



MEMORANDUM

To: Katie Pickens, LCAR Committee Staff
From: Elaine O'Grady, Director, Air Quality & Climate Division *EOG*
Date: May 23, 2014
Re: Final Proposed Rule to Amend Vermont's Air Pollution Control Regulations

Please find attached a copy of the filing for the final proposed rule to amend various provisions of Vermont's Air Pollution Control Regulations. The original final proposed rule filing is being submitted to Louise Corliss at the VT State Archives & Records Administration.

If you have any questions or need additional information, please contact Doug Elliott by telephone at 802-377-5939 or by e-mail at doug.elliott@state.vt.us.

Cc: Louise Corliss, VT State Archives & Records Administration

MEMORANDUM

TO: Deb Markowitz, ANR Secretary
THRU: David Mears, DEC Commissioner *DM*
FROM: Elaine O'Grady, AQCD Director *EOG*
DATE: May 20, 2014
RE: Final Proposed Amendments to Vermont's Air Pollution Control Regulations

Please find attached for your review and signature the APA rulemaking forms and final proposed rule to amend various provisions of Vermont's Air Pollution Control Regulations. Primarily, this rule includes the adoption of new and revised National Ambient Air Quality Standards as set by the EPA. The revisions also clarify which facilities that burn waste oil are exempt from permits, codifies a five ton per year emission threshold for permit applicability, and changes the permitting regulations to make them more consistent with federal standards. Written comments were received from the EPA during the public comment period that ended on February 10. The final proposed rule includes changes that reflect EPA's comments concerning clarity and consistency with federal requirements.

If you have any questions, please contact me or Doug Elliott. **Please return the signed rulemaking package to Corie Dunn, and we will submit the rule to SOS and LCAR.**

Cc (via email): Doug Elliott, AQCD Permitting Section Chief

Administrative Procedures – Final Proposed Rule Coversheet**Instructions:**

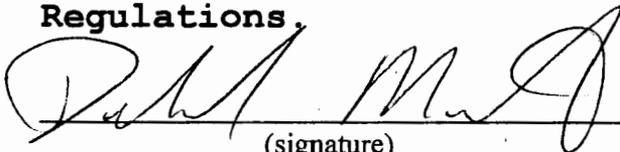
In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this final proposed filing will be considered complete upon the submission and acceptance of the following components to the Office of the Secretary of State and to the Legislative Committee on Administrative Rules:

- Final Proposed Rule Coversheet
- Adopting Page
- Economic Impact Statement
- Public Input Statement
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- Copy of ICAR acceptance e-mail
- A copy of comments received during the Public Notice and Comment Period.
- Responsiveness Summary (detailing agency’s decisions to reject or adopt suggested changes received as public comment).

All forms submitted to the Office of the Secretary of State, requiring a signature shall be hand signed original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted, no later than 3:30 pm on the last scheduled day of the work week.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule Title: Amendments to Air Pollution Control Regulations

 , on 5-22-14 .
 (signature) (date)

Printed Name and Title:

Deborah Markowitz, Secretary
 Agency of Natural Resources

RECEIVED BY: _____

- Final Proposed Rule Coversheet
- Adopting Page
- Economic Impact Statement
- Public Input Statement
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Approval received by E-mail.
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Amendments to Air Pollution Control Regulations

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

13P-047

3. ADOPTING AGENCY:

Agency of Natural Resources

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Doug Elliott

Agency: Agency of Natural Resources

Mailing Address: Air Quality & Climate Division

Davis 2, One National Life Drive

Montpelier, VT 05620-3802

Telephone: 802 377 - 5939 ext.

Fax: 802 828 - 1399

E-Mail: doug.elliott@state.vt.us

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://www.anr.state.vt.us/air/htm/ProposedAmendments.htm>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Elaine O'Grady

Agency: Agency of Natural Resources

Mailing Address: Air Quality & Climate Division

Davis 2, One National Life Drive

Montpelier, VT 05620-3802

Telephone: 802 343 - 7221 ext.

Fax: 802 828 - 1399

E-Mail: elaine.ogrady@state.vt.us

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

10 VSA 553, 10 VSA 554(2) and (11)

7. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

8. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.
9. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
10. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
11. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

12. **CONCISE SUMMARY (150 WORDS OR LESS):**

The primary purpose of this rulemaking is to adopt new and revised National Ambient Air Quality Standards as set by the federal EPA.

Revisions are also being made to 5-221 Prohibition of Potentially Polluting Material in Fuel to make this regulation more consistent with Hazardous Waste Management Regulations for used oil. The revisions also clarify which facilities are exempt from permits and which are exempt from the air toxics regulation and provides relief to any facility burning less than 5,000 gallons per year.

Revisions are also being made to 5-401 establishing a five ton per year emission threshold for most permitting applicability.

Finally, revisions are being made to the permitting regulations to clarify requirements and make consistent with federal requirements.

13. **EXPLANATION OF WHY THE RULE IS NECESSARY:**

The NAAQS revisions and permitting revisions are necessary to ensure our Air Program meets federal EPA requirements that enables Vermont to run the Air Program. The remaining provisions are either clarifications, codification of existing practice or program revisions to address deficiencies or improve functionality.

14. **LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

Facilities that emit air pollution. Facilities that burn used oil. Facilities requiring Air Permits. The general public that is exposed to air pollution.

15. BRIEF SUMMARY OF ECONOMIC IMPACT(150 WORDS OR LESS):

Economic impact is anticipated to be minimal. Vermont is currently in attainment for all the NAAQS thus the more burdensome requirements for nonattainment areas will not apply. The remaining provisions predominately clarify or codify existing practice with the exception of used oil that will now provide relief to any facility that burns less than 5,000 gallons per year rather than just to small fuel burning equipment.

