

of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representative.

Dated: January 17, 2006.

**Patrick G. Gerrity,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. 06-677 Filed 1-24-06; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket No. EPA-R02-OAR-2004-NJ-0004, FRL-8020-6]

#### Approval and Promulgation of Implementation Plans; New Jersey Consumer Products Rule

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to Subchapter 24 "Prevention of Air Pollution From Consumer Products" of 7:27 of the New Jersey Administrative Codes, which are needed to meet the shortfall in emissions reduction identified by EPA in New Jersey's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve a control strategy required by the Clean Air Act, which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

**DATES:** *Effective Date:* This rule will be effective February 24, 2006.

**ADDRESSES:** EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at <http://www.regulations.gov> and the docket ID for this action is EPA-R02-OAR-2004-NJ-0004. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by

appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B-108, 1301 Constitution Avenue, NW., Washington, DC; and the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

**FOR FURTHER INFORMATION CONTACT:** Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-3711.

#### SUPPLEMENTARY INFORMATION:

##### I. What Action Is EPA Taking Today?

EPA is approving a revision to New Jersey's ozone State Implementation Plan (SIP) submitted on June 22, 2004. This SIP incorporates adopted rule amendments to Title 7, Chapter 27, Subchapter 24 "Prevention of Air Pollution from Consumer Products" which was adopted on April 7, 2004. Subchapter 24 contains two control programs, consumer products and portable fuel container spillage control. This adoption was published in the New Jersey Register on May 3, 2004 and became effective on June 6, 2004. The Subchapter 24 amendments are applicable to the entire State of New Jersey. The reader is referred to the proposed rulemaking (December 10, 2004, 69 FR 71764) for additional details.

Subchapter 24 contains provisions for accepting innovative products exemptions (IPEs), alternative compliance plans (ACPs), and variances that have been approved by the California Air Resources Board (CARB) or other states with adopted consumer product regulations based on the Ozone Transport Commission (OTC) "Model Rule for Consumer Products" dated November 29, 2001. While the provisions related to IPEs, ACP, and variances pursuant to subchapter 24 are acceptable, each specific application of those provisions cannot be recognized as meeting Federal requirements until it is approved by EPA as a SIP revision.

##### II. What Comments Were Received and How Has EPA Responded to Them?

EPA received one comment pertaining to the proposal for this action which supported this rulemaking.

##### III. What Role Does This Rule Play in the Ozone SIP?

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the State's two severe nonattainment areas

in order for the State to attain the 1-hour ozone standard with sufficient surety (December 16, 1999, 64 FR 70380). EPA provided that the states in the Ozone Transport Region could achieve these emission reductions through local or regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort which developed six model control measures. This rulemaking incorporates two of the OTC model control measures into the New Jersey ozone SIP: Consumer products and portable fuel containers. The emission reductions from these control measures will provide a portion of the additional emission reductions needed to attain the 1-hour ozone standard. The emission reductions from these measures will also help to attain the 8-hour ozone standard.

##### IV. What Are EPA's Conclusions?

EPA has evaluated the submitted Subchapter 24 submission for consistency with EPA regulations, policy and guidance. Consistent with EPA policy and guidance, EPA is approving the rule submitted as part of the New Jersey SIP with the exception that any specific application of provisions associated with IPEs, ACP, and variances, must be submitted as SIP revisions for EPA approval. This rule will strengthen the SIP by providing for additional VOC reductions. Accordingly, EPA is approving the Subchapter 24 revisions as adopted on April 7, 2004 and effective on June 6, 2004 with the limitation identified above.

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

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. 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 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 March 27, 2006. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 28, 2005.

**Alan J. Steinberg,**  
*Regional Administrator, Region 2.*

■ Part 52, 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 FF—New Jersey**

■ 2. Section 52.1570 is amended by adding new paragraph (c)(79) to read as follows:

**§ 52.1570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(79) Revisions to the State Implementation Plan submitted on June 22, 2004 by the State of New Jersey Department of Environmental Protection that establishes an expanded control program for consumer products including portable fuel containers.

(i) Incorporation by reference:

(A) Regulation Subchapter 24 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Prevention of Air Pollution From Consumer Products," adopted on April 7, 2004 and effective on June 6, 2004.

(ii) Additional material:

(A) Letter from State of New Jersey Department of Environmental Protection dated June 22, 2004, requesting EPA approval of a revision to the Ozone SIP which contains amendments to the Subchapter 24 "Prevention of Air Pollution From Consumer Products."

