

**§ 1.808 Furnishing of samples.**

(a) A deposit must be made under conditions that assure that:

(1) Access to a deposit will be available during pendency of a patent application making reference to the deposit to one determined by the Director to be entitled thereto under § 1.14 and 35 U.S.C. 122(a), and

(2) Subject to paragraph (b) of this section, all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the earlier of publication of the application under § 1.211 and 35 U.S.C. 122(b) or grant of the patent, and any deposit referenced in a patent application publication or patent will be available to the public upon publication or patenting, regardless of whether the deposit was necessary for compliance with any statutory provision.

(b) The depositor may contract with the depository to require that samples of a deposited biological material shall be furnished only if a request for a sample, before the patent is granted or during the term of the patent:

(1) Is in writing or other tangible form and dated;

(2) Contains the name and address of the requesting party and the accession number of the deposit; and

(3) Is communicated in writing by the depository to the depositor along with the date on which the sample was furnished and the name and address of the party to whom the sample was furnished.

(c) Upon request made to the Office, the Office will certify that an application referring to the deposit has been filed and that the subject matter of that application involves the deposited biological material or the use thereof, that the application has been published or patented or is otherwise open to public inspection, and the certified party has a right to a sample of the biological material, provided the request contains:

(1) The name and address of the depository;

(2) The accession number given to the deposit;

(3) The application number referring to the deposit and any patent application publication number and publication date, or patent number and issue date of the patent; and

(4) The name and address of the requesting party.

6. Section 1.809 is amended by revising paragraphs (a), (b), (c), and (e) to read as follows:

**§ 1.809 Examination procedures.**

(a) The examiner shall determine pursuant to § 1.104 in each application for patent, application for reissue patent or reexamination proceeding if a deposit is needed, and if needed, if a deposit actually made is acceptable for patent purposes. If a deposit is needed and has not been made or replaced or supplemented in accordance with these regulations, the examiner, where appropriate, shall reject the affected claims under the appropriate statutory provision, explaining why a deposit is needed and/or why a deposit actually made cannot be accepted.

(b) The applicant for patent or patent owner shall reply to a rejection under paragraph (a) of this section by:

(1) In the case of an applicant for patent, making an acceptable original, replacement, or supplemental deposit; or, in the case of a patent owner, requesting a certificate of correction of the patent which meets the terms of paragraphs (b) and (c) of § 1.805, or

(2) Arguing why a deposit is not needed under the circumstances of the application or patent considered and/or why a deposit actually made should be accepted. Other replies to the examiner's action shall be considered nonresponsive. A request to hold the making of the deposit in abeyance will not be considered a bona fide attempt to advance the application to final action (§ 1.135(c)).

(c) If an application for patent is otherwise in condition for allowance except for a needed deposit, applicant will be notified and given a period of time within which the deposit must be made in order to avoid abandonment. This time period is not extendable under § 1.136(a) or (b) if set forth in a "Notice of Allowability" or in an Office action having a mail date on or after the mail date of a "Notice of Allowability" (see § 1.136(c)).

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(e) An amendment required by paragraphs (d)(1), (d)(2) or (d)(4) of this section for a biological deposit that is necessary to preserve provisional rights under 35 U.S.C. 154(d) must be filed:

(1) Within a period of sixteen months after the date of filing of the application or, if the benefit of an earlier filing date is sought under 35 U.S.C. 119(e), 120, 121, or 365(c), within the later of four months of the actual filing date of the later-filed application and sixteen months from the filing date of the of the prior-filed application; and

(2) Before or with any request for early publication (§ 1.219).

Dated: February 13, 2008.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. E8-3084 Filed 2-19-08; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

**[EPA-R01-OAR-2007-0633; A-1-FRL-8517-5]**

**Approval and Promulgation of Air Quality Implementation Plans; Maine; Conformity of General Federal Actions**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine for the purpose of making the SIP consistent with recent additions to the Federal general conformity regulation. This revision incorporates by reference new definitions and establishes de minimis emission levels for fine particulate matter (PM<sub>2.5</sub>) into Maine's existing general conformity criteria and procedures previously approved into the Maine SIP.

**DATES:** Written comments must be received on or before March 21, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-OAR-2007-0633 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax*: (617) 918-0047.

4. *Mail*: "EPA-R01-OAR-2007-0633", Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier*. Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, 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 legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1668, fax number (617) 918–0668, e-mail [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. 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.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: January 9, 2008.

**Robert W. Varney,**  
Regional Administrator, EPA New England.  
[FR Doc. E8–2883 Filed 2–19–08; 8:45 am]  
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2007–0150–200711(b); FRL–8528–7]

#### Approval and Promulgation of Implementation Plans for Air Quality Planning Purposes; Georgia: Early Progress Plan for the Atlanta 8-Hour Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** On December 31, 2006, the State of Georgia, through the Environmental Protection Division of the Georgia Department of Natural Resources, submitted a voluntary State Implementation Plan (SIP) revision requesting approval of an Early Progress Plan for the sole purpose of establishing motor vehicle emission budgets (MVEBs) for the Atlanta 8-hour ozone nonattainment area. The Atlanta 8-hour ozone nonattainment area is comprised of the following twenty counties: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton counties in their entirety (hereafter referred to as the “Atlanta 8-Hour Ozone Area”). EPA is proposing to approve Atlanta's Early Progress Plan, including the new regional MVEBs for nitrogen oxides and volatile organic compounds for 2006. This proposed approval of the Early Progress Plan for the Atlanta 8-Hour Ozone Area is based on EPA's determination that Georgia has demonstrated that the SIP revision containing these MVEBs, when considered with the emissions from all sources, shows some progress toward attainment from the base year (i.e., 2002) through an interim target year (i.e., 2006). In the Final Rules Section of this **Federal Register**, EPA is approving the SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before March 21, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–0150, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. E-mail: [Benjamin.lynorae@epa.gov](mailto:Benjamin.lynorae@epa.gov).
3. Fax: (404) 562.9019.

4. Mail: EPA–R04–OAR–2007–0150, Air Quality Modeling and Transportation 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.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Air Quality Modeling and Transportation 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. 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.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Lynorae Benjamin, Air Quality Modeling and Transportation 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. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at [Benjamin.lynorae@epa.gov](mailto:Benjamin.lynorae@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: February 6, 2008.

**J.I. Palmer, Jr.,**  
Regional Administrator, Region 4.  
[FR Doc. E8–2709 Filed 2–19–08; 8:45 am]  
BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2007–0122; FRL–8528–6]

#### Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to correct our May 2004 final approval of revisions to the San Joaquin Valley Unified Air