16. A HEARING WAS HELD.

17. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 2/3/2014

Time: 06:00 PM

Location: Pavilion Auditorium, Montpelier

Date:

Time: PM

Location:

Date:

Time: PM

Location:

Date:

Time: PM

Location:

18. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

2/10/2014

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

National Ambient Air Quality Standard

NAAQS

particulate matter

pm

used oil

waste oil

air pollution control permit

air contaminant source

air permitting

air emissions

air emitting

pollutant

Run Spell Check

Administrative Procedures – Adopting Page

Instructions:

This form must be completed for each filing made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Amendments to Air Pollution Control Regulations

2. ADOPTING AGENCY:

Agency of Natural Resources

3. AGENCY REFERENCE NUMBER, IF ANY:

4. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

5. LAST ADOPTED (*PLEASE PROVIDE THE TITLE AND LAST DATE OF ADOPTION FOR THE EXISTING RULE*):

5-101 Definitions: 2/8/2011

5-221 Prohibition of Potentially Polluting Material in Fuel:
9/28/2011

5-301 Scope: 12/15/1990

5-302 Sulfur Oxides: 3/24/1979

5-303 Sulfur Oxides: 3/24/1979

5-304 Particulate Matter PM2.5: 3/24/1979
5-305 Reserved: 3/24/1979
5-306 Particulate Matter PM10: 11/1/1990
5-307 Carbon Monoxide: 11/1/1990 (formatting only)
5-308 Ozone: 8/13/1993
5-309 Nitrogen Dioxide: 12/15/1990
5-310 Lead: 8/13/1993
5-312 Sulfates: 11/1/1990 (formatting only)
5-401 Classification of Air Contaminant Sources: 2/8/2011
5-406 Required Air Modeling: 2/8/2011
5-501 Review of Construction or Modification of Air
Contaminant Sources: 2/8/2011
5-502 Major Stationary Sources and Major Modifications:
2/8/2011
Table 2 Prevention of Significant Deterioration (PSD)
Increments: 7/29/1995
Table 3 Levels of Significant Impact: 11/1/1990

Run Spell Check

Administrative Procedures – Economic Impact Statement

Instructions:

In completing the economic impact statement, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

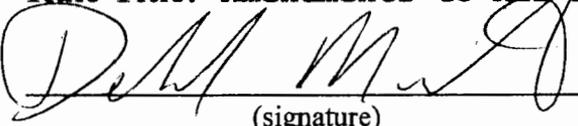
Rules affecting or regulating public education and public schools must include cost implications to local school districts and taxpayers in the impact statement (see 3 V.S.A. § 832b for details).

The economic impact statement also contains a section relating to the impact of the rule on greenhouse gases. Agencies are required to explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted (see 3 V.S.A. § 838(c)(4) for details).

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I conclude that this rule is the most appropriate method of achieving the regulatory purpose. In support of this conclusion I have attached all findings required by 3 V.S.A. §§ 832a, 832b, and 838(c) for the filing of the rule entitled:

Rule Title: Amendments to Air Pollution Control Regulations

 _____, on 5-22-14
(signature) (date)

Printed Name and Title:

Deborah Markowitz, Secretary
Agency of Natural Resources

BE AS SPECIFIC AS POSSIBLE IN THE COMPLETION OF THIS FORM, GIVING FULL INFORMATION ON YOUR ASSUMPTIONS, DATABASES, AND ATTEMPTS TO GATHER OTHER INFORMATION ON THE NATURE OF THE COSTS AND BENEFITS INVOLVED. COSTS AND BENEFITS CAN INCLUDE ANY TANGIBLE OR INTANGIBLE ENTITIES OR FORCES WHICH WILL MAKE AN IMPACT ON LIFE WITHOUT THIS RULE.

1. TITLE OF RULE FILING:

Amendments to the Air Pollution Control Regulations

2. ADOPTING AGENCY:

Agency of Natural Resources

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

The proposed rule amendments will affect facilities that burn used oil; facilities requiring Air Pollution Control Permits; other facilities that emit air pollution; the general public that is exposed to air pollution; and the U.S. Environmental Protection Agency (EPA).

Revising the ambient air quality standards in Vermont's air pollution control regulations to be consistent with the National Ambient Air Quality standards (NAAQS) promulgated by EPA under the Clean Air Act (CAA) is not expected to have any significant economic impacts on regulated entities or the public in Vermont other than removing any potential confusion as to the standards that apply in Vermont. The NAAQS apply in Vermont (and other states) regardless of whether Vermont adopts the standards. However, if Vermont does not update its ambient air quality standards to be at least as stringent as the NAAQS, EPA will not be able to approve Vermont's state implementation plans under the CAA, and EPA will become the implementing authority for the CAA in Vermont.

The remaining regulatory revisions are considered minor and administrative are not expected to have significant economic impact, positive or negative, on facilities. They will however clarify the requirements facilities are subject to and thus have other benefits such as improved implementation of the program.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS:

There will be no direct economic impact anticipated for schools. As members of the public, they would expect to benefit from air pollution control programs.

5. COMPARISON:

COMPARE THE ECONOMIC IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The proposed amendments are not expected to have any significant economic impacts on regulated entities including small businesses. Thus no alternative were necessary or considered for small business.

With respect to the NAAQS, Vermont has proposed to adopt these verbatim. These NAAQS apply in Vermont regardless of whether we adopt them and it is simply a matter of whether Vermont or EPA implements them. The adoption of the NAAQS themselves is not expected to have any significant economic impacts. To avoid confusion, no alternatives were considered.

With respect to the minor clarifications to the permitting regulations, these are simple clarifications to the existing regulations and are not expected to have any significant economic impacts. They should however, clarify existing requirements. Since no significant changes are being proposed and economic impacts are minimal, no alternative were considered.

With respect to the used oil combustion amendments, the primary purpose is to true up the rule with the Vermont Hazardous Waste Management Regulations and thus no new economic impact is expected and no other alternatives were considered. In addition, current regulations allow an exception for small waste oil furnaces and the proposed amendments expand this to equivalent amounts of used oil burned in larger boilers, up to 5,000 gallons per year. Larger boilers tend to have better combustion, maintenance, and stack heights than waste oil furnaces and would be considered an equivalent or better device for used oil combustion. This change is relatively minor and is not expected to have a significant economic impact thus no alternatives were considered.

With respect to the five ton per year permitting threshold for most new sources, this is considered a minor clarification of existing discretion. Since most sources with actual emissions of less than five tons per year were not required to obtain permits in the past, the proposed amendments simply clarify this threshold and thus the amendments are not expected to have any significant economic impact. Since no significant

changes are being proposed and economic impacts are minimal, no alternative were considered.

6. FLEXIBILITY STATEMENT:

COMPARE THE BURDEN IMPOSED ON SMALL BUSINESS BY COMPLIANCE WITH THE RULE TO THE BURDEN WHICH WOULD BE IMPOSED BY ALTERNATIVES CONSIDERED IN 3 V.S.A. § 832a:

As noted above, the proposed amendments are considered minor and none of the proposed amendments are expected to impose significant burdens on small businesses, thus no alternatives were considered.

