

Force personnel will not have any authority to enforce federal, local or state laws on the water.

(3) Due to the nature of security threats, restricted area activation may occur with little advance notice. Activation will be based on local or national intelligence information related to threats against military installations and/or resources common to Tyndall AFB in concert with evaluations conducted by the Tyndall AFB Threat Working Group and upon direction of the Installation Commander, Tyndall AFB. The Installation Commander activates only those portions of the restricted area identified in paragraphs (a)(4)(i) through (xxiii) of this section necessary to provide the level of security required in response to the specific and credible threat(s) triggering the activation. The duration of activation for any portion(s) of the restricted area defined in paragraph (a) of this section, singularly or in combination, will be limited to those periods where it is warranted or required by security threats. Activated portions of the restricted area will be reevaluated every 48 hours to determine if the threat(s) triggering the activation or related threats warrant continued activation. The activated portion(s) of the restricted area expire if no reevaluation occurs or if the Installation Commander determines that activation is no longer warranted.

(4) Public notification of a temporary restricted area activation will be made via marine VHF broadcasts (channels 13 and 16), local notices to mariners, local news media through Air Force Public Affairs notifications and by on-scene installation personnel. On-scene installation personnel will notify boaters in the restricted area of the restriction and tell them that if they refuse to leave the area they will be trespassing and could be subject to prosecution.

(5) During times when the Installation Commander activates any portion(s) of the temporary restricted area defined in paragraph (a) of this section all entry, transit, drifting, anchoring or attaching any object to the submerged sea-bottom within the activated portion(s) of the restricted area is not allowed without the written permission of the Installation Commander, Tyndall AFB, Florida or his/her authorized representative. Previously affixed mooring balls established to support watercraft during intense weather conditions (*i.e.*, tropical storms, hurricanes, etc.) may remain within the activated portion(s) of the restricted area, however watercraft should not be anchored to the mooring balls without

the permission of the Installation Commander, Tyndall AFB, Florida or his/her authorized representative.

(c) *Enforcement.* The regulations in this section shall be enforced by the Installation Commander, Tyndall AFB and/or such persons or agencies as he/she may designate.

Dated: September 4, 2015.

**Edward E. Belk, Jr.**,

*Chief, Operations and Regulatory Division,  
Directorate of Civil Works.*

[FR Doc. 2015-23030 Filed 9-11-15; 8:45 am]

**BILLING CODE 3710-58-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2015-0493; FRL-9933-90-Region 8]

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Common Provisions and Regulation Number 3; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of State Implementation Plan (SIP) revisions submitted by the State of Colorado on March 31, 2010, May 16, 2012, and May 13, 2013. The revisions are to Colorado Air Quality Control Commission (Commission) Regulation Number 3, Parts A, B, and D and Common Provisions Regulation. The revisions include administrative changes to permitting requirements for stationary sources, updates to the fine particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>) implementation rules related to the federal New Source Review (NSR) Program, changes to address previous revisions to Air Pollutant Emission Notice (APEN) regulations that EPA disapproved or provided comments on, revisions to definitions, and minor editorial changes. Also in this action, EPA is proposing to correct a final rule pertaining to Colorado's SIP published on April 24, 2014. In our April 24, 2014 action, regulatory text and corresponding "incorporation by reference" (IBR) materials were inadvertently excluded for (1) greenhouse gas permitting revisions to the Common Provisions Regulation, and (2) minor editorial changes to the Common Provisions Regulation and Parts A, B, and D of Regulation Number

3 (adopted October 10, 2010). This action is being taken under section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 14, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2015-0493, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

- *Email:* [dobrahner.jaslyn@epa.gov](mailto:dobrahner.jaslyn@epa.gov).

- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery:* Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2015-0493. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site 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 email comment directly to EPA, without going through [www.regulations.gov](http://www.regulations.gov) your email 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to section I, General Information, of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jaslyn Dobrahner, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6252, [dobrahner.jaslyn@epa.gov](mailto:dobrahner.jaslyn@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

*What should I consider as I prepare my comments for EPA?*

1. *Submitting Confidential Business Information (CBI).* Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
  - Explain why you agree or disagree;
  - Suggest alternatives and substitute language for your requested changes;
  - Describe any assumptions and provide any technical information and/or data that you used;
    - If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
    - Provide specific examples to illustrate your concerns, and suggest alternatives;
    - Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
    - Make sure to submit your comments by the comment period deadline identified.

