



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R01-OAR-2019-0221; FRL-10002-16-Region 1]

#### **Air Plan Approval; Vermont; Reasonably Available Control Technology for the 2008 and 2015 Ozone Standards**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Vermont. The SIP revision consists of a demonstration that Vermont meets the requirements of reasonably available control technology (RACT) for the two precursors for ground-level ozone, oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQSs or standards). This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2019-0221. All documents in the docket are listed on the <https://www.regulations.gov> web site. 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, 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 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** David L. Mackintosh, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05-2), Boston, MA 02109-3912, tel. 617-918-1584, email Mackintosh.David@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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### **I. Background and Purpose**

On August 2, 2019 (84 FR 37812), EPA issued a notice of proposed rulemaking (NPRM) for the State of Vermont. In the NPRM, EPA proposed approval of a SIP revision submitted by Vermont on September 6, 2018. Vermont’s SIP revision contains: a certification that Vermont has met all RACT requirements for the 2008 and 2015 8-hour ozone NAAQS with negative declarations for 29 Control Techniques Guideline (CTG) categories; the addition of Vermont Air Pollution Control Regulation (APCR) Sections 5-253.8 Industrial Adhesives, 5-253.9 Offset Lithographic and Letterpress Printing, and 5-253.17 Industrial Solvent Cleaning to the Vermont SIP; revisions to Sections 5-253.12 Coating of Flat Wood Paneling and 5-253.13 Coating of Miscellaneous Metal and Plastic; revisions to single-source requirements for “Isovolta Inc.

(Formerly U.S. Samica, Inc.) Operating Permit RACT provisions”, “Killington/Pico Ski Resort Partners, LLC. Operating Permit RACT provisions,” and “Okemo Limited Liability Company Operating Permit RACT provisions”; and withdrawal of the single-source requirements for “Churchill Coatings Corporation Operating Permit RACT conditions” and “H.B.H Prestain, Inc.”

The NPRM provides the rationale for EPA's proposed approval, which will not be restated here. EPA received one comment on the NPRM.

## **II. Response to Comments**

*Comment:* The anonymous comment stated “EPA should review the NO<sub>x</sub> RACT evaluation for the five sources” to 1) “review the most recent stack testing or CEMS reports to evaluate the particular emission limits applicable;” 2) “evaluate minor changes to a source’s operating scenarios such as evaluating if a source can change fuel sources from natural gas and Number 6 fuel oil to using only natural gas and limiting fuel oil;” and 3) “consider simple cost effective measures that don't require installation of new and innovative technologies.”

*Response:* As explained in the proposal and in Vermont’s SIP, three of the five major NO<sub>x</sub> sources in Vermont are subject to New Source Review (NSR) most stringent emission rate (MSER). Joseph C. McNeil Generating Station, OMYA, Inc. Vermont Marble Power Division, and Ryegate Power Station, are each subject to major new source review permitting under Vermont Air Pollution Control Regulation 5-502, “Major Stationary Sources and Major Modifications” and are subject to emission rates, which are no less stringent than RACT. Specifically, the nitrous oxide emissions from combustion turbines at OMYA , Inc. Vermont Marble Power Division are consistent with EPA’s “Alternative Control Techniques Document - NO<sub>x</sub> Emissions from Process Heaters”, established in September 1993 (EPA-453/R-93-034 1993/09), and the Joseph C. McNeil Generating Station and Ryegate Power Station wood-fired boilers with selective catalytic combustion (SCR) and selective non-catalytic combustion (SNCR) controls exceed the EPA RACT

requirements for wood-fired boilers described in the “Alternative Control Techniques Document - NOx Emissions from Industrial, Commercial & Institutional Boilers”, of March 1994 (EPA-453/R-94-022 1994/03).

The remaining two NOx sources, Killington/Pico Ski Resort Partners, LLC and Okemo Limited Liability Company, are now restricted by permit, approved into the Vermont SIP by EPA on July 19, 2011 (76 FR 42560), to emit significantly less than the Vermont NOx major source threshold. Since their emissions are restricted to below the major source threshold, there are no applicable RACT requirements for the 2008 and 2015 ozone standards. These two facilities remain subject to RACT levels of control per EPA’s previous VT RACT approval published July 19, 2011 (76 FR 42560). Therefore, EPA disagrees with the commenter that the NOx RACT analysis for these sources is insufficient.

### **III. Final Action**

EPA is approving Vermont’s SIP revision as meeting the State’s RACT obligations for the 2008 and 2015 8-hour ozone NAAQSs as set forth by sections 182(b) and 184(b)(2) of the CAA, and adding “State Implementation Plan Revision Supporting Compliance with Requirements for Reasonably Available Control Technology (RACT) Under the 2008 and 2015 8-Hour ozone National Ambient Air Quality Standards, Final Submittal, September 6, 2018” to the Vermont SIP. EPA is approving the addition of Vermont APCR Sections 5-253.8 Industrial Adhesives, 5-253.9 Offset Lithographic and Letterpress Printing, and 5-253.17 Industrial Solvent Cleaning in to the Vermont SIP. EPA is approving the revision of APCR Sections 5-253.12 Coating of Flat Wood Paneling and 5-253.13 Coating of Miscellaneous Metal and Plastic Parts currently in the Vermont SIP. EPA is also approving the revision of single-source requirements for “Isovolta Inc. (Formerly U.S. Samica, Inc.) Operating Permit RACT provisions”, “Killington/Pico Ski Resort Partners, LLC. Operating Permit RACT provisions,” and “Okemo Limited Liability Company Operating Permit

