

Alternative Control Plan for Reckitt-Benckiser Air Wick® Air Freshener Single-Phase
Aerosol Spray
Maine State Implementation Plan Submittal

Introduction

On March 30, 2012, the Maine Department of Environmental Protection (Department) received an Alternative Control Plan (ACP) application from Reckitt Benckiser LLC (Reckitt) for Reckitt's Air Wick® Air Freshener Single-Phase Aerosol Spray pursuant to the 06-096 CMR Chapter 152 Control of Volatile Organic Compounds from Consumer Products regulation.

Background

The Department's Chapter 152 Control of Volatile Organic Compounds from Consumer Products (Consumer Products) rule was initially promulgated in 2004, and reduces volatile organic compound (VOC) emissions from consumer products by setting VOC content limits on nearly 100 different types of consumer products.

Consumer products that are regulated by this rule include products sold to retail customers along with products marketed by wholesale distributors for use in commercial or institutional settings such as beauty shops, schools and hospitals. Examples of the types of products affected include personal care products, household products, automotive aftermarket products, adhesives and sealants, insecticides, and other miscellaneous products. VOC emissions from these products result from evaporation of propellant and organic solvents during use.

Chapter 152 reduces VOC emission from consumer products by establishing maximum VOC content limits for a wide range of consumer products. The VOC content limits for air fresheners follows:

Air Fresheners	Percent Volatile Compounds by Weight
Single-Phase Aerosols	30
Double-Phase Aerosols	25
Liquids/Pump Sprays	18
Solids/gels	3

In addition to establishing VOC content limits, recordkeeping, reporting and other administrative requirements, Chapter 152 provides for the approval of an ACP pursuant to Section 11 of the rule, which states, in relevant part:

- 11. Alternative Control Plan (ACP) for Consumer Products.** The purpose of this section is to provide an alternative method to comply with the Table of Standards specified in Section 3(A). This alternative is provided by allowing responsible

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ACP parties the option of voluntarily entering into separate “alternative control plans” for consumer products, as specified in Sections 1 through 11 of this regulation. Only responsible ACP parties for consumer products may enter into an ACP.

- A. Any manufacturer of consumer products which has been granted an ACP Agreement by the CARB under the provisions in of Title 17, California Code of Regulations Subchapter 8.5, Article 4, Sections 94540-94555, or another state with a similar ACP Agreement procedure shall be, for the products included in the ACP Agreement, exempt from the table of standards in Section 3(A) for the period of time that the ACP Agreement remains in effect. Any manufacturer claiming such an ACP Agreement on this basis must submit to the Department a copy of the ACP decision, including all conditions applicable to the exemption. An ACP Agreement shall be effective in Maine only if EPA has approved the agreement in Maine’s State Implementation Plan.

The Reckitt ACP Application

The Reckitt Maine ACP application is based on materials submitted in its December 28, 2010 application to the California Air Resources Board (CARB). Reckitt's application to CARB was filed pursuant to section 94543 of the California ACP regulation (Title 17, California Code of Regulations, sections 94540-94555), which establishes provisions for the generation and trading of surplus emission reductions, and was approved on March 29, 2011.

The Reckitt CARB ACP approves the generation of surplus emission reductions through the distribution and sale of a recently-developed single-phase aerosol air freshener containing four and six-tenths (4.6%) VOC, which is substantially below the California (and Maine) regulatory VOC content limits for single-phase and double-phase air fresheners (30% and 25%, respectively). The CARB ACP also provides a mechanism for Reckitt to apply for Surplus Reduction Certificates that may be used by Reckitt or traded to another responsible party that has received approval through the ACP process. CARB Executive Order G-1-020 (attached) details the terms and conditions of the CARB ACP approval.