### **II. Background**

A. On March 31, 2010 the State of Colorado submitted a SIP revision containing amendments to the Common Provisions Regulation sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., I.H., I.I., I.J., II.B., II.C., II.E., II.H. and II.J. The amendments update the definition of "negligibly reactive volatile organic compound," add clarification to the definition of "volatile organic compound," and make minor editorial changes. The Commission adopted the amendments on December 17, 2009 (effective January 30, 2010).

B. On May 16, 2012 the State submitted a SIP revision containing amendments to Regulation Number 3, Parts A, B and D. The amendments modify the permitting requirements for stationary sources in Colorado by: (1) Incorporating into state regulations changes to the federal NSR Program related to the PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS); (2) revising state regulations to address past rule revisions that were disapproved or commented on by EPA; (3) deferring permitting requirements for biogenic sources of carbon dioxide emissions to ensure consistency with federal greenhouse gas permitting requirements; and (4) making miscellaneous revisions and minor editorial changes. The Commission adopted the amendments on October 20, 2011 (effective December 15, 2011).

C. On May 13, 2013 Colorado submitted a SIP revision containing amendments to Regulation Number 3,

Parts A, B and D. The amendments make administrative revisions to the permitting requirements for stationary sources in Colorado and make minor editorial changes. The Commission adopted the amendments on December 20, 2012 (effective February 15, 2013).

D. On April 24, 2014 EPA published a final rule (79 FR 22772) in the **Federal Register** approving Colorado's May 25, 2011 SIP revisions to the Common Provisions Regulation related to greenhouse gas and minor editorial changes to the Common Provisions Regulation and Regulation Number 3 Parts A, B and D (adopted October 10, 2010). This action includes regulatory text and IBR material intended to be a part of EPA's April 24, 2014 final rule but inadvertently excluded.

### **III. EPA's Review of the State of Colorado's March 31, 2010; May 16, 2012; and May 13, 2013 Submittals, and Regulatory Text/IBR Correction**

We evaluated Colorado's March 31, 2010, May 16, 2012 and May 13, 2013 submittals regarding revisions to the State's Common Provisions Regulation and Regulation Number 3, Parts A, B and D. We propose to approve some of the revisions and not act on others.

#### *A. March 31, 2010 SIP Submittal*

The State's March 31, 2010 SIP submittal contained amendments to the Common Provisions Regulation and includes the following types of amendments to the State's air quality rules: Adding compounds to the definition of "negligibly reactive volatile compounds" (NRVOC) and clarifying NRVOC and volatile organic compound (VOC) testing methodologies within the definition of "volatile organic compound." In addition, the State subsequently requested <sup>1</sup> a revision to the definition of "incinerator." The revisions also make minor editorial changes.

EPA's policy is that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (42 FR 35314). EPA determines whether a given carbon compound has "negligible" reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA lists these compounds in its regulations at 40 CFR 51.100(s), and excludes them from the definition of a "VOC." The chemicals on this list are often called "negligibly reactive." EPA may periodically revise the list of negligibly reactive volatile compounds or NRVOCs to add or delete compounds from the list. In its March

<sup>1</sup> Refer to docket #EPA-R08-OAR-2015-0493 for documentation.

31, 2010 submission, the State adds the following compounds: “(1)1, 1, 1, 2, 2, 3, 4, 5, 5, 5, -decafluoro-3-methoxy-4-trifluoromethyl-pentane”<sup>2</sup>; “Propylene carbonate”; and “Dimethyl carbonate,” as well as the common names or chemical structure: “n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>, HFE-7000”; “HFE-7500”; “HFC 227ea”; “HCOOCH<sub>3</sub>”; and “HFE-7300” to the list of NRVOCs. Subsequent to the March 31, 2010 submission, the State also requested<sup>3</sup> to add “1, 1, 1, 2, 2, 3, 3, -heptafluoro-3-methoxy-propane”; “3-ethoxy-1, 1, 1, 2, 3, 4, 4, 5, 5, 6, 6, 6-dodecafluoro-2(trifluoromethyl)hexane”; “1, 1, 1, 2, 3, 3, 3-heptafluoropropane”; and “Methyl formate” to the list of NRVOCs<sup>4</sup> in section I.G. EPA is proposing to approve these additions to the State’s Common Provisions Regulation list of NRVOCs per our earlier actions (72 FR 2193; 74 FR 3437; 78 FR 9823) updating EPA’s listing of organic compounds determined to have negligible photochemical reactivity at 40 CFR 51.100(s)(1).