7. GREENHOUSE GAS IMPACT: EXPLAIN HOW THE RULE WAS CRAFTED TO REDUCE THE EXTENT TO WHICH GREENHOUSE GASES ARE EMITTED, EITHER DIRECTLY OR INDIRECTLY, FROM THE FOLLOWING SECTORS OF ACTIVITIES:

A. TRANSPORTATION —

IMPACTS BASED ON THE TRANSPORTATION OF PEOPLE OR PRODUCTS (e.g., "THE RULE HAS PROVISIONS FOR CONFERENCE CALLS INSTEAD OF TRAVEL TO MEETINGS" OR "LOCAL PRODUCTS ARE PREFERENTIALLY PURCHASED TO REDUCE SHIPPING DISTANCE. "):

The proposed amendments are not expected to have a significant impact on transportation related to greenhouse gases. While a minor component of this rulemaking, the waste oil provision will now allow a facility to more easily burn small amounts of its own used oil on-site in larger boilers that it otherwise may have had to ship off-site. This would reduce transportation of the potential fuel off-site and the delivery of other fuels to the site.

B. LAND USE AND DEVELOPMENT —

IMPACTS BASED ON LAND USE AND DEVELOPMENT, FORESTRY, AGRICULTURE ETC. (e.g., "THE RULE WILL RESULT IN ENHANCED, HIGHER DENSITY DOWNTOWN DEVELOPMENT." OR "THE RULE MAINTAINS OPEN SPACE, FORESTED LAND AND /OR AGRICULTURAL LAND. "):

The proposed amendments are not expected to have a significant impact on land use development.

C. BUILDING INFRASTRUCTURE —

IMPACTS BASED ON THE HEATING, COOLING AND ELECTRICITY CONSUMPTION NEEDS (e.g., "THE RULE PROMOTES WEATHERIZATION TO REDUCE BUILDING HEATING AND COOLING DEMANDS." OR "THE PURCHASE AND USE OF EFFICIENT ENERGY STAR APPLIANCES IS REQUIRED TO REDUCE ELECTRICITY CONSUMPTION. "):

The proposed amendments are not expected to have a significant impact on building infrastructure.

D. WASTE GENERATION / REDUCTION —

IMPACTS BASED ON THE GENERATION OF WASTE OR THE REDUCTION, REUSE, AND RECYCLING OPPORTUNITIES AVAILABLE (e.g., "THE RULE WILL RESULT IN REUSE OF PACKING MATERIALS." OR "AS A RESULT OF THE RULE, FOOD AND OTHER ORGANIC WASTE WILL BE COMPOSTED OR DIVERTED TO A 'METHANE TO ENERGY PROJECT'."):

The proposed amendments are not expected to have a significant impact on waste generation or reduction. While a minor component of this rulemaking, the waste oil provision will now more easily allow a facility to burn small amounts of its own used oil on-site in larger boilers that it otherwise may have had to ship off-site. This allows the facility to utilize a potential fuel generated on-site instead of having other fuel delivered.

E. OTHER —

IMPACTS BASED ON OTHER CRITERIA NOT PREVIOUSLY LISTED:

None.

Run Spell Check

Administrative Procedures – Public Input Statement

Instructions:

In completing the public input statement, an agency describes what it did do, or will do to maximize the involvement of the public in the development of the rule. This form must be completed for the following filings made during the rulemaking process:

- Proposed Rule Filing
- Final Proposed Filing
- Adopted Rule Filing
- Emergency Rule Filing

1. TITLE OF RULE FILING:

Amendments to Air Pollution Control Regulations

2. ADOPTING AGENCY:

Agency of Natural Resources

3. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

The primary provisions are mandatory to ensure acceptance of the Air Quality & Climate Division Program to the U.S. Environmental Protection Agency (EPA). The remaining provisions are either clarifications, codification of existing practice or program revisions to address deficiencies or improve functionality. None of these revisions are expected to be controversial or receive adverse comment. Thus no public involvement beyond the Administrative Procedures Act process was sought.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

None.

Run Spell Check

Administrative Procedures – Incorporation by Reference Statement

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and why the full text was not reproduced within the rule.

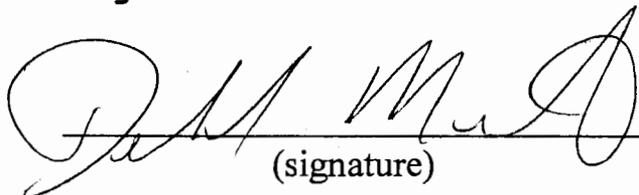
This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Copies of incorporated materials will be held by the Office of the Secretary of State until adoption or formal withdrawal of the rule is complete. Materials will be returned to the agency upon completion of the rule.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I certify that the text of the matter incorporated has been reviewed by an official of the agency. I further certify that the agency has the capacity and intent to enforce the rule entitled:

Rule Title: Amendments to Air Pollution Control Regulations.

 _____, on 5-22-14
(signature) (date)

Printed Name and Title:

Deborah Markowitz, Secretary
Agency of Natural Resources

1. TITLE OF RULE FILING:

Amendments to Air Pollution Control Regulations

2. ADOPTING AGENCY:

Agency of Natural Resources

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

40 C.F.R. Chapter 1 (Protection of the Environment, Environmental Protection Agency) is incorporated for its definitions and regulation of particulate matter (PM) emissions, particulate matter less than 10 microns (PM10) emissions and particulate matter less than 2.5 microns (PM2.5) emissions.

40 C.F.R. Part 50 Appendix L (Reference Method for the Determination of Fine Particulate Matter as PM2.5 in the Atmosphere).

40 C.F.R. Part 50 (National Primary and Secondary Ambient Air Quality Standards).

40 C.F.R. Part 51 Appendix W (Guidelines on Air Quality Models).

4. OBTAINING COPIES: (*EXPLAIN HOW THE MATERIAL(S) CAN BE OBTAINED BY THE PUBLIC, AND AT WHAT COST*):

Electronic copies of the above documents may be obtained for free from the Air Quality & Climate Division by calling (802) 828-1288 or emailing Doug Elliott at doug.elliott@state.vt.us

Copies of all the materials referenced above may also be viewed or obtained for free on-line at the US Government Printing Office at:

<http://www.gpo.gov/fdsys/search/home.action> This link takes you to the official Government Printing Office page. From here you can select the Code of Federal Regulations on the browse menu on the right side of page. From here select the year (2012), title 40, Chapter 1 (Parts 1-799), Subpart C (Air

Programs), then the applicable Part and if applicable the Appendix.