Reckitt's application under the Department's Chapter 152 notes that prior to the development of the Air Wick® Air Freshener Single-Phase Aerosol Spray, Reckitt offered a double-phase aerosol air freshener (marketed as Air Wick® Aerosol) for sale in Maine that contains twenty-four and one-half percent (24.5%) VOC by weight. With the development of its single-phase aerosol air freshener containing four and six-tenths (4.6%) VOC, Reckitt is applying for an ACP to generate VOC credits based on the reductions afforded by the new single-phase air freshener product sales in Maine.

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ACP Approval

After reviewing the Reckitt ACP application, the Department is hereby approving Reckitt's request to generate VOC credits based on the sale of its Air Wick® Aerosol Single-Phase Aerosol Spray product in Maine for a period five (5) years, subject to the following conditions:

1. Reckitt shall display on each consumer product container or package, the day, month, and year in which the ACP product was manufactured or a code indicating such date.
2. Reckitt shall also comply with the applicable product dating requirements of 06-096 CMR Chapter 152, Section 6.
3. The Initial Compliance Report for the ACP products sold in Maine must be provided to the Department no later than three months after the approval of this SIP submission by EPA. After the initial compliance period, compliance periods shall be for 12 month intervals and shall run from January 1- December 31. Compliance reports must be provided to the Department in writing no later than 60 days (March 1) following each compliance period.
4. Reckitt shall monitor Maine sales of any ACP product, at a minimum, each calendar quarter to provide accurate records and documentation as a basis for compliance reporting.
5. The enforceable sales substantiated by accurate documentation, which includes the same level of detail submitted with the ACP application, must be reported with the Compliance Report submission.
6. Only Maine enforceable sales substantiated by accurate documentation shall be used in the calculation of VOC emissions and emission reductions (surplus reductions). The resulting surplus reduction credits shall be discounted by five percent (5%) prior to the issuance of the surplus emission reduction certificates by the Department.
7. Reckitt must maintain a minimum of three years of detailed transactional data, traceable to invoice levels. Data is to be made available for review or inspection upon request by Department staff or EPA.
8. The Department shall issue surplus reduction certificates which establish and quantify, to the nearest pound of VOC reduced, any surplus reductions achieved by Reckitt operating under this ACP. All surplus reductions shall be calculated by the Department at the end of each compliance period within the time specified in the approved ACP. Surplus reduction certificates shall not constitute instruments, securities, or any other

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form of property. The issuance, use and trading of all surplus reductions shall be subject to the following provisions:

- (A) For the purposes of this ACP, VOC reductions from sources of VOCs other than Air Wick® Air Freshener Single-Phase Aerosol Spray may not be used to generate surplus reductions.
- (B) Surplus reductions are valid only when generated by Reckitt, and only while operating under this ACP.
- (C) Any surplus reductions issued by the Department may be used by Reckitt until the reductions expire, are traded to another responsible party operating under a SIP-approved ACP, or until the ACP is canceled pursuant to Section 10 of this ACP.
- (D) Surplus reductions cannot be applied retroactively to any compliance period prior to the compliance period in which the reductions were generated.
- (E) While valid, surplus reduction certificates can be used only for the following purposes:
 - (1) to adjust either the Consumer Product ACP emissions of either Reckitt or the ACP responsible party to which the reductions were traded, provided the surplus reductions are not to be used by any ACP responsible party to lower its ACP emissions when its ACP emissions are equal to or less than the ACP limit during the applicable compliance period; or
 - (2) to be traded for the purpose of reconciling another Consumer Product ACP responsible party's shortfalls, provided such reconciliation is part of the reconciliation of shortfalls plan approved by the Department pursuant to 06-096 CMR Chapter 152, Section 11.
- (F) A valid surplus reduction shall be in effect starting five days after the date of issuance by the Department, for a continuous period of one (1) year. The surplus reduction shall then expire at the end of its effective period.
- (G) At least five working days prior to the effective date of transfer of surplus reductions, both Reckitt and the responsible party which is buying the surplus reductions shall, either together or separately, notify the Department in writing of the transfer. The notification shall include the following:
 - (1) the date the transfer is to become effective;
 - (2) the date the surplus reductions being traded are due to expire;