The March 31, 2010 revision to the Common Provisions Regulation also revises the definition of “VOC” to include test methods specified in the State’s SIP, a Title V Permit, 40 CFR part 51, subpart I or appendix S, and 40 CFR part 52. In accordance with 40 CFR 51.100(s)(2) and (4), EPA proposes to approve revisions to the definition of “VOC” in section I.G. of the Common Provisions Regulation.

In addition to modifying the definitions of NRVOc and VOC, the State also subsequently requested revisions to the definition of “incinerator” in section I.G. The revisions exclude from the definition of “incinerator” devices commonly called Air Curtain Destructors used to burn 100% wood waste, clean lumber, or yard waste generated as a result of projects to reduce the risk of wildfire and not operated at a commercial or industrial facility. The revisions also state that any air curtain destructor (also called air curtain incinerator in the federal rule) subject to 40 CFR part 60 incinerator requirements are also considered incinerators under the State’s revised Common Provisions

Regulation definition of “incinerator” per EPA’s final rule (70 FR 74870) for New Source Performance Standards (NSPS) for new and existing “other” solid waste incineration units. We propose to approve these revisions.

The March 2010 submittal also makes minor editorial revisions to the Common Provisions Regulation. We are proposing to approve the minor editorial revisions in sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2. and II.H as shown in Table 1. We are not acting on the minor editorial revisions in II.J. as they are either already in the approved SIP or in sections that EPA previously disapproved (Table 2). Also, we note that the March 31, 2010 submittal is missing a quotation mark in Section I.B. and contains the incorrect abbreviation for “microgram” in Section I.F. The State is aware of these errors and will make the necessary corrections in a future submittal.<sup>5</sup>

Finally, the March 31, 2010 submission contains text not currently in the Common Provisions section of the SIP yet also not identified by the State as a revision. This text includes the addition of “Tertiary Butyl Acetate (2-Butanone)” to the list of NRVOCs in section I.G. as well as the last sentence in the definition of “VOC” regarding tertiary butyl acetate as a VOC for the purposes of photochemical dispersion monitoring. On November 29, 2004 (69 FR 69298), EPA revised its definition of VOC to exclude tertiary butyl acetate for purposes of VOC emissions limitations or VOC content requirements; however, tertiary butyl acetate continues to be a VOC for purposes of all recordkeeping, emissions reporting, and inventory purposes as reflected in 40 CFR 51.100(s)(1) and (s)(5). Therefore, EPA is not including these State additions with our proposed approval of IBR material.

#### B. May 16, 2012 SIP Submittal

The State’s May 16, 2012 SIP submittal includes the following types of amendments to Regulation Number 3, Parts A, B and D: Revisions to State permitting requirements for stationary sources to incorporate changes to the federal NSR Program related to PM<sub>2.5</sub>; revisions to address past rule revisions that were disapproved or commented on by EPA; and deferral of the permitting requirements for biogenic sources of carbon dioxide emissions to ensure consistency with federal greenhouse gas permitting requirements. The revisions also make several miscellaneous changes along with minor editorial changes.