<http://www.ecfr.gov/> This link takes you to the Government Printing Office page for the electronic code of federal regulations. Select Title 40 from the drop down and then select Volume 2 for Parts 50 and 51. Note that this site is much faster than the standard GPO site but is an unofficial copy.

40 CFR Part 51 Appendix W (Guidelines on Air Quality Models) can also be obtained free of charge from:

http://www.epa.gov/ttn/scram/guidance_permit.htm

Appendix W is list near the beginning of this page.

5. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

There are no modifications. The citations and methods are referenced in entirety.

6. REASONS FOR INCORPORATION BY REFERENCE (*EXPLAIN WHY THE AGENCY DECIDED TO INCORPORATE THE MATERIALS RATHER THAN REPRODUCE THE MATERIAL IN FULL WITHIN THE TEXT OF THE RULE*):

These emission testing, ambient monitoring and modeling methods are highly technical, detailed and lengthy.

7. THE INCORPORATED MATERIALS HAVE BEEN REVIEWED BY THE FOLLOWING OFFICIAL OF THE AGENCY:

Doug Elliott

8. THE ADOPTING AGENCY REQUESTS THAT ALL COPIES OF INCORPORATED MATERIALS BE RETURNED TO THE AGENCY .

Run Spell Check



State of Vermont
Agency of Administration
109 State Street
Montpelier, VT 05609-0201
www.adm.state.vt.us

[phone] 802-828-3322
[fax] 802-828-3320

Office of the Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES

To: Louise Corliss, SOS
Brian Leven, SOS
Katie Pickens, LCAR
ICAR Members

Date: December 10, 2013

Proposed Rule: Amendments to Air Pollution Control Regulations
(Agency of Natural Resources)

The following official action was taken at the December 9, 2013 meeting of ICAR.

Present: Chair Michael Clasen, Jesse Moorman, John Kessler, Scott Bascom, Diane Zamos, Jennifer Mojo, Steve Knudson, and Dixie Henry
Absent: Erika Wolffing
Abstain: Jennifer Mojo

- The Committee has no objection to the proposed rule being filed with the Secretary of State.
- The Committee approves the rule with the following recommendations.
1. Add adopting page.
 2. Be consistent when referencing EPA – whether it is US or Federal and spell out EPA when first reference in each document section.
 3. Coversheet #10. Change to “Hearing will be scheduled”.
 4. Coversheet #13: Keep “NAAQS” but also spell it out. Add air pollution and air emissions to list.
 5. Economic Impact Statement #3: Capitalize National Ambient Air Quality Standards.
 6. Economic Impact Statement #5, 4th paragraph: Confirm Vermont Waste Management Regulations is the correct title to use.
 7. Economic Impact Statement #6: add “to” after expected.
 8. Public Input Statement #3: Get proper title of Air Program.
 9. Public Input Statement #3 last sentence: Explain what public involvement has been thus far, or delete “further” in last sentence.
 10. Scientific Information Statement: Delete form.
 11. Incorporation by Reference Statement #3 and #4: Provide titles of links, and indicate where you can get a copy of a report and the cost.
 12. Incorporation by Reference Statement #5: Add “s” to medication.

The Committee opposes filing of the proposed rule.

cc: Doug Elliott
Elaine O’Grady



FEB 10 2014



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

February 4, 2014

Doug Elliott
Vermont Agency of Natural Resources
Air Quality and Climate Division
Davis 2, One National Life Drive
Montpelier, VT 05620-3802

Dear Mr. Elliott:

Thank you for the opportunity to review the proposed revisions to Vermont's Air Pollution Control Regulations. Our comments are enclosed with this letter. The revisions include changes to the state's ambient air quality standards, adoption of PM_{2.5} new source review (NSR) permitting elements, and other changes to the state's Clean Air Act permitting regulations.

Although Vermont has proposed what it considers minor revisions to the NSR permit program elements for air quality impact analyses and increment, the state may want to consider this time as an opportunity to further enhance its rules regarding these mandatory NSR program elements. The enclosed comments provide some recommendations on how the state can further improve these NSR program elements.

Again, thank you for the opportunity to review the proposed revisions to your state NSR permitting regulations. If you have any questions, please call Donald Dahl at (617) 918-1657.

Sincerely,

A handwritten signature in cursive script that reads "Ida E McDonnell".

Ida E. McDonnell, Manager
Air Permits, Toxics and Indoor Programs Unit

Enclosure

Enclosure

1. When Vermont submits the adopted revised regulations to EPA as a State Implementation Plan (SIP) revision, the state should clearly indicate which regulations it is requesting to be incorporated into the SIP. Specifically, unlike the state posting of the proposal that showed all air regulations and noted changes with redline/strikeout, the SIP submittal should only include those regulations that the state is asking to be incorporated into the SIP. If a rule is not meant to be part of the SIP it should not be included in the package or it should be crossed out.
2. Section 5-101: The last clause in the definition of "Municipal Waste Combustor Acid Gases" may be redundant. EPA suggests Vermont edit the definition as follows:

"Municipal Waste Combustor Acid Gases (measured as sulfur dioxide and hydrogen chloride)" means all acid gases emitted in the exhaust gases from MWC units including, but not limited to, sulfur dioxide and hydrogen chloride gases, ~~measured as sulfur dioxide and hydrogen chloride.~~"

3. Section 5-101: Vermont proposes to add or amend several definitions in its general definition section for different size types of particulate matter. The definitions of "Particulate Matter Emissions," "PM₁₀ emissions," and "PM_{2.5} direct emissions" are the terms mostly aligned with EPA's permitting requirements. To alleviate some ambiguity that might arise due to different terms being defined, EPA suggests Vermont amend the list of Air Contaminants contained in the definition of "Significant" to state "Particulate Matter Emissions" and "PM₁₀ emissions."
4. Section 5-401(a)(5) proposes to narrow the definition of an air contaminant source for the mineral product crushing operations, portable sand and gravel plants, and crushed stone plants based on the capacity of the operation or plant. Section 5-501(1) of the Vermont SIP requires all new or modified sources classified as air contaminant sources to obtain a permit. Therefore the narrowing of the definition of an air contaminant source has the effect of narrowing the universe of sources required to obtain a new source review permit. Vermont will need to demonstrate the proposed narrowing of permitted sources adequately addresses the following Clean Air Act (CAA) provisions and EPA's implementing regulations.
 - a. Section 110(a)(2)(C) of the CAA requires SIP approved programs to permit new or modified sources as necessary to assure NAAQS are achieved. Vermont will need to demonstrate that after narrowing the universe of permitted sources, the state NSR permit program will still meet this section of the CAA.
 - b. Section 110(l) of the CAA requires EPA to disapprove a SIP revision if that revision would interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable

requirement of the CAA. This provision is sometimes referred to as one of the CAA antibacksliding provisions. Vermont will need to demonstrate that the emissions increase (if any) resulting from narrowing the universe of sources needing a permit will meet this provision of the Act.

