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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2005-ME-0006; A-1-FRL-8048-7]

Approval and Promulgation of Air Quality Implementation Plans; Maine; 15% and 5% Emission Reduction Plans, Inventories, and Transportation Conformity Budgets for the Portland One and Eight Hour Ozone Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions establish a 15% VOC emission reduction plan, and revised 1990 base year emissions inventory, for the Portland Maine one-hour ozone nonattainment area. Additionally, these revisions establish a 5% increment of progress emission reduction plan, 2002 base year inventory, and transportation conformity budget for the Portland Maine eight-hour ozone nonattainment area. The intended effect of this action is to approve these plans as revisions to the Maine SIP. This action is being taken under the Clean Air Act.

EFFECTIVE DATE: This rule is effective on April 24, 2006.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2005-ME-0006. All documents in the docket are listed on the 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 either electronically through www.regulations.gov 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 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 legal holidays.

Copies of the documents relevant to this action 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.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. EPA Region 1, One Congress Street, Suite 1100-CAQ, Boston, MA 02114-2023, telephone number 617-918-1046, fax number 617-918-0046, e-mail mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION: On January 5, 2006 (71 FR 569), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of a 15% rate-of-progress (ROP) plan for the Portland one-hour ozone nonattainment area, a 5% increment of progress emission reduction plan for the Portland 8-hour ozone nonattainment area, the associated base year emission inventories developed in support of these plans, and transportation conformity budgets for 2007 established by the 5% increment of progress plan. The formal SIP revisions were submitted by Maine on June 9, 13, and 14, 2005.

The 15% plan demonstrates that between 1990 and 2005, VOC emissions declined by 56 tons per summer day (tpsd) in the three southern Maine counties that comprise the Portland one-hour nonattainment area. EPA approved Maine's 1990 base year inventory for the Portland one-hour area on February 28, 1997 (62 FR 9081). With this final rule we are approving revisions to Maine's 1990 emissions inventory, as shown in Table 1 below.

TABLE 1.—COMPARISON OF 1990 VOC EMISSION ESTIMATES

[tpsd]

| Source category | Originally approved 1990 VOC emissions | Revised 1990 VOC emissions being approved today |
|---------------------|----------------------------------------|-------------------------------------------------|
| Point Source | 9.65 | 9.65 |
| Area Source | 31.8 | 33.43 |
| Non-road Mobile ... | 7.4 | 18.08 |
| On-Road Mobile ... | 49.87 | 63.31 |
| Biogenic | 197.6 | 197.6 |
| Total | 296.32 | 322.07 |

Additionally, the 5% increment of progress plan shows that between 2002 and 2007, VOC emissions will decline by 14.6 tpsd in the Portland eight-hour ozone nonattainment area. We are approving the 2002 base year emission inventory that the state of Maine submitted to EPA for the Portland Maine 8-hour ozone nonattainment, as shown in Table 2 below.

TABLE 2.—2002 EMISSION INVENTORY FOR THE PORTLAND, MAINE 8-HOUR AREA

[tpsd]

| Source category | 2002 VOC emissions | 2002 NO _x emissions |
|---------------------------------------|--------------------|--------------------------------|
| Point Source | 3.29 | 13.08 |
| Area Source | 23.65 | 1.89 |
| On-road Mobile | 30.94 | 61.20 |
| Off-Road Mobile | 16.59 | 13.23 |
| Com. marine, rail, and aircraft | 0.45 | 2.33 |
| Total | 74.90 | 91.70 |

The 5% plan's estimate of 2007 on-road motor vehicle emissions will establish VOC and NO_x transportation conformity budgets for the 55 towns within the Portland 8-hour nonattainment area. These budgets are 20.115 tons per summer day for VOC, and 39.893 tons per summer day for NO_x.

Other specific requirements of these SIP revisions and the rationale for EPA's approval are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Final Action: EPA is approving the 15% plan and revisions to the 1990 base year emissions inventory submitted by the State of Maine for the Portland one-hour ozone nonattainment area as revisions to the Maine SIP. Additionally, EPA is approving the 5% increment of progress plan, 2002 base year inventory, and VOC and NO_x transportation conformity budgets for the Portland eight-hour ozone nonattainment area as revisions to the state's SIP.

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 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. section 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 May 23, 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 15, 2006.

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 52.1023 is amended by adding paragraphs (e) and (f) to read as follows:

§ 52.1023 Control Strategy: Ozone.

* * * * *

(e) *Approval.* EPA is approving a revision to the State Implementation Plan submitted by the Maine Department of Environmental Protection

on June 9 and 13, 2005. The revision is for purposes of satisfying the rate of progress requirements of section 182(b)(1) of the Clean Air Act for the Portland Maine one-hour ozone nonattainment area.

(f) *Approval.* EPA is approving a revision to the State Implementation Plan submitted by the Maine Department of Environmental Protection on June 9, 13, and 14, 2005. The revision is for purposes of satisfying the 5 percent increment of progress requirement of 40 CFR 51.905(a)(1)(ii)(B) for the Portland Maine eight-hour ozone nonattainment area. The revision establishes motor vehicle emissions budgets for 2007 of 20.115 tons per summer day (tpsd) of volatile organic compound (VOC) and 39.893 tpsd of nitrogen oxide (NO_x) to be used in transportation conformity in the Portland Maine 8-hour ozone nonattainment area.

■ 3. Section 52.1036 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 52.1036 Emission Inventories.

(a) The Governor's designee for the State of Maine submitted 1990 base year emission inventories for the Knox and Lincoln Counties area, the Lewiston and Auburn area, the Portland area, and the Hancock and Waldo Counties area on July 25, 1995 as a revision to the State Implementation Plan (SIP). An amendment to the 1990 base year emission inventory for the Portland area was submitted on June 9, 2005. The 1990 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for these areas.

* * * * *

(f) The Governor's designee for the State of Maine submitted a 2002 base year emission inventory for Cumberland, Sagadahoc, and York counties, to represent emissions for the Portland 8-hour ozone nonattainment area on June 9, 2005, as a revision to the State Implementation Plan (SIP). The 2002 base year emission inventory requirement of 40 CFR 51.915 has been satisfied for this area.

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