The May 16, 2012 submittal incorporates into Regulation Number 3, Parts A, B and D changes to the federal NSR Program related to the PM<sub>2.5</sub> NAAQS. Specifically, the State revised the definition of “criteria pollutants” to address PM<sub>2.5</sub> precursors in Part A (I.B.17.) and revised the definition of “significant” to address PM<sub>2.5</sub> in Part D (II.A.42.). We are proposing to approve both of these revisions to definitions to address PM<sub>2.5</sub>. In addition, the State incorporated portions of 40 CFR 51.165(a)(9)(i)–(iv) into the State’s Requirements Applicable to Nonattainment Areas for Major Sources in Part D of Regulation Number 3 (V.A.3.). This section describes the emissions offsets and emissions offset ratios required prior to the date of commencement of operations. We are proposing to approve this revision. We are also proposing to approve the State’s revision to the Table of Significance Levels for nonattainment areas in section VI.D.2. of Part D to address PM<sub>2.5</sub>. Finally, the State added PM<sub>2.5</sub> increments to their ambient air increments in section X.A.1. of Part D and added PM<sub>2.5</sub> increments to their Class I variances maximum allowable increases in section XIII.D. of Part D. These revisions align with 40 CFR 52.21(b)(58)(c) and 52.21(p)(5), respectively, and we therefore propose to approve these revisions.

The State also revised the definition of “Subject to Regulation” in Part A of Regulation Number 3 in their May 16, 2012 submittal. In section I.B.44.b.(i) the State added language to instruct how to compute greenhouse gas emissions to exclude carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms. This addition is consistent with EPA’s biogenic deferral regulation found at 40 CFR 52.21(b)(49)(a)(ii); therefore, we are proposing to approve the revision.

The May 16, 2012 submission also makes revisions to Regulation Number 3, Part B based on EPA’s comments on previous actions (76 FR 6331; 79 FR 8632). These revisions include reverting back to previously approved SIP exemption language for stationary internal combustion engines that have uncontrolled actual emissions of less than five tons per year for construction permit requirements (II.D.1.c.)<sup>6</sup> and clarifying exemptions associated with oil and gas produced wastewater

<sup>2</sup> In 78 FR 9823, EPA amended its definition of VOC at 40 CFR 51.100(s) to make for clarity technical corrections to the current list of exempt compounds at 40 CFR 51.100(s)(1) by removing the erroneous “(1)” notation in “(1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300)” so that it reads “1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300).”

<sup>3</sup> Refer to docket #EPA-R08-OAR-2015-0493 for documentation.

<sup>4</sup> Refer to docket #EPA-R08-OAR-2015-0493 for documentation.

<sup>5</sup> Refer to docket #EPA-R08-OAR-2015-0493 for documentation.

<sup>6</sup> EPA inadvertently approved a previous version in 79 FR 8632.

impoundments (II.D.1.m). We are proposing to approve these revisions.

Within section VI.B.3. of Part D of the May 16, 2012 submittal, the State revised the PM<sub>10</sub> surrogate policy for PM<sub>2.5</sub> based on EPA's previous conclusions that PM<sub>2.5</sub> implementation issues had been resolved to a degree sufficient for all federal Prevention of Significant Deterioration (PSD) permit reviews to begin direct PM<sub>2.5</sub> based assessments as of July 15, 2008. In a letter<sup>7</sup> dated January 13, 2011 the State clarified their position on the use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> “. . . (CDPHE) now commits to implement PM<sub>2.5</sub> standards consistent with EPA's latest interpretation of federal case law relevant to the use of the PM<sub>10</sub> Surrogate Policy . . .” We are proposing to approve this revision, and in doing so, note that as announced in our May 2008 rulemaking to implement preconstruction review provisions for the 1997 PM<sub>2.5</sub> NAAQS in both attainment and nonattainment areas (73 FR 28321), the 1997 PM<sub>10</sub> Surrogate Policy ended on May 16, 2011 and can no longer be used for any pending or future State PSD permits.