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- (3) the amount (in pounds of VOCs) of surplus reductions that are being transferred;
- (4) the total purchase price paid by the buyer for the surplus reductions;
- (5) the contact persons, names of companies, street and mail addresses, and phone numbers of the responsible ACP parties involved in the trading of surplus reductions; and
- (6) a copy of the Department-issued surplus reductions certificate signed by both the seller and the buyer of the certificate, showing transfer of all or a specified portion of the surplus reductions. The copy shall show the amount of any remaining non-traded surplus reductions, if applicable, and shall show their expiration date. The copy shall indicate that both the buyer and the seller of surplus reductions fully understand the conditions and limitations placed upon the transfer of the surplus reductions and accept full responsibility for the appropriate use of such surplus reductions as provided for in this ACP.
- (7) surplus reduction certificates shall only be traded between ACP product(s) for consumer products.

9. Modifications of the ACP.

- (A) Modifications that do not require Department pre-approval: Reckitt shall notify the Department in writing of any change in the ACP product's:
 - (1) product name;
 - (2) product formulation;
 - (3) product form;
 - (4) product function;
 - (5) applicable product category(ies);
 - (6i) VOC content;
 - (7) LVP content;
 - (8) date-codes; or

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- (9) recommended product usage directions, no later than 15 working days from the date such a change occurs. For each modification, the notification shall fully explain the following:
 - (a) the nature of the modification;
 - (b) the extent to which the ACP product formulation, VOC content, LVP content, or recommended usage directions will be changed; and
 - (c) the effective date and corresponding date-codes for the modification.
 - (B) Modifications that require Department pre--approval. Reckitt may propose other modifications to this ACP agreement. Any such proposed modifications shall be fully described in writing and forwarded to the Department. Reckitt shall clearly demonstrate that the proposed modifications will meet the requirements of this ACP. Reckitt shall meet all applicable requirements of the existing ACP until such time as any proposed modification(s) is approved in writing by the Department.
 - (C) Modification by the Department. If any applicable VOC content limits specified in Section 3 of Chapter 152 are modified by the Department in a future rulemaking, the Department shall modify the ACP limit specified in this ACP agreement to reflect the modified VOC content limits as of their effective dates.
10. Cancellation of the ACP.
- (A) The ACP shall remain in effect until:
 - (1) the ACP reaches the expiration date specified in the ACP agreement;
 - (2) the ACP is modified by Reckitt and approved by the Department as provided in Section 9 of this ACP (above);
 - (3) the ACP is modified by the Department as provided in Subsection 9(C) of this ACP;
 - (4) the VOC content limit specified in Section 3 of Chapter 152 for single phase air fresheners is modified; The ACP will terminate on the effective date(s) of the modified standard; or
 - (5) the ACP is cancelled due to any of the following circumstances:
 - (a) Reckitt violates the requirements of the approved ACP, and the violation(s) results in a shortfall that is 20 percent or more of the

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applicable ACP limit (i.e., the ACP emissions exceed the ACP limit by 20 percent or more); or

- (b) Reckitt demonstrates a recurring pattern of violations and has consistently failed to take the necessary steps to correct these violations.

11. Other applicable requirements. Reckitt may transfer this ACP to another responsible party, provided that all of the following conditions are met:

- (A) The Department shall be notified, in writing, by both responsible ACP parties participating in the transfer of the ACP and its associated ACP agreement. The written notifications shall be postmarked at least five working days prior to the effective date of the transfer and shall be signed and submitted separately by both responsible parties. The written notifications shall clearly identify the contact persons, business names, mail and street addresses, and phone numbers of the responsible parties involved in the transfer; and
- (B) The responsible party to which this ACP is being transferred shall provide a written declaration stating that the transferee shall fully comply with all requirements of the ACP agreement approving the ACP.

