

US EPA ARCHIVE DOCUMENT

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DD—Nevada

■ 2. Section 52.1470 is amended by adding paragraph (c)(56)(i) (A)(5), (6), and (7) to read as follows:

§ 52.1470 Identification of plan.

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(c) * * *
(56) * * *
(i) * * *
(A) * * *

(5) The following sections of the Nevada Air Quality Regulations were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) September 16, 1976: 445B.134, 445B.257, 445B.258, 445B.259, 445B.260, 445B.261, and 445B.263.

(6) The following sections of Chapter 445 of the Nevada Administrative Code were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) April 26, 1984: 445B.265.

(ii) November 3, 1993: 445B.084.

(iii) March 3, 1994: 445B.202.

(7) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on the dates listed below:

(i) October 3, 1995: 445B.015, 445B.062, and 445B.256.

(ii) August 22, 2000: 445B.264.

(iii) September 18, 2003: 445B.262 and 445B.267.

(iv) October 4, 2005: 445B.063, 445B.153, and 445B.22093.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[EPA-R01-OAR-2006-OAR-0226; FRL-8253-4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Redesignation of the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine Ozone Nonattainment Areas to Attainment and Approval of These Areas' Maintenance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of Maine. The Maine Department of Environmental Protection (ME DEP) is requesting that the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine (also known as the Midcoast area) ozone nonattainment areas be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the ME DEP submitted a SIP revision consisting of maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas that provide for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is approving the redesignation requests and the maintenance plan as revisions to the Maine SIP in accordance with the requirements of the Clean Air Act. EPA is also approving the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for these areas for purposes of transportation conformity.

DATES: *Effective Date:* This rule is effective on January 10, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2006-OAR-0226. 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.*, 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 <http://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 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. 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 04333-0017.

FOR FURTHER INFORMATION CONTACT:

Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1664, fax number (617) 918-0664, e-mail Burkhart.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On October 17, 2006 (71 FR 60937), EPA published a notice of proposed rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's request to redesignate the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-hour ozone nonattainment areas and a SIP revision that establishes separate maintenance plans for these areas. The maintenance plans set forth how each area will maintain attainment of the 8-hour ozone NAAQS for the next 10 years in accordance with Section 175A of the Clean Air Act (CAA). The NPR also proposed approval of the motor vehicle emission budgets (MVEBs) associated with the maintenance plans. The formal SIP revision was submitted by the ME DEP on August 3, 2006. Other specific requirements of Maine's redesignation requests, the 175A maintenance plans, and the MVEBs, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR, however, two commenters did discover minor typographical errors in the NPR. EPA agrees with these commenters that there were typographical errors in the NPR. Some of the values for monitored ozone levels were misstated in two tables in the NPR. These misstatements were minor, and did not affect EPA's conclusions on the redesignation requests, that the design values for these areas qualify for redesignation. A response to comments document correcting the record was placed into the docket for this action.

II. Final Action

EPA is approving the State of Maine's August 3, 2006 redesignation requests and maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas, because the requirements for approval have been satisfied for each area. EPA has evaluated Maine's redesignation requests, and determined that they meet the redesignation criteria set forth in

section 107(d)(3)(E) of the Clean Air Act. EPA believes that the redesignation requests and monitoring data demonstrate that the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas have attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plans for these areas, submitted on August 3, 2006, as a revision to the Maine SIP. EPA is approving the maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area because they meet the requirements of section 175A of the CAA. EPA is also approving the MVEBs associated with these maintenance plans.

III. 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 February 9, 2007. 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: November 30, 2006.

Robert W. Varney,
Regional Administrator, EPA New England.

■ 40 CFR parts 52 and 81 are amended as follows:

■ 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 (g) and (h) to read as follows:

§ 52.1023 Control strategy: Ozone.

* * * * *

(g) Approval. EPA is approving a redesignation request for the Portland, Maine 8-hour ozone nonattainment area. Maine submitted this request on August 3, 2006. The request contains the required Clean Air Act Section 175A maintenance plan. The plan establishes motor vehicle emissions budgets for 2016 of 16.659 tons per summer day (tpsd) of volatile organic compound and 32.837 tpsd of nitrogen oxide (NO_x) to be used in transportation conformity determinations in the Portland area.

(h) Approval. EPA is approving a redesignation request for the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-hour ozone nonattainment area. Maine submitted this request on August 3, 2006. The request contains the required Clean Air Act Section 175A maintenance plan. The plan establishes motor vehicle emissions budgets for 2016 of 3.763 tons per summer day (tpsd) of volatile organic compound and 6.245 tpsd of nitrogen oxide (NO_x) to be used in transportation conformity determinations in the Hancock, Knox, Lincoln and Waldo Counties area.

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 81.320 is amended by revising the entries for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine area in the

8-hour ozone standard table to read as follows:

§ 81.320 Maine.

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MAINE—OZONE (8-HOUR STANDARD)

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Hancock, Knox, Lincoln and Waldo Cos., ME:				
Hancock County (part) (includes only the following cities and towns): Bar Harbor, Blue Hill, Brooklin, Brooksville, Cranberry Isle, Deer Isle, Frenchboro, Gouldsboro, Hancock, Lamoine, Mount Desert, Sedgwick, Sorrento, Southwest Harbor, Stonington, Sullivan, Surry, Swans Island, Tremont, Trenton, and Winter Harbor.	January 10, 2007 ...	Attainment.		
Knox County (part) (includes only the following cities and towns): Camden, Criehaven, Cushing, Friendship, Isle au Haut, Matinicus Isle, Muscle Ridge Shoals, North Haven, Owls Head, Rockland, Rockport, St. George, South Thomaston, Thomaston, Vinalhaven, and Warren.	January 10, 2007 ...	Attainment.		
Lincoln County (part) (includes only the following cities and towns): Alna, Boothbay, Boothbay Harbor, Breman, Bristol, Damariscotta, Dresden, Edgecomb, Monhegan, Newcastle, Nobleboro, South Bristol, Southport, Waldoboro, Westport, and Wiscasset.	January 10, 2007 ...	Attainment.		
Waldo County (part) (includes only the following town): Islesboro.	January 10, 2007 ...	Attainment.		
Portland, ME:				
Androscoggin County (part) (includes only the following town): Durham.	January 10, 2007 ...	Attainment.		
Cumberland County (part) (includes only the following cities and towns): Brunswick, Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Harpswell, Long Island, New Gloucester, North Yarmouth, Portland, Pownal, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, and Yarmouth.	January 10, 2007 ...	Attainment.		
Sagadahoc County (includes all cities & towns)	January 10, 2007 ...	Attainment.		
York County (part) (includes only the following cities and towns): Alfred, Arundel, Berwick, Biddeford, Buxton, Dayton, Elliot, Hollis, Kennebunk, Kennebunkport, Kittery, Limington, Lyman, North Berwick, Ogunquit, Old Orchard Beach, Saco, Sanford, South Berwick, Wells, and York.	January 10, 2007 ...	Attainment.		
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^a Includes Indian country located in each county or area, except otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

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