



40 CFR Part 52

[EPA-R01-OAR-2020-0327; FRL-10021-93-Region 1]

Air Plan Approval; Maine; Infrastructure State Implementation Plan Requirements for the 2015 Ozone Standard and Negative Declaration for the Oil and Gas Industry for the 2008 and 2015 Ozone Standards.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This action includes all elements of these infrastructure requirements except for the “Good Neighbor” or “transport” provisions, which will be addressed in a future action. EPA is also approving a State of Maine submittal of amendments to 06-096 CMR Chapter 110, “Ambient Air Quality Standards,” as well as a submittal of statutory conflict-of-interest provisions in 38 Maine Revised Statutes Annotated (MRSA) Section 341-A and 341-C; resulting in the conversion of a number of previous conditional approvals. In addition, EPA is approving SIP revisions submitted by Maine that provide the state’s determination, via a negative declaration for the 2008 and 2015 ozone standards, that there are no facilities within its borders subject to EPA’s 2016 Control Technique Guideline (CTG) for the oil and gas industry. This action is being taken under the Clean Air Act.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0327. All documents in the docket are listed on the <https://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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, 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 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, tel. (617) 918-1684, email simcox.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On January, 22, 2021 (86 FR 6591), EPA published a Notice of Proposed Rulemaking (NPRM) to approve most elements of a Maine SIP revision addressing the infrastructure requirements of Clean Air Act (CAA or Act) sections 110(a)(1) and 110(a)(2)—excluding the interstate transport provisions—for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This NPRM also proposed to approve into Maine's SIP amendments to state

regulations at 06-096 CMR Chapter 110, “Ambient Air Quality Standards,” and several conflict of interest (COI) provisions in Maine’s statutes, which support the state’s infrastructure submittal for the 2015 ozone NAAQS. The NPRM also proposed, based on the Chapter 110 amendments and the COI provisions, to convert to full approval a number of EPA conditional approvals of earlier Maine infrastructure SIP submissions for other NAAQS. The NPRM also proposed to approve a Maine SIP submission that provides the state’s determination, via a negative declaration, that there are no facilities within its borders subject to EPA’s 2016 Control Technique Guideline (CTG) for the oil and gas industry for the 2008 and 2015 ozone standards.

The NPRM addressed the following submissions from the Maine Department of Environmental Protection (Maine DEP): a February 14, 2020, submission addressing infrastructure requirements for the 2015 ozone NAAQS; a May 28, 2019, submission of amendments to the aforementioned regulations; a September 4, 2019, submission of several COI provisions in Maine state law; and a May 14, 2020, negative declaration for the 2016 CTG for the Oil and Natural Gas Industry for the 2008 and 2015 ozone standards.

The rationale for EPA’s proposed action is given in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

EPA is approving most of the elements of the infrastructure SIP submitted by Maine on February 14, 2020, for the 2015 ozone NAAQS. Today’s action does not include the “good neighbor” provisions (i.e., CAA section 110(a)(2)(D)(i)), also known as a state’s Transport SIP. EPA will address Maine’s Transport SIP for the 2015 ozone NAAQS in a future action.

EPA also is approving, and incorporating into the Maine SIP, the following regulation, submitted on May 28, 2019, and statutes, submitted on September 4, 2019:

06-096 CMR Chapter 110, “Ambient Air Quality Standards,” effective March 27, 2019.

Maine Public Law 2011, Chapter 357 amending 38 MRSA Section 341-A(3)(D), effective June 15, 2011.

Maine Public Law 2019, Chapter 180 amending 38 MRSA Section 341-C(2) and 341-C(8) (except Section 341-C(8)(A)), effective September 19, 2019.

In addition, we are converting to full approvals the previous conditional approvals of section 110(a)(2)(E) in Maine’s infrastructure SIPs for the 2008 ozone; 2008 Pb; 2010 NO₂; 2010 SO₂; and 1997, 2006, and 2012 PM_{2.5} NAAQS, as well as previous conditional approvals of section 110(a)(2)(A) in Maine’s infrastructure SIPs for the 1997 and 2006 PM_{2.5}.