Also regarding the May 16, 2012 submittal, we are proposing to take no action on several of the State's revisions related to PM<sub>2.5</sub> implementation in Part D of Regulation Number 3, including section II.A.26.d. describing net emissions increases for PM<sub>2.5</sub>, the introductory paragraph of VI.A.2. and VI.A.2.c. that provide impact levels for PM<sub>2.5</sub>, and VI.B.3.a.(iii) PM<sub>2.5</sub> monitoring exemption of 4 micrograms/cubic meter over a 24-hour average. We are proposing to not act on these revisions in part due to the January 22, 2013 United States Court of Appeals for the District of Columbia Circuit vacatur of the significant impact levels for PM<sub>2.5</sub> for attainment areas. Since we are proposing to not take action on the PM<sub>2.5</sub> monitoring exemption level found at VI.B.3.a.(iii), we also propose to not take action on VI.B.3.d. In absence of a revision to include a PM<sub>2.5</sub> monitoring exemption level in VI.B.3.a.(iii), PM<sub>2.5</sub> would be removed from the list of pollutants with monitoring exemption levels contained in VI.B.3.a., therefore exempting PM<sub>2.5</sub> from monitoring levels completely if we approved VI.B.3.d.

We are also proposing to take no action on several revisions contained in the May 16, 2012 submittal to Definitions in Part D of Regulation

Number 3 to address PM<sub>2.5</sub> in the Baseline Area (II.A.5.a.), Major Source Baseline Date (II.A.23.), Minor Source Baseline Date (II.A.25.) and Regulated NSR Pollutant (II.A.38.) definitions because we already approved these revisions in our September 23, 2013 (78 FR 58186) action. In section II.A.23.c. of Part D, the State also revised the major source baseline date for PM<sub>2.5</sub> to October 20, 2011. This date is incorrect; the correct major source baseline date for PM<sub>2.5</sub> is October 20, 2010. In the May 13, 2013 submittal, also part of this action, the State revises the date back to October 20, 2010. The May 13, 2013 submittal supersedes the May 16, 2012 submittal; however, since the current approved SIP already contains the correct date, we are proposing to take no action on either revision.

Additionally, the May 16, 2012 submission addresses EPA's final action on October 3, 2011 (76 FR 61054) partially approving and partially disapproving Colorado's SIP revisions in Regulation Number 3, Part A to Air Pollutant Emission Notice (APEN) and permitting exemptions submitted to EPA in September 1997, June 2003, July 2005, August 2006, and August 2007. In the October 3, 2011 action, EPA partially disapproved APEN exemptions for open burning,<sup>8</sup> mobile sources, stationary internal combustion engines, emergency generators, deaerator/vacuum pump exhaust, and air curtain destructors. In today's action, we are proposing to approve revisions to the open burning APEN requirements (II.D.1.q.) in Regulation Number 3, Part A changing the reference regulation from “9,” which is not part of Colorado's SIP, to “1,” which is part of Colorado's SIP and clarifying the mobile source APEN (II.D.1.ppp.). Additionally, we are proposing to approve revisions made to the surface water impoundment APEN exemption (II.D.1.uuu.) to include gas production wastewater in addition to oil production wastewater. We are proposing no action on the State's removal of APENs related to stationary internal combustion engines (II.D.1.sss.), emergency power generators (II.D.1.ttt.), deaerator/vacuum pump exhaust (II.D.1.xxx.), and air curtain destructors (II.D.1.fff.) as these provisions were not approved into the SIP. Finally, we are proposing no action on revisions to identify sections I.B.31.c,<sup>9</sup> and I.B.31.d. as “State-only

Requirements” since these are also not part of the SIP.

Finally, the May 16, 2012 submission contains miscellaneous revisions to Parts A, B and D of Regulation Number 3. In Part A, the State clarified the significance level for VOC and NO<sub>x</sub> for APEN reporting purposes (II.C.2.b.(ii)). In Part B, section III.G.1., the State changed the timing an applicant must provide notice to the State upon commencement of operation of a source from 30 days prior to startup to 15 days following startup. This revision aligns with 40 CFR 60.7(a)(3) Standards of Performance for New Stationary Sources, Notification and Record Keeping. In Part D, revisions include a correction<sup>10</sup> to move the creditable emissions documentation from II.A.26.d. to II.A.26.c.(iii), remove “total suspended particulate matter” and add NO<sub>x</sub> as a precursor to ozone for consistency with federal significant monitoring concentrations requirements in VI.B.3.a.(iii) and VI.B.3.c., respectively. We propose to approve these revisions in addition to minor editorial changes found throughout Parts A, B and D of Regulation Number 3 with exceptions noted in Table 2 because the revisions the State is requesting are already in the SIP.