- c. In order to meet the requirement of 40 CFR 51.160(a)(2), Vermont must demonstrate emissions from the sources it is proposing to exclude from permitting will not interfere with attainment or maintenance of a NAAQS.

It may be possible within the demonstration to use the same supporting information for the different requirements discussed above.

5. Section 5-401(b) also proposes to narrow the definition of air contaminant source based on the size of a source's emissions. Vermont will need to provide a demonstration similar to the one needed for the narrowing under section 5-401(a)(5).
6. Section 5-501(5) contains language to address 40 CFR 51.166(b)(23)(iii) which states that any emissions rate or any net emissions increase associated with a major source or major modification within 10 km of a class I area is considered significant for permitting purposes if the impacts on the area are above $1 \mu\text{g}/\text{m}^3$ (24-hr average). As described, the definition of significant in section 51.166(b)(23)(iii) applies to "any emissions rate or any net emissions increase." The way the state's rule is drafted may require an analysis for only one type of an emissions increase, based on the emissions rate, instead of the both types of emissions increases.

Section 5-501(5) is structured around allowable emissions, which under Vermont's program does not account for netting. Although the netting exercise usually results in lowering a project's emissions under the federal regulations, the calculation can also result in higher emissions if there are more creditable increases than decreases during the contemporaneous period. If that was the case, 40 CFR 51.166(b)(23)(iii) would require the source to determine its impact on the class I area using both the emissions from the "net emission increase" as provided under EPA's regulations and the project's allowable emissions. Vermont's rules do not address the "net emission increase" element.

7. Section 5-502(4)(a): There are three impact analyses required by 40 CFR 51.166. Forty CFR 51.166(k) requires the proposed source or modification to demonstrate that allowable emissions increases from the source would not cause or contribute to air pollution in violation of any NAAQS and increments. Forty CFR 51.166(m) requires an air quality analysis for all pollutants that the source would have the potential to emit in a significant amount and for all pollutants with a significant net emission increase for a modification. Finally, 40 CFR 51.166(o) requires an impact analysis on the impairment to visibility, soils, and vegetation. Subsection (o) also requires an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the

source or modification. Vermont's rules do not fully address these impact analyses.

As currently drafted, it is unclear as to whether section 5-502(4)(a) or (b) is written to meet the air quality impact analysis required by 40 CFR 51.166(k)(1)(i). However, if section 5-502(4)(a) is intended to apply, that provision does not adequately address all NAAQS. First that provision of Vermont's rules limits the requirement to perform a source impact analysis to those areas designated attainment. Since Vermont's air quality has not received a designation for the 2010 1-hr SO₂ standard, an argument could be made that an air quality impact analysis is not required by the proposed rule to address the 1-hr SO₂ standard, which would be inconsistent with EPA's regulations. This language could also inappropriately excuse a source from performing the required analysis when an area is designated unclassifiable. The proposed rule also appears to exempt ozone, which is a NAAQS pollutant, from the air quality impact analysis by excluding sources that emit volatile organic compounds from the requirement to conduct an analysis. Similar to the approach Vermont used to revise its regulations for greenhouse gas emissions, EPA suggests Vermont simply incorporate by reference 40 CFR 51.166(k)-(p) in section 5-502(4) to address the deficiencies.

Alternatively, Vermont could revise its rules as follows:

5-502(b)(4): *Air Quality Impact Evaluation*

(a) A source or modification subject to this section for air contaminants ~~designated attainment with respect to any air contaminant other than volatile organic compounds or greenhouse gases,~~ shall submit to the Secretary an air quality impact evaluation at the time it applies for approval to construct under Section 5-501 herein that demonstrates for:

(i) for each air contaminant for which EPA has established a National Ambient Air Quality Standard, other than volatile organic compounds or greenhouse gases, the allowable emissions increase from the proposed source or modification for which there would be a significant net increase in actual emissions at the source, or any other contaminant at the discretion of the Secretary, would not cause or contribute to air pollution in violation of any national ambient air quality standard or maximum allowable increase in any air quality control region.

(a) For any such air contaminant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(ii) an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following air contaminants :

(a) For the source, each air contaminant that it would have the potential to emit in a significant amount;

(b) For the modification, each air contaminant for which it would result in a significant net emissions increase.

(c) With respect to any air contaminant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Secretary determines is necessary to assess ambient air quality for that air contaminant in any area that the emissions of that air contaminant would affect.

(d) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Secretary determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area. All monitors required under this section shall meet the requirements of appendix B to part 58 of this chapter during the operation of monitoring.

(iii) An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(iv) An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

8. Portions of section 5-502(4)(b) appear to address 40 CFR 51.165(b)(2). The proposed rule appears to limit the evaluation of the source's contribution to a violation to just areas designated nonattainment. Forty CFR 51.165(b)(2) does not base the analysis on whether or not the impacted area has been designated. Rather, it is whether the impact "exceeds the following significance levels at any locality that does not or would not meet the applicable national standard." EPA suggests Vermont revise section 5-502(4)(b) as follows:

"Ambient Air Quality Standards review: The evaluation shall demonstrate that the increase in allowable emissions will not cause a violation of any applicable ambient air quality standard in any area, and will not significantly contribute to a

violation of any applicable ambient air quality standard in any locality that does not or would not meet the national ambient air quality standards as established by EPA designated nonattainment area for the above air contaminants. A source or modification will be considered to significantly contribute to, a violation of any ambient air quality standard for the above air contaminants if, at minimum, the increase in the allowable emissions from the source or modification will cause any increase in ambient concentrations of the above air contaminants in any locality that does not or would not meet the national ambient air quality standards as established by EPA the designated nonattainment area in excess of any of the levels of significant impact shown in Table 3 herein. If a source or modification will cause or significantly contribute to such a violation, the evaluation shall demonstrate that the source or modification will comply with the requirements of paragraph (6) herein.