\* \* \* \* \*

■ 3. Section 52.1605 is amended by revising the entry under Title 7, Chapter 27 for Subchapter 24 in the table to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

State regulation	State effective date	EPA approved date	Comments
* * *	* * *	* * *	* * *
Title 7, Chapter 27			
* * *	* * *	* * *	* * *
Subchapter 24, "Prevention of Air Pollution From Consumer Products".	June 6, 2004 .....	January 25, 2006 [Insert FR page citation].	The specific application of provisions associated with innovative products exemptions, alternative compliance plans, and variances must be submitted to EPA as SIP revisions.
* * *	* * *	* * *	* * *

[FR Doc. 06-703 Filed 1-24-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2005-KY-0001-200521(f); FRL-8023-8]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, KY, Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a May 20, 2005, final request to redesignate the Christian County, Kentucky, portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and a Kentucky State Implementation Plan (SIP) revision containing a 12-year maintenance plan for Christian County, Kentucky. EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new motor vehicle emissions budgets (MVEBs) for the years 2004 and 2016 that are contained in the 12-year 8-hour ozone maintenance plan for Christian County, Kentucky. EPA is approving such MVEBs in this action. This final rule addresses comments made on EPA's proposed rulemaking previously published for this action.

**DATES:** This rule will be effective February 24, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2005-KY-0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 Regional Material in E-Docket or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics

Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person 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:** James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Mr. Hou can be reached via telephone number at (404) 562-8965 or electronic mail at [hou.james@epa.gov](mailto:hou.james@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. What Actions Is EPA Taking?
- II. What Is the Background for the Actions?
- III. Response to Comment
- IV. Final Action
- V. Statutory and Executive Order Reviews

##### I. What Actions Is EPA Taking?

EPA is taking final action to change the legal designation of the Christian County, Kentucky, portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area from nonattainment to attainment for the 8-hour ozone NAAQS. The interstate Clarksville-Hopkinsville 8-hour ozone nonattainment area is composed of two counties (*i.e.*, Christian County, Kentucky, and Montgomery County, Tennessee). EPA is also approving Kentucky's 8-hour ozone maintenance plan for Christian County (such approval being one of the Clean Air Act (CAA) criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Clarksville-Hopkinsville area (of which Christian County is a part) in attainment for the 8-hour ozone NAAQS for the next 12 years. These approval actions are based on EPA's determination that the Commonwealth of Kentucky has demonstrated that Christian County, Kentucky, has met the criteria for redesignation to attainment specified in the CAA, and that the entire Clarksville-Hopkinsville 8-hour ozone nonattainment area has attained the 8-hour ozone standard. EPA's analyses for Christian County, Kentucky, and Montgomery County, Tennessee, are described in detail in the direct final rules published September 22, 2005, at 70 FR 55550 and 70 FR 55559, respectively.

EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new MVEBs for the years 2004 and 2016 that are contained in the maintenance plan for Christian County, Kentucky. The maintenance plan establishes MVEBs for the years 2004 and 2016, respectively, of 3.83 tons per day (tpd) and 2.08 tpd for volatile organic compound (VOC) emissions, and 9.53 tpd and 3.83 tpd for nitrogen oxides (NO<sub>x</sub>). Through this action, EPA is announcing that these MVEBs are adequate for the purposes of transportation conformity. During EPA's Adequacy public comment period which began on March 29, 2005, and closed on April 28, 2005, EPA did not receive any adverse comments related to the MVEBs. EPA is also approving these MVEBs in this action. Upon the publication of this final rulemaking in the **Federal Register**, these MVEBs must be used by the transportation partners in this area for future conformity determinations. Additionally, conformity to these new MVEBs must be demonstrated within 24 months of the effective date of this action, pursuant to section 6011(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users, which was signed into law on August 10, 2005.

Additionally, in this action, EPA is responding to the adverse comment received on the September 22, 2005, rulemaking proposing to approve the aforementioned revisions (70 FR 55613).

##### II. What Is the Background for the Actions?

In two separate actions published on September 22, 2005, EPA proposed to approve the redesignation of the Kentucky (70 FR 55613) and Tennessee (70 FR 55613) portions of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to attainment. Also on that date, EPA published two companion direct final rules approving the redesignation to attainment of the Kentucky (70 FR 55550) and Tennessee (70 FR 55559) portions of the nonattainment area. The proposed and direct final rules stated that if EPA received adverse comment by October 24, 2005, the direct final rule would be withdrawn and would not take effect. EPA subsequently received an adverse comment regarding the redesignation of the Kentucky portion of the nonattainment area (*i.e.*, Christian County). In this action, EPA is addressing the comment and taking final action as described in section I and section IV.