#### C. May 13, 2013 SIP Submittal

The State's May 13, 2013 SIP submittal contains amendments to Regulation Number 3 Parts A, B and D and includes administrative revisions to permitting requirements for stationary sources in Colorado and minor editorial changes. The State also updated where materials incorporated by reference are available for public inspection by adding an online web address and deleting reference to the State Publications Depository and Distribution Center in section I.A.

Revisions to section VI.B.5. in Part A of the May 13, 2013 submittal allow the State to issue construction permits prior to receipt of permit processing fees and provide for the option to revoke the permit or assess late fees if such fees are not paid within 90 days of the written request for fees. The purpose of the revisions are to allow applicants to commence construction during the invoicing and payment process; the revisions will not negatively impact permit applicants who pay their permit processing fees on time. A revision to section III.C.1.a. in Part B of the May 13, 2013 submittal clarifies the inclusion of sources in attainment/maintenance areas in the determination of sources

<sup>7</sup> Refer to January 2011 letter from state Colorado's Position on the Use of PM<sub>10</sub> as a Surrogate for PM<sub>2.5</sub>, Relevant to Both the PM<sub>2.5</sub> Implementation Rules and Interstate Transport in docket #EPA-R08-OAR-2015-0493 for documentation.

<sup>8</sup> EPA inadvertently approved a previous version in 79 FR 8632.

<sup>9</sup> EPA inadvertently approved a previous version in 79 FR 8632.

<sup>10</sup> Refer to docket #EPA-R08-OAR-2015-0493 for documentation.

subject to public comment. Finally, revisions to Part D of the May 13, 2013 submittal include deleting language EPA previously disapproved (79 FR 8632) in the introductory text for Major Modifications in section II.A.22.<sup>11</sup> and Representative Actual Annual Emissions sections II.A.40.5 and II.A.40.5(a) as well as deleting the associated II.A.40.5(b).<sup>12</sup>

EPA is proposing to approve the revisions in the May 13, 2013 submittal to Parts A, B and D of Regulation Number 3 as well as the minor editorial changes contained throughout, except for sections II.A.22., II.A.40.5 (introductory paragraph), and II.A.40.5(a) in Part D because these are not in the current SIP and the other exceptions noted in Table 2. We are not acting on some of the provisions as listed in Table 2, because they are State-

only provisions or because they are not applicable to the current SIP.

*Proposed Correction*

In our final rule published in the **Federal Register** on April 24, 2014 (79 FR 22772) we inadvertently did not include regulatory text and corresponding IBR materials for our approvals to (1) greenhouse gas permitting revisions to Common Provisions Regulation, and (2) minor editorial changes to the Common Provisions Regulation and Parts A, B and D of Regulation Number 3 (adopted October 10, 2010). EPA is proposing to correct this error with today's action. The IBR material for our April 24, 2014 action is contained within this docket.

**IV. What action is EPA taking?**

For the reasons expressed above, EPA is proposing to approve revisions to

sections I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2. and II.H of the State's Common Provisions Regulation from the March 31, 2010 submittal as shown in Table 1 below. We also propose to approve revisions to Parts A, B and D of the State's Regulation Number 3 from the May 16, 2012 and May 13, 2013 submittals (Table 1), except for those revisions we are not taking action on as represented in Table 2 below. Finally, EPA proposes to correct regulatory text and IBR published in the **Federal Register** on April 24, 2014 (79 FR 22772).

A comprehensive summary of the revisions in Colorado's Common Provisions Regulation and Regulation Number 3 Parts A, B and D organized by EPA's proposed rule action, reason for proposed "no action" and submittal date are provided in Table 1 and Table 2 below.