9. The proposed revisions to section 5-502(4)(c) appear to amend the state's rules to allow for one of the optional SIP element contained in 40 CFR 51.166(p). Although additional regulatory language may be needed to fully address this optional element, there appears to be missing elements regarding the calculation of increment consumption. Vermont should address these missing elements and any additional language necessary to meet the optional element of allowing a source to be issued a permit even though the permit would allow the source's emissions to consume more than the available Class I increment.
10. Section 5-502(4)(e) is inconsistent with 40 CFR 51.166(p) because the state's proposed rule limits the Class I air quality analysis to sources within 100 km of a Class I area unless the state determines an analysis is warranted if the source is over 100 km away. EPA's regulations do not contain any such restriction. In accordance with 40 CFR 51.166(p)(3), the state rule must provide a mechanism for the Federal Land Manager to demonstrate the proposed source's or modification's emissions of any source required to obtain a PSD permit is causing an adverse impact on air quality-related values, regardless of its distance from a Class I area. Vermont should remove the 100 km restriction from the proposed rules.

In addition, the section's title "Class I Federal Area review" implies it will contain the PSD permit requirements specific to Class I areas which are found at 40 CFR 51.166(p). This section of the federal rules consists of seven subsections, of which four are mandatory SIP elements (paragraphs (1)-(3) and (7)). Section 5-502(4)(e) of Vermont's rules do not address all of these required elements. Vermont should address the missing elements.

11. Table 2 Prevention of Significant Deterioration (PSD) Increments: Vermont is proposing to revise this table by adopting increment levels for PM_{2.5} emissions. EPA notes the proposed increment levels are consistent with 40 CFR 51.166(c). EPA believes the proposed changes to Table 2 are independent and severable from the requirements contained in Subchapter V for calculating the amount of increment a proposed project may consume and how much increment is available. At this time,

EPA is not commenting on the section(s) of Subchapter V which regulate how available increment is calculated and the methods used to determine how much increment a project is proposed to consume.

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AGENCY OF NATURAL RESOURCES

RESPONSIVENESS SUMMARY

PROPOSED AMENDMENTS TO AIR POLLUTION CONTROL REGULATIONS AND REVISIONS TO VERMONT'S STATE IMPLEMENTATION PLAN (SIP)

May 19, 2014

List of Commenters:

1. Ida E. McDonnell, Manager, Air Permits, Toxics, and Indoor Air Programs Unit, U.S. Environmental Protection Agency, Region 1.
2. There were no other public comments received.

Summary of Comments and Responses:

1. Comment: When Vermont submits the adopted revised regulations to EPA as a State Implementation Plan (SIP) revision, the state should clearly indicate which regulations it is requesting to be incorporated into the SIP. Specifically, unlike the state posting of the proposal that showed all air regulations and noted changes with redline/strikeout, the SIP submittal should only include those regulations that the state is asking to be incorporated into the SIP. If a rule is not meant to be part of the SIP it should not be included in the package or it should be crossed out.

Response: Vermont will clearly denote in its SIP submittal which regulations are to be included and which are not.

2. Comment: Section 5-101: The last clause in the definition of "Municipal Waste Combustor Acid Gases" may be redundant. EPA suggests Vermont edit the definition as follows: "Municipal Waste Combustor Acid Gases (measured as sulfur dioxide and hydrogen chloride)" means all acid gases emitted in the exhaust gases from MWC units including, but not limited to, sulfur dioxide and hydrogen chloride gases, ~~measured as sulfur dioxide and hydrogen chloride.~~"

Response: Vermont has made the suggested change striking "measured as sulfur dioxide and hydrogen chloride" from the definition. We have also struck similar language from the next three similar definitions as the language was similarly redundant.



3. **Comment:** Section 5-101: Vermont proposes to add or amend several definitions in its general definition section for different size types of particulate matter. The definitions of "Particulate Matter Emissions," "PM10 emissions," and "PM2.5 direct emissions" are the terms mostly aligned with EPA's permitting requirements. To alleviate some ambiguity that might arise due to different terms being defined, EPA suggests Vermont amend the list of Air Contaminants contained in the definition of "Significant" to state "Particulate Matter Emissions" and "PM10 emissions."

Response: Vermont has made the suggested change adding "emissions" to both terms in the definition table of significant emissions.

4. **Comment:** Section 5-401(a)(5) proposes to narrow the definition of an air contaminant source for the mineral product crushing operations, portable sand and gravel plants, and crushed stone plants based on the capacity of the operation or plant. Section 5-501(1) of the Vermont SIP requires all new or modified sources classified as air contaminant sources to obtain a permit. Therefore the narrowing of the definition of an air contaminant source has the effect of narrowing the universe of sources required to obtain a new source review permit. Vermont will need to demonstrate the proposed narrowing of permitted sources adequately addresses the following Clean Air Act (CAA) provisions and EPA's implementing regulations.
- a. Section 110(a)(2)(C) of the CAA requires SIP approved programs to permit new or modified sources as necessary to assure NAAQS are achieved. Vermont will need to demonstrate that after narrowing the universe of permitted sources, the state NSR permit program will still meet this section of the CAA.
 - b. Section 110(l) of the CAA requires EPA to disapprove a SIP revision if that revision would interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of the CAA. This provision is sometimes referred to as one of the CAA antibacksliding provisions. Vermont will need to demonstrate that the emissions increase (if any) resulting from narrowing the universe of sources needing a permit will meet this provision of the Act.
 - c. In order to meet the requirement of 40 CFR 51.160(a)(2), Vermont must demonstrate emissions from the sources it is proposing to exclude from permitting will not interfere with attainment or maintenance of a NAAQS.

It may be possible within the demonstration to use the same supporting information for the different requirements discussed above.

Response: Vermont has determined that emissions from mineral product crushing operations, portable sand and gravel plants, and crushed stone plants below the NSPS threshold of 150 tons per hour capacity, which still must comply with section 5-231(4) to take reasonable precautions to prevent fugitive particulate matter, to not interfere with maintenance of the NAAQS. Vermont will make such demonstration in the SIP submittal.

5. **Comment:** Section 5-401(b) also proposes to narrow the definition of air contaminant source based on the size of a source's emissions. Vermont will need to provide a demonstration similar to the one needed for the narrowing under section 5-401(a)(5).

