

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R01-OAR-2005-ME-0004; A-1-FRL-7982-3]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Consumer Products Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements to reduce volatile organic compound (VOC) emissions from consumer products. The intended effect of this action is to approve these requirements into the Maine SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective December 23, 2005, unless EPA receives adverse comments by November 23, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01-OAR-2005-ME-0004 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: conroy.dave@epa.gov.

4. Fax: (617) 918-0661.

5. Mail: "RME ID Number R01-OAR-2005-ME-0004," David Conroy, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

6. Hand Delivery or Courier. Deliver your comments to: David Conroy, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One

Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID Number R01-OAR-2005-ME-0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, 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 Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street,

Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anne Arnold, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, (617) 918-1047, arnold.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

In addition to the publicly available docket materials available for inspection electronically in Regional Material in EDocket, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section above, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

II. Rulemaking Information

This section is organized as follows:

- A. What Action Is EPA Taking?
- B. What Are the Requirements of Maine's New Regulation?
- C. Why Is EPA Approving Maine's Regulation?
- D. What Is the Process for EPA To Approve This SIP Revision?

A. What Action Is EPA Taking?

EPA is approving Maine's Chapter 152, "Control of Emissions of Volatile Organic Compounds from Consumer Products," and incorporating this regulation into the Maine SIP.

B. What Are the Requirements of Maine's New Regulation?

Maine's Chapter 152 includes VOC content limits for many categories of consumer products such as deodorants, hairsprays, and glass cleaners. Certain products are, however, exempt from these limits. Specifically, the rule allows the use of innovative products exemptions, variances, or alternative control plans provided that they have been approved by EPA into the Maine SIP. In addition, Chapter 152 includes

the appropriate testing and recordkeeping requirements to ensure compliance with the specified standards. Finally, the rule requires compliance with the specified VOC content limits by May 1, 2005.

C. Why Is EPA Approving Maine's Regulation?

EPA has evaluated Maine's Chapter 152 and has found that this regulation is consistent with EPA guidance and the Ozone Transport Commission (OTC) model rule for consumer products. The specific requirements of the regulation and EPA's evaluation of these requirements are detailed in a memorandum, dated June 16, 2005, entitled "Technical Support Document—Maine—Consumer Products Regulation" (TSD). The TSD and Maine's Chapter 152 are available in the docket supporting this action.

The OTC has developed model rules for several VOC source categories and the OTC states, including Maine, have signed a memorandum of understanding (MOU) committing to adopt these model rules. One of the categories for which a model rule has been developed is consumer products. (See "OTC Model Rule for Consumer Products," issued March 28, 2001, revised November 29, 2001, and April 23, 2002.)

Several other OTC states have also recently adopted a consumer products rule based on the OTC model rule and EPA has already approved some of these states' rules.¹ The emission limits in Maine's rule are identical to those contained in the OTC model rule. These emission limits are at least as stringent as, and in some cases more stringent than, EPA's national consumer products rule, "National Volatile Organic Compound Emission Standards for Consumer Products," 40 CFR Part 59, Subpart C. Also, Maine's rule includes additional categories of consumer products that are not included in EPA's rule.

Maine did not submit its August 27, 2004 Chapter 152 SIP submittal to meet any specific control requirements under the Clean Air Act. However, subsequently, on June 9, 2005, Maine submitted its 5 percent increment of progress plan which relies on reductions from Chapter 152. In today's action, EPA is approving Chapter 152 because it will strengthen Maine's SIP. EPA will evaluate the reductions Maine is claiming from Chapter 152 in its 5 percent increment of progress plan

when the Agency takes action on that plan.

D. What Is the Process for EPA To Approve This SIP Revision?

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This action will be effective December 23, 2005 without further notice unless the EPA receives adverse comments by November 23, 2005.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 23, 2005 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Final Action

EPA is approving Maine's Chapter 152, "Control of Emissions of Volatile Organic Compounds from Consumer Products," and incorporating this regulation into the Maine SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small

entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

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

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

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule

¹ For example, on January 23, 2004, EPA approved New York's consumer products rule (69 FR 3237), and on December 9, 2003, EPA approved Maryland's consumer products rule (68 FR 68523).

may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 2005. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time

within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 28, 2005.

Robert W. Varney,
Regional Administrator, EPA New England.

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

PART 52—[AMENDED]

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

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

Subpart U—Maine

■ 2. Section 52.1020 is amended by adding paragraph (c)(57) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(57) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on August 27, 2004, and September 8, 2004.

(i) Incorporation by reference.

(A) Chapter 152 of the Maine Department of Environmental Protection Regulations, "Control of Emissions of Volatile Organic Compounds from Consumer Products," effective in the State of Maine on September 1, 2004.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

■ 3. In § 52.1031, Table 52.1031 is amended by adding a new State citation, 152, to read as follows:

§ 52.1031 EPA-approved Maine Regulations.

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

| State citation | Title/subject | Date adopted by State | Date approved by EPA | Federal Register citation | 52.1020 |
|----------------|---|-----------------------|----------------------|--|----------|
| 152 | Control of Emissions of Volatile Organic Compounds from Consumer Products | 8/19/04 | 10/24/05 | [Insert FR citation from published date] | (c)(57). |

Note.—1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. 05–21192 Filed 10–21–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R01–OAR–2005–CT–0002; A–1–FRL–7967–2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC RACT Orders for Hitchcock Chair Co., Ltd.; Kimberly Clark Corp.; Watson Laboratories, Inc.; and Ross & Roberts, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These revisions incorporate volatile organic compound (VOC) reasonably available control technology (RACT) state consent orders into the Connecticut SIP for four facilities: Hitchcock Chair Co., Ltd.; Kimberly Clark Corp.; Watson Laboratories, Inc.; and Ross & Roberts, Inc. This action will have a beneficial effect on air quality by reducing VOC emissions which contribute to ground-level ozone formation. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective December 23, 2005, unless EPA receives adverse comments by November 23, 2005. If adverse comments are received, EPA will

publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01–OAR–2005–CT–0002 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-