

industry-specific State BACT standard for fuel grade ethanol production at dry mill facilities that emit 25 tons or more of VOC per year.

(i) *Incorporation by reference.* The following sections of the Indiana Administrative Code (IAC) are incorporated by reference. 326 IAC 8-5-1, "Applicability of Rule", and 326 IAC 8-5-6 "Fuel Grade Ethanol Production at Dry Mills". Approved by the Attorney General February 16, 2007. Approved by the Governor February 16, 2007. Filed with the Publisher February 20, 2007. Published on the Indiana Register Web site March 21, 2007, Document Identification Number (DIN):20070321-IR-326050197FRA. Effective March 22, 2007.

(ii) *Additional materials.* A December 19, 2007, letter from Daniel Murray, Assistant Commissioner of the Indiana Department of Environmental management, Office of Air Quality, which states that it would be acceptable to measure the concentration limits in 326 IAC 8-5-6 using EPA Method 25(a) expressed as equivalent ethanol with the calibration gas being a mixture of ethanol in air.

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[FR Doc. E8-2893 Filed 2-19-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2007-0633; A-1-FRL-8517-6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving 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_{2.5}) into Maine's existing general conformity criteria and procedures previously approved into the Maine SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective April 21, 2008, unless EPA receives adverse comments by March 21, 2008. If adverse comments are received, EPA will publish a timely

withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number 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.

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

4. *Mail:* "Docket Identification Number 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.

Instructions: Direct your comments to Docket ID No. EPA-R01-OAR-2007-0633. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact

you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. 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 in www.regulations.gov or in hard copy at 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 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 to 4:30, excluding legal holidays.

In addition, copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

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.

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. State Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background and Purpose

Section 176(c) of the Clean Air Act, as amended (the Act), prohibits Federal entities from taking actions in nonattainment or maintenance areas which do not conform to the State

implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). Therefore, the purpose of conformity is to: (1) Ensure Federal activities do not interfere with the emission budgets in the SIPs; (2) ensure actions do not cause or contribute to new violations; and (3) ensure attainment and maintenance of the NAAQS. Section 176(c) of the Act also requires the EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal actions to an applicable implementation plan developed pursuant to Section 110 and Part D of the Act. EPA promulgated a final rulemaking on November 30, 1993 consisting of 40 CFR part 93, subpart B “Determining Conformity of General Federal Actions to State or Federal Implementation Plans,” which applied to Federal agencies immediately (hereafter referred to as the General Conformity rule); and 40 CFR part 51, subpart W “Determining conformity of general Federal Actions to State or Federal Implementation Plans” which established requirements for States in submitting SIPs. The general conformity rules, except for the 40 CFR 51.851(a) language requiring State submission of a SIP revision, are repeated at 40 CFR part 93, subpart B. The General Conformity rule establishes the criteria and procedures governing the determination of conformity for all Federal actions, except Federal highway and transit actions.¹

The General Conformity rule also establishes the criteria for EPA approval of SIPs. See 40 CFR 51.851 and 93.151. These criteria provide that the state provisions must be at least as stringent as the requirements specified in EPA’s General Conformity rule, and that they can be more stringent only if they apply equally to Federal and non-Federal entities (§§ 51.851(b)).

On October 11, 1996, the State of Maine submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consisted of incorporating by reference 40 CFR 51.850 through 51.860 (with the exception of § 51.851) thereby establishing general conformity criteria and procedures in the Maine SIP no more stringent than the Federal rule and not imposing any additional controls on non-Federal entities. EPA approved Maine’s General Conformity SIP through a direct final rule published in the **Federal Register** on September

23, 1997, (62 FR 49608–49611) and effective November 24, 1997.

EPA amended the General Conformity rule on July 17, 2006, (71 FR 40420–40427). In the amended rule, EPA revised the tables in subparagraphs (b)(1) and (b)(2) of 40 CFR 51.853 and 40 CFR 93.153 by adding the *de minimis* emission levels for PM_{2.5}. The EPA also established 100 tons per year as the *de minimis* emission level for direct PM_{2.5} and each of its precursors as defined in revised §§ 51.852 and 93.152. The PM_{2.5} precursors for the purposes of general conformity applicability are: volatile organic compounds (VOC’s) and ammonia (NH₃) emissions, which are only considered PM_{2.5} precursors in nonattainment areas where either a State or EPA has made a finding that they significantly contribute to the PM_{2.5} problem in a given area or to other downwind air quality concerns; NO_x emissions, which are considered a PM_{2.5} precursor unless the State and EPA make a finding that NO_x emissions from sources in the State do not significantly contribute to the PM_{2.5} problem in a given area or to other downwind air quality concerns; and SO₂ emissions, which are always considered a PM_{2.5} precursor. Since EPA did not designate any classifications for the PM_{2.5} nonattainment areas under the 1997 National Ambient Air Quality Standards for PM_{2.5}, EPA did not establish PM_{2.5} *de minimis* emission levels for higher classified nonattainment areas.