Response: Again, Vermont has determined that such minor source as will be exempt from permitting under the proposed regulations will not interfere with maintenance of the NAAQS. Vermont will make such demonstration in the SIP submittal.

6. **Comment:** Section 5-501(5) contains language to address 40 CFR 51.166(b)(23)(iii) which states that any emissions rate or any net emissions increase associated with a major source or major modification within 10 km of a class I area is considered significant for permitting purposes if the impacts on the area are above 1 µg/m³ (24-hr average) . As described, the definition of significant in section 51.166(b)(23)(iii) applies to “any emissions rate or any net emissions increase.” The way the state’s rule is drafted may require an analysis for only one type of an emissions increase, based on the emissions rate, instead of the both types of emissions increases.

Section 5-501(5) is structured around allowable emissions, which under Vermont’s program does not account for netting. Although the netting exercise usually results in lowering a project’s emissions under the federal regulations, the calculation can also result in higher emissions if there are more creditable increases than decreases during the contemporaneous period. If that was the case, 40 CFR 51.166(b)(23)(iii) would require the source to determine its impact on the class I area using both the emissions from the “net emission increase” as provided under EPA’s regulations and the project’s allowable emissions. Vermont’s rules do not address the “net emission increase” element.

Response: Section 5-501(5) is equally as stringent as the federal requirement. Although EPA correctly notes that Vermont’s permitting program does not allow for netting decreases (see definition of modification in section 5-101 stating that “regardless of any emission reductions achieved at the source”) under 5-502(1)(b), which applies to all major sources and major modifications constructed after July 1, 1979, all prior modifications not previously reviewed under the section are aggregated even if outside the contemporaneous period. Thus while Vermont regulations do not use the term “net emission increase”, the aggregation of prior increases not previously reviewed under 5-502 along with not allowing credit for emission reductions would be expected to result in equal or greater applicability under Vermont regulations than federal requirements. In addition, while we are not proposing this for inclusion in the SIP, these Class I provisions are contained in 5-501 and thus apply to both major and minor sources rather than only major source as with the federal program.

7. **Comment:** Section 5-502(4)(a): There are three impact analyses required by 40 CFR 51.166. Forty CFR 51.166(k) requires the proposed source or modification to demonstrate that allowable emissions increases from the source would not cause or contribute to air pollution in violation of any NAAQS and increments. Forty CFR 51.166(m) requires an air quality analysis for all pollutants that the source would have the potential to emit in a significant amount and for all pollutants with a significant net emission increase for a modification. Finally, 40 CFR 51.166(o) requires an impact analysis on the impairment to visibility, soils, and vegetation. Subsection (o) also requires an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification. Vermont’s rules do not fully address these impact analyses.

As currently drafted, it is unclear as to whether section 5-502(4)(a) or (b) is written to meet the air quality impact analysis required by 40 CFR 51.166(k)(1)(i). However, if section 5-502(4)(a) is intended to apply, that provision does not adequately address all NAAQS. First that provision of Vermont’s rules limits the requirement to perform a source impact analysis to those areas designated attainment. Since Vermont’s air quality has not received a designation for the 2010 1-hr SO₂ standard, an argument could be made that an air quality impact analysis is not required by the proposed rule to address the 1-hr SO₂ standard, which would be inconsistent with EPA’s regulations. This language could also inappropriately excuse a source from performing the required analysis when an area is designated unclassifiable. The proposed rule also appears to exempt ozone, which is a NAAQS pollutant, from the air quality impact analysis by excluding sources that emit volatile organic compounds from the requirement to conduct an analysis. Similar to the approach Vermont used to revise its regulations for greenhouse gas emissions, EPA suggests Vermont simply incorporate by reference 40 CFR 51.166(k)-(p) in section 5-502(4) to address the deficiencies.

Alternatively, Vermont could revise its rules as follows:

5-502(b)(4): Air Quality Impact Evaluation

- (a) A source or modification subject to this section for air contaminants ~~designated attainment with respect to any air contaminant other than volatile organic compounds or greenhouse gases~~, shall submit to the Secretary an air quality impact evaluation at the time it applies for approval to construct under Section 5-501 herein that demonstrates for:
- (i) for each air contaminant for which EPA has established a National Ambient Air Quality Standard, other than volatile organic compounds or greenhouse gases, the allowable emissions increase from the proposed source or modification for which there would be a significant net increase in actual emissions at the source, or any other contaminant at the discretion of the Secretary, would not cause or contribute to air pollution in violation of any national ambient air quality standard or maximum allowable increase in any air quality control region.
 - (a) For any such air contaminant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
 - (ii) an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following air contaminants :
 - (a) For the source, each air contaminant that it would have the potential to emit in a significant amount;
 - (b) For the modification, each air contaminant for which it would result in a significant net emissions increase.
 - (c) With respect to any air contaminant for which no National Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as the Secretary determines is necessary to assess ambient air quality for that air contaminant in any area that the emissions of that air contaminant would affect.
 - (d) Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the Secretary determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area. All monitors required under this section shall meet the requirements of appendix B to part 58 of this chapter during the operation of monitoring.
 - (iii) An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.
 - (iv) An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

Response: The proposed revisions to 5-502(4)(a) were only intended to be simple clarifications of existing requirements within the previously SIP approved major source and major modification permitting program and better align those requirements with Part 51. EPA's request for inclusion of missing SIP elements is beyond the scope of this current rulemaking. However, Vermont will consider more substantive amendments at a later date to more closely align our program with Part 51. To the extent we could incorporate the current comments we have. The proposed changes to 5-502(4)(a) have been stricken and instead only the existing language that previously exempted volatile organic compounds has been removed.

8. Comment: Portions of section 5-502(4)(b) appear to address 40 CFR 51.165(b)(2). The proposed rule appears to limit the evaluation of the source's contribution to a violation to just areas designated nonattainment. 40 CFR 51.165(b)(2) does not base the analysis on whether or not the impacted area has been designated. Rather, it is whether the impact "exceeds the following significance levels at any locality that does not or would not meet the applicable national standard." EPA suggests Vermont revise section 5-502(4)(b) as follows:

"Ambient Air Quality Standards review: The evaluation shall demonstrate that the increase in allowable emissions will not cause a violation of any applicable ambient air quality standard in any area, and will not significantly contribute to a violation of any applicable ambient air quality standard in any locality that does not or would not meet the national ambient air quality standards as established by EPA designated nonattainment area for the above air contaminants. A source or modification will be considered to significantly contribute to, a violation of any ambient air quality standard for the above air contaminants if, at minimum, the increase in the allowable emissions from the source or modification will cause any increase in ambient concentrations of the above air contaminants in any locality that does not or would not meet the national ambient air quality standards as established by EPA the designated nonattainment area in excess of any of the levels of significant impact shown in Table 3 herein. If a source or modification will cause or significantly contribute to such a violation, the evaluation shall demonstrate that the source or modification will comply with the requirements of paragraph (6) herein.