TABLE 1—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO APPROVE

Revised Sections in March 31, 2010; May 16, 2012; and May 13, 2013 Submissions Proposed for Approval	
<i>March 31, 2010 submittal</i> —Common Provisions Regulation:	I.A., I.B., I.C., I.D., I.E., I.F., I.G., II.B., II.C., II.E.2., II.H.
<i>May 16, 2012 submittal</i> —Regulation Number 3, Part A:	I.B.17., I.B.28.c., I.B.44.b.(i), I.B.44.e.(ii)(B), II.C.2.b.(ii), II.D.1.q., II.D.1.ppp., II.D.1.uuu., II.D.1.dddd.
<i>May 13, 2013 submittal</i> —Regulation Number 3, Part A:	I.A., I.B.7., I.B.28., I.B.43., II.D.1., II.D.1.dddd., V.I.2., VI.B.5., Appendix B.
<i>May 16, 2012 submittal</i> —Regulation Number 3, Part B:	II.D.1.c., II.D.1.m., III.G.1.
<i>May 13, 2013 submittal</i> —Regulation Number 3, Part B:	III.C.1.a.
<i>May 16, 2012 submittal</i> —Regulation Number 3, Part D:	II.A.24.f., II.A.26.c., II.A.26.e.–II.A.26.k. (re-numbering), II.A.42., III.B., V.A., V.A.3., V.A.4., VI.A.2.a., VI.A.4., VI.B.3.a.(ii) and (iv)–(ix), VI.B.3.a.(iii) in reference to removal of total suspended particulate matter monitoring exemption, VI.B.3.c., VI.B.3.e., VI.D.2., X.A.1., X.A.2., XIII.B., XIII.D.
<i>May 13, 2013 submittal</i> —Regulation Number 3, Part D:	I.B.2., I.B.4., I.C., II.A.4.c., II.A.17., II.A.22.d.(ix)(B), II.A.40.5.(b), V.A.3.b., V.A.6., VI.B.3.d., VI.B.3.e.

TABLE 2—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO TAKE NO ACTION ON  
[Revised sections in March 31, 2010; May 16, 2012; and May 13, 2013 submissions proposed for no action]

Revised Section	Reason for Proposed "No Action"				
	Revision in State-only section of SIP	Revision in current section of SIP	Revision in disapproved section of SIP	Revision superseded by revision in February 20, 2015 State submittal (will be reconciled in future rulemaking)	Revision to be made in future State submittal
<i>March 31, 2010 submittal</i> —Common Provisions Regulation:					
II.J. ....		X	X		
<i>May 16, 2012 submittal</i> —Regulation Number 3, Part A:					
I.B.31.c. ....	X				
I.B.31.d. ....	X				
II.D.1.sss. ....			X		
II.D.1.ttt. ....			X		

<sup>11</sup> EPA inadvertently approved this language in 79 FR 22772.

<sup>12</sup> Refer to docket #EPA-R08-OAR-2015-0493 for additional documentation.

TABLE 2—LIST OF COLORADO REVISIONS THAT EPA IS PROPOSING TO TAKE NO ACTION ON—Continued  
 [Revised sections in March 31, 2010; May 16, 2012; and May 13, 2013 submissions proposed for no action]

Revised Section	Reason for Proposed “No Action”				
	Revision in State-only section of SIP	Revision in current section of SIP	Revision in disapproved section of SIP	Revision superseded by revision in February 20, 2015 State submittal (will be reconciled in future rulemaking)	Revision to be made in future State submittal
II.D.1.xxx			X		
II.D.1.ffff			X		
May 13, 2013 submittal—Regulation Number 3, Part A:					
I.B.31.d	X				
May 16, 2012 submittal—Regulation Number 3, Part D:					
II.A.5.a		X			
II.A.5.b		X			
II.A.23		X			
II.A.25		X			
II.A.26.d. revision to PM <sub>2.5</sub> net emission increase					X
II.A.38		X			
VI.A.2. introductory paragraph					X
VI.A.2.c				X	
VI.B.3.a.(iii) in reference to PM <sub>2.5</sub> monitoring exemption				X	
VI.B.3.d				X	
May 13, 2013 submittal—Regulation Number 3, Part D:					
II.A.1.a			X		
II.A.1.c			X		
II.A.1.e			X		
II.A.20.b			X		
II.A.22			X		
II.A.23.c		X			
II.A.26.a.(i)			X		
II.A.26.f.iii			X		
II.A.38.g			X		
II.A.40.5. introductory paragraph			X		
II.A.40.5.(a)			X		
VI.A.1.c			X		