II. State Submittal

On June 29, 2007, the State of Maine submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of incorporating by reference 40 CFR 51.852 (Definitions), and 51.853 (Applicability), of 40 CFR part 51, subpart W, “Determining Conformity of General Federal Actions to State or Federal Implementation Plans,” as amended on July 17, 2006 in the **Federal Register** (71 FR 40420–40426). By incorporating by reference the amended General Conformity rule, Maine’s Chapter 141 “Conformity of General Federal Actions,” is no more stringent than the Federal rule and does not impose any additional controls on non-Federal entities.

Maine’s SIP revision was the subject of a public hearing held on March 1, 2007 in accordance with Federal and state administrative requirements. The Maine Board of Environmental Protection adopted the amendments to “State Chapter 141—Conformity of General Federal Actions,” on April 19, 2007. The Maine Office of the Attorney General certified Chapter 141 as to form and legality on May 7, 2007.

EPA determined that the submittal of the Department of Environmental Protection’s Chapter 141 “Conformity of General Federal Actions” was administratively and technically complete in a July 26, 2007 completeness letter.

III. Final Action

EPA is approving Maine’s revised Chapter 141 “Conformity of General Federal Actions,” and incorporating this regulation into the Maine SIP. Maine’s rule is consistent with the latest Federal General Conformity rule as amended on July 17, 2006. The EPA has evaluated Maine’s SIP revision and has determined that the State has fully adopted the provisions of the General Conformity rule set forth at 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of this SIP revision.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective April 21, 2008 without further notice unless the Agency receives relevant adverse comments by March 21, 2008.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 21, 2008 and no further action will be taken on the proposed rule. 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.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and

¹ Conformity to State or Federal Implementation Plans of transportation plans, programs, and projects which are developed, funded or approved under Title 23 U.S.C. or the Federal Transit Laws are implemented under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A.

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 approves a state rule implementing a Federal standard.

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 April 21, 2008. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead,

Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 9, 2008.

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 52.1020 is amended by reserving paragraphs (c)(60) and (c)(61) and by adding paragraph (c)(63) to read as follows:

§ 52.1020 Identification of plan.

* * * * *
(c) * * *
(60) [Reserved]
(61) [Reserved]
* * * * *

(63) Revision to Chapter 141 "Conformity of General Federal Actions," submitted by the Maine Department of Environmental Protection on June 29, 2007 and effective in the State of Maine on May 21, 2007.

(i) Incorporation by reference.

(A) Chapter 141 "Conformity of General Federal Actions" 1. Definition. Effective in the State of Maine on May 21, 2007.

(ii) Additional Materials.

(A) Chapter 141 "Conformity of General Federal Actions," 2. Conformity to State and Federal Implementation Plans. The Maine Department of Environmental Protection amended its incorporation-by-reference within Chapter 141.2 to reflect EPA's revision to the Federal General Conformity Rule for fine particulate matter promulgated on July 17, 2006 (71 FR 40420-40427); specifically 40 CFR 51.852 Definitions and 40 CFR 51.853 Applicability.

■ 3. In § 52.1031, Table 52.1031 is amended by adding new entries under the existing state citation Chapter 141: Conformity of General Federal Actions to read as follows:

§ 52.1031 EPA-approved Maine regulations.

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	Federal Register citation	52.1020
141	Conformity of General Federal Actions.	4/19/07	2/20/08	[Insert Federal Register page number where the document begins].	(c)(63) Amendment to incorporate new fine particulate matter provisions.

Note.—1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. E8–2884 Filed 2–19–08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA–R04–OAR–2007–0150–200711(a); FRL–8528–8]

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: Direct final rule.

SUMMARY: On December 31, 2006, the State of Georgia, through the Environmental Protection Division (EPD) 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 approving Atlanta’s Early Progress Plan, including the new regional MVEBs for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for 2006. This 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).

DATES: This direct final rule is effective April 21, 2008 without further notice, unless EPA receives adverse comment by March 21, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

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

- a. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- b. *E-mail*: Benjamin.Lynorae@epa.gov.
- c. *Fax*: (404) 562–9019.
- d. *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.

e. *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.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2007–0150. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. 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 in *www.regulations.gov* or in hard copy at the 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. EPA requests that if at all possible, you