Response: Vermont has made changes to this language to address this comment. The proposed language now reads "...and will not significantly contribute to a violation of any applicable ambient air quality standard in any area that does not or would not meet the applicable ambient air quality standard for the above air contaminants....any area that does not or would not meet the applicable ambient air quality standard in excess of..."

9. Comment: The proposed revisions to section 5-502(4)(c) appear to amend the state's rules to allow for one of the optional SIP element contained in 40 CFR 51.166(p). Although additional regulatory language may be needed to fully address this optional element, there appears to be missing elements regarding the calculation of increment consumption. Vermont should address these missing elements and any additional language necessary to meet the optional element of allowing a source to be issued a permit even though the permit would allow the source's emissions to consume more than the available Class I increment.

Response: Vermont has removed all language that added this optional SIP element.

10. Comment: Section 5-502(4)(e) is inconsistent with 40 CFR 51.166(p) because the state's proposed rule limits the Class I air quality analysis to sources within 100 km of a Class I area unless the state determines an analysis is warranted if the source is over 100 km away. EPA's regulations do not contain any such restriction. In accordance with 40 CFR 51.166(p)(3), the state rule must provide a mechanism for the Federal Land Manager to demonstrate the proposed source's or modification's emissions of any source required to obtain a PSD permit is causing an adverse impact on air quality-related values, regardless of its distance from a Class I area. Vermont should remove the 100 km restriction from the proposed rules.

In addition, the section's title "Class I Federal Area review" implies it will contain the PSD permit requirements specific to Class I areas which are found at 40 CFR 51.166(p). This section of the federal rules consists of seven subsections, of which four are mandatory SIP elements (paragraphs (1)-(3) and (7)). Section 5-502(4)(e) of Vermont's rules do not address all of these required elements. Vermont should address the missing elements.

Response: Vermont has removed the 100 km language. The proposed language now reads "Class I Federal Area review: The evaluation shall demonstrate that the increase in allowable emissions will not cause an adverse impact on visibility or any other Air Quality Related Value or in any Class I Federal area." The remaining comments regarding 40 CFR 51.166(p) are beyond the scope of this rulemaking which does not impact or alter the existing program requirements.

11. Comment: Table 2 Prevention of Significant Deterioration (PSD) Increments: Vermont is proposing to revise this table by adopting increment levels for PM_{2.5} emissions. EPA notes the proposed increment levels are consistent with 40 CFR 51.166(c). EPA believes the proposed changes to Table 2 are independent and severable from the requirements contained in Subchapter V for calculating the amount of increment a proposed project may consume and how much increment is available. At this time, EPA is not commenting on the section(s) of Subchapter V which regulate how available increment is calculated and the methods used to determine how much increment a project is proposed to consume.

Response: Vermont acknowledges this comment.

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AGENCY OF NATURAL RESOURCES

To: LCAR and Secretary of State

Through:  Elaine O'Grady, Director, Air Quality & Climate Division

From:  Doug Elliott, Section Chief
Air Permitting & Engineering Section
Air Quality & Climate Division

Date: May 19, 2014

Subject: List of Changes to Proposed Amendments to Air Pollution Control Regulations

Please find set forth below a list of changes made to the final proposed rule, entitled "Amendments to Air Pollution Control Regulations and Revisions to Vermont's State Implementation Plan," since the filing of the proposed rule. The Agency made the changes described below in response to comments on the proposed rule.

1. In Section 5-101, the language "measured as sulfur dioxide and hydrogen chloride" at the end of the definition of "Municipal Waste Combustor Acid Gases" was stricken as it is redundant.
2. In Section 5-101, the language "measured as particulate matter" at the end of the definition of "Municipal Waste Combustor Metals" was stricken as it is redundant.
3. In Section 5-101, the language "measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and bibenzofurans" at the end of the definition of "Municipal Waste Combustor Organics" was stricken as it is redundant.
4. In Section 5-101, the language "measured as nonmethane organic compounds" at the end of the definition of "Municipal Solid Waste Landfill Emissions" was stricken as it is redundant.
5. In Section 5-101, the term "emissions" was added to particulate matter and PM₁₀ in the rate table in the definition of "Significant" to clarify intent.
6. The proposed changes to 5-502(4)(a) have been stricken and only the language "volatile organic compounds or" has been removed.



7. In Section 5-502(4)(b) the following changes were made to be more consistent with EPA regulation 40 CFR §52.165(b)(2):

"Ambient Air Quality Standards review: The evaluation shall demonstrate that the increase in allowable emissions will not cause a violation of any applicable ambient air quality standard in any area, and will not significantly contribute to a violation of any applicable ambient air quality standard in any area that does not or would not meet the applicable ambient air quality standards ~~designated nonattainment area~~ for the above air contaminants. A source or modification will be considered to significantly contribute to a violation of any ambient air quality standard for the above air contaminants if the increase in the allowable emissions from the source or modification will cause an increase in ambient concentrations of the above air contaminants in any area that does not or would not meet the national ambient air quality standards ~~the designated nonattainment area~~ in excess of any of the levels of significant impact shown in Table 3 herein. If a source or modification will significantly contribute to such a violation, the evaluation shall demonstrate that the source or modification will comply with the requirements of paragraph (6) herein.

8. In Section 5-502(4)(c) the proposed new language in the second sentence that stated the following has been stricken with the exception of the paragraph title. This language added an optional element that was of concern to EPA as written.

"Notwithstanding the above, if a Class I PSD Increment is predicted to be exceeded the applicant must demonstrate to the Federal Land Manager's satisfaction that there will be no adverse impact on any Air Quality Related Value in the Class I area and that the impacts in the Class I area will be less than the remaining Class II PSD increments."

9. In Section 5-502(4)(e) the proposed new language in the first sentence has been stricken:

"For sources within 100 kilometers of a Class I area, or further at the discretion of the Secretary, in addition to PSD increment requirements in (c) above..."