Finally, we are approving into the Maine SIP the negative declaration for EPA’s 2016 CTG entitled “Control Techniques Guidelines for the Oil and Natural Gas Industry” for the 2008 and 2015 ozone standards.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the [State Agency Regulations] described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

IV. Statutory and Executive Order Reviews

¹ 62 FR 27968 (May 22, 1997).

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health, or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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 [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: March 22, 2021.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart U – Maine

2. Revise § 52.1019 to read as follows:

(a) 1997 PM_{2.5} NAAQS: The SIP submitted September 10, 2008, with a supplement submitted on June 1, 2011, was previously conditionally approved (see Final Rule published October 16, 2012; 77 FR 63228) for Clean Air Act (CAA) elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012. EPA approved a submittal, related to the Conflict of Interest requirements, and converted the conditional approval of elements 110(a)(2)(A) and E(ii) on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]; and

(b) 2006 PM_{2.5} NAAQS: The SIP submitted July 27, 2009, with a supplement submitted on June 1, 2011, was previously conditionally approved (see Final Rule published October 16, 2012; 77 FR 63228) for CAA elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012. EPA approved a submittal, related to the Conflict of Interest requirements, and

converted the conditional approval of elements 110(a)(2)(A) and E(ii) on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) [Reserved]

3. In § 52.1020(c), amend the table by revising the entry for “Chapter 110,” and adding, in numerical order, entries for “38 MRSA § 341-A(3)(D)”, and “38 MRSA § 341-C(2) and 341-C(8)”, to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Maine Regulations

State citation	Title/Subject	State effective date	EPA Approval Date EPA approval date and citation ¹	Explanations
**	*	*	*	**
Chapter 110	Ambient Air Quality Standards	3/27/2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	This submittal converts to full approval pre-existing conditional approvals for CAA section 110(a)(2)(A) for the 1997 and 2006 PM _{2.5} standards.
**	*	*	*	**
38 MRSA Section 341-A(3)(D)	Department of Environmental Protection Commissioner	6/15/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Conflict-of-interest provisions.
38 MRSA Section 341-C(2) and 341-C(8)	Board Membership qualifications and requirements and federal standards	9/19/2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Conflict-of-interest provisions. Sections 341-C(2) and 341-C(8) are approved except 341-C(8)(A)

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¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

4. In § 52.1020(e), amend the table by adding entries for “Submittal to meet Clean Air Act Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standard”; “Negative declaration for the 2016 Control Techniques Guideline for the Oil and Natural Gas Industry for the 2008 ozone standard”; and “Negative declaration for the 2016 Control Techniques Guideline for the Oil and Natural Gas Industry for the 2015 ozone standard” at the end of the table, to read as follows:

(e) * * *

Maine Non Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
**	*	*	*	**
Submittal to meet Clean Air Act Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standard	Statewide	2/14/2020	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(A); (B); (C); (D), except (D)(i)(I); (E); (F); (G); (H); (J); (K); (L); and (M).

Conflict of Interest Statute	Statewide	Submitted 9/4/2019	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	This submittal converts to full approval pre-existing conditional approvals for CAA section 110(a)(2)(E)(ii), regarding State Boards and Conflict of interest for the following standards: 2008 Lead, 2008 Ozone, 2010 NO ₂ , 2010 SO ₂ , 1997 PM _{2.5} , 2006 PM _{2.5} , and 2012 PM _{2.5} .
Negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry for the 2008 and 2015 ozone standards	Statewide	5/18/2020	<u>[Insert date of publication in the Federal Register]</u> <u>[Insert Federal Register citation]</u>	Letter from ME DEP dated May 18, 2020, stating a negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry.

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2021-06237 Filed: 5/12/2021 8:45 am; Publication Date: 5/13/2021]