RACT provisions” currently in the Vermont SIP. EPA is withdrawing single-source requirements for “Churchill Coatings Corporation Operating Permit RACT conditions” and “H.B.H Prestain, Inc. Operating Permit RACT provisions” from the Vermont SIP. Lastly, EPA is converting our previous conditional approval of RACT with respect to the 1997 ozone standard to a full approval because the proposed addition of APCR Section 5-253.12 Coating of Flat Wood Paneling will constitute RACT in lieu of the previous source-specific RACT conditions for Churchill Coatings Corporation and H.B.H Prestain, Inc.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Vermont APCR described in the amendments to 40 CFR part 52 set forth below. EPA is also revising and removing provisions of the EPA-approved Vermont source specific requirements at 40 CFR 52.2370(d), “EPA-approved State Source specific requirements” in the Vermont State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

#### **V. Statutory and Executive Order Reviews**

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 (Public Law 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 Clean Air Act; 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).

In addition, 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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 **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 19, 2019.

Dennis Deziel,  
Regional Administrator,  
EPA Region 1.

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

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

### **Subpart UU - Vermont**

2. Section 52.2370 is amended by:

- a. In the table in paragraph (c):
  - i. Adding entries for “Section 5-253.8 Industrial Adhesives” and “Section 5-253.9 Offset Lithographic and Letterpress Printing” in numerical order;
  - ii. Revising entries for “Section 5-253.12 Coating of Flat Wood Paneling” and “Section 5-253.13 Coating of Miscellaneous Metal and Plastic Parts”; and
  - ii. Adding an entry for “Section 5-253.17 Industrial Solvent Cleaning” in numerical order;
- b. In the table in paragraph (d):
  - i. Revising the entries for “Isovolta Inc. (Formerly U.S. Samica, Inc.) Operating Permit RACT provisions”;
  - ii. Removing the entry for “Churchill Coatings Corporation Operating Permit RACT conditions”;
  - iii. Revising the entries for “Killington/Pico Ski Resort Partners, LLC. Operating Permit RACT provisions” and “Okemo Limited Liability Company Operating Permit RACT provisions”; and
  - iv. Removing the entry for “H.B.H Prestain, Inc. Operating Permit RACT provisions”; and
- c. In the table in paragraph (e):
  - i. Revising the entry for “Reasonably Available Control Technology State Implementation Plan (SIP)/certification for the 1997 8-hour Ozone National Ambient Air Quality Standard”;and

- ii. Adding an entry at the end of the table for “Reasonably Available Control Technology (RACT) Under the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards.”

The revisions and additions read as follows:

**§ 52.2370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Vermont Regulations**

State citation	Title/Subject	State effective date	EPA approval date	Explanations
**	*	*	*	**
Section 5-253.8	Industrial Adhesives	9/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register</u> citation]	
Section 5-253.9	Offset Lithographic and Letterpress Printing	9/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register</u> citation]	
**	*	*	*	**
Section 5-253.12	Coating of Flat Wood Paneling	9/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register</u> citation]	
Section 5-253.13	Coating of Miscellaneous Metal and Plastic Parts	9/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register</u> citation]	
**	*	*	*	**
Section 5-253.17	Industrial Solvent Cleaning	9/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register</u> citation]	
**	*	*	*	**

(d) \* \* \*

### EPA-Approved Vermont Source Specific Requirements

Name of Source	Permit number	State effective date	EPA approval date	Explanations
Isovolta Inc. (Formerly U.S. Samica, Inc.) Operating Permit RACT provisions	AOP-14-037	9/30/2017	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register citation</u> ]	
Killington/Pico Ski Resort Partners, LLC. Operating Permit RACT provisions	AOP-14-003	2/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register citation</u> ]	
Okemo Limited Liability Company Operating Permit RACT provisions	AOP-14-034	2/15/2018	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register citation</u> ]	
**	*	*	*	**

(e) \* \* \*

### Vermont Non Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanation
**	*	*	*	**
Reasonably Available Control Technology State Implementation Plan (SIP)/certification for the 1997 8-hour Ozone National Ambient Air Quality Standard	Statewide	Submitted 11/14/2008	[Insert date of publication in the <u>Federal Register</u> ]  [Insert <u>Federal Register citation</u> ]	Certain aspects relating to Coating of Flat Wood Paneling which were conditionally approved on July 19, 2011 are now fully approved.
**	*	*	*	**

Reasonably Available Control Technology (RACT) Under the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards	Statewide	Submitted 9/6/2018	<b>[Insert date of publication in the <u>Federal Register</u>]</b>  <b>[Insert <u>Federal Register</u> citation]</b>	
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[FR Doc. 2019-25597 Filed: 11/25/2019 8:45 am; Publication Date: 11/26/2019]