**V. Incorporation by Reference**

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Colorado Air Quality Control Commission regulations discussed in section III, *EPA’s Review of the State of Colorado’s March 31, 2010; May 16, 2012; and May 13, 2013 Submittals, and Regulatory Text/IBR Correction* of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

**VI. Statutory and Executive Orders Review**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: September 1, 2015.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2015-23075 Filed 9-11-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[Regional Docket No. II-2012-01; FRL-9933-81-Region 2]

#### Petition for Objection to State Operating Permit; NY; Seneca Energy II, LLC

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the Environmental Protection Agency (EPA) Administrator signed an Order, dated June 29, 2015, granting in part and denying in part a petition filed by Gary A. Abraham on behalf of Finger Lakes Zero Waste Coalition, Inc. (dated December 22, 2012) asking the EPA to object to the Title V operating permit (Permit No. 8-3244-00040/00002) issued by the New York State

Department of Environmental Conservation (DEC) to Seneca Energy II, LLC (Seneca) relating to the Ontario County Landfill Gas-to-Energy Facility (Facility) in western New York. Sections 307(b) and 505(b)(2) of the CAA provide that the petitioner may ask for judicial review by the United States Court of Appeals for the appropriate circuit of those portions of the Order that deny objections raised in the petition.

**DATES:** Any such petition for review of this Order must be received by November 13, 2015 pursuant to section 307(b) of the CAA.

**ADDRESSES:** You may review copies of the final Order, the petitions, and other supporting information during normal business hours at EPA Region 2, 290 Broadway, New York, New York. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. Additionally, the final Order is available electronically at: [http://www.epa.gov/region7/air/title5/petitiondb/petitions/seneca\\_response2012.pdf](http://www.epa.gov/region7/air/title5/petitiondb/petitions/seneca_response2012.pdf).

**FOR FURTHER INFORMATION CONTACT:** Steven Riva, Chief, Permitting Section, Air Programs Branch, Clean Air and Sustainability Division, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007, telephone (212) 637-4074, email address: [Riva.Steven@epa.gov](mailto:Riva.Steven@epa.gov), or the above EPA Region 2 address.

**SUPPLEMENTARY INFORMATION:** The CAA affords the EPA a 45-day period to review, and object to, as appropriate, a title V operating permit proposed by a state permitting authority. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator, within 60 days after the expiration of this review period, to object to a Title V operating permit if the EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for the objection or other issues arose after this period. The claims are described in detail in Section IV of the Order. In summary, the issues raised are that: (1) The Title V permit does not consider the Ontario County Landfill (Landfill) and the Facility a single source even though they together meet the 3-factor source determination test; and (2) the Facility's Title V permit is a "sham permit." The EPA's rationale for partially granting and partially denying the claims raised in the petition are described in the Order.

Dated: August 26, 2015.

**Catherine McCabe,**

*Deputy Regional Administrator.*

[FR Doc. 2015-23076 Filed 9-11-15; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9933-86-OAR]

### 40 CFR Part 97

#### Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for 2015 Control Periods

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability (NODA).

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary lists of units eligible for allocations of emission allowances under the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR federal implementation plans (FIPs), portions of each covered state's annual emissions budgets for each of the four CSAPR emissions trading programs are reserved for allocation to electricity generating units that commenced commercial operation on or after January 1, 2010 (new units) and certain other units not otherwise obtaining allowance allocations under the FIPs. The quantities of allowances allocated to eligible units from each new unit set-aside (NUSA) under the FIPs are calculated in an annual one- or two-round allocation process. EPA previously completed the first round of NUSA allowance allocations for the 2015 control periods for all four CSAPR trading programs and is now making available preliminary lists of units eligible for allocations in the second round of the NUSA allocation process for the CSAPR NO<sub>x</sub> Ozone Season Trading Program. EPA has posted a spreadsheet containing the preliminary lists on EPA's Web site. EPA will consider timely objections to the lists of eligible units contained in the spreadsheet and will promulgate a document responding to any such objections no later than November 15, 2015, the deadline for recording the second-round allocations of CSAPR NO<sub>x</sub> Ozone Season allowances in sources' Allowance Management System accounts. This notice of availability may concern CSAPR-affected units in the following states: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky,