections in APCR No. 8 (250-RICR-120-05-8), "Sulfur Content of Fuels," that have since been removed and renumbered.

Response: No response required.


Comment: If the proposed amended APCR No. 13 is submitted to EPA as a revision to the Rhode Island SIP, then §§ 13.8 "Application" should be omitted from that submittal. EPA will not be able to approve the "Application" section because it states that the "regulation shall be liberally construed to permit the Department to effectuate the purposes of state laws, 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.

Response: When DEM submits this regulations to EPA, as a revision to the RI SIP, the “Application” section in the regulation will be stricken.

Decision

It is the decision of the Department to adopt the proposed revisions to Air Pollution Control Regulation, 250-RICR-120-05-13, “Particulate Emissions from Fossil Fuel Fired Steam or Hot Water Generating Units” as proposed. The final amended regulations are appended to this Decision.

11/28/18
Date


Laurie A. Grandchamp, P.E.
Administrator, Environmental Protection