

requirements. Also, because our proposed action was based on a parallel processing submittal, Maricopa County's April 20, 2005 adopted version and subsequent submittal of Rule 358 must be similar in meaning and content to the February 11, 2005 version of the rule published in the Arizona Administrative Register submitted for parallel processing. There are no substantial and meaningful differences between the two submitted versions of Rule 358. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving Rule 358 into the Arizona SIP.

#### IV. 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 among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 July 25, 2005. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 5, 2005.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, 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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(122) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(122) A plan revision was submitted on April 25, 2005 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Rule 358 adopted on April 20, 2005.

[FR Doc. 05-10491 Filed 5-25-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R01-OAR-2005-ME-0002; A-1-FRL-7915-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Smaller-Scale Electric Generating Resources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision establishes requirements to reduce emissions of nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), particulate matter (PM), and carbon monoxide (CO) from smaller-scale electric generating units. The intended effect of this action is to approve these requirements into the Maine SIP. EPA is taking this action

in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule will be effective July 25, 2005, unless EPA receives adverse comments by June 27, 2005. If EPA receives adverse comments, the Agency 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 Regional Material in EDocket (RME) ID Number R01-OAR-2005-ME-0002 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [conroy.dave@epa.gov](mailto:conroy.dave@epa.gov).

4. Fax: (617) 918-0661.

5. Mail: "RME ID Number R01-OAR-2004-ME-003" David Conroy, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

6. Hand Delivery or Courier. Deliver your comments to: David Conroy, Unit Manager, Air Quality Planning, 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 Federal holidays.

**Instructions:** Direct your comments to Regional Material in EDocket (RME) ID Number R01-OAR-2005-ME-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, 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 information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://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, or any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. 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 RME 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 Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Christine Sansevero, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, (617) 918-1699, [sansevero.christine@epa.gov](mailto:sansevero.christine@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. How Can I Get Copies of This Document and Other Related Information?*

In addition to the publicly available docket materials available for inspection electronically in Regional Material in EDocket, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section above, copies of the state submittal and EPA's technical support document 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.

**II. Rulemaking Information**

This section is organized as follows:

- A. What action is EPA taking?
- B. What are the requirements of Maine's new regulation?
- C. Why is EPA approving Maine's regulation?
- D. What is the process for EPA to approve this SIP revision?

*A. What Action Is EPA Taking?*

EPA is approving Maine's Chapter 148, "Emissions from Smaller-Scale Electric Generating Resources," and incorporating this regulation into the Maine SIP.

*B. What Are the Requirements of Maine's New Regulation?*

Chapter 148, "Emissions from Smaller-Scale Electric Generating Resources," includes emissions standards for small electric generating facilities with a capacity equal to or greater than 50 kilowatts installed on or after January 1, 2005. Chapter 148 specifies emission standards for NO<sub>x</sub>, PM, and CO. Table 1 summarizes the emission standards (in pounds per megawatt hour-lbs/MWhr) for non-emergency generators.

TABLE 1.—EMISSION STANDARDS FOR NON-EMERGENCY GENERATORS

Timeline	NO <sub>x</sub>	PM	CO
Installed on or after January 1, 2005 .....	4.0 lbs/MWhr .....	0.7 lbs/MWhr .....	10.0 lbs/MWhr.

TABLE 1.—EMISSION STANDARDS FOR NON-EMERGENCY GENERATORS—Continued

Timeline	NO <sub>x</sub>	PM	CO
Installed on or after January 1, 2009 .....	1.5 lbs/MWhr .....	0.07 lbs/MWhr .....	2.0 lbs/MWhr.

In addition, effective August 9, 2004, all diesel generators subject to Chapter 148 must be fueled with firing fuel with a sulfur content of less than 500 parts per million. Beginning June 1, 2010, all diesel-powered generators must be fueled with firing fuel with a sulfur content of less than 15 parts per million. Emergency generators are required to meet the emission standards established by EPA for non-road engines. The rule also includes the appropriate certification, registration, and recordkeeping requirements to ensure compliance with the specified emission standards and fuel sulfur limits.

### C. Why Is EPA Approving Maine's Regulation?

EPA has evaluated Maine's Chapter 148 and has found that this regulation creates new emission standards for a previously unregulated source category. The requirements of the rule are based in large part on the Regulatory Assistance Project (RAP) model rule for smaller-scale electric generating resources. The RAP, a non-profit organization formed in 1992 by former utility regulators, provides research, analysis, and educational assistance to public officials on electric utility regulation. The RAP has developed a model rule for smaller-scale electric generation facilities (see Regulatory Assistance Project Issues Letter "Model Regulations for the Output of Specified Air Emissions from Smaller-Scale Electric Generation Resources," July 2003). Connecticut adopted a regulation for smaller-scale electric generators that is based on the RAP model rule. The Connecticut rule became effective on January 1, 2005. Massachusetts has proposed and is in the process of finalizing a rule for smaller-scale electric generators based on the RAP model rule.

Maine's Chapter 148 includes both the first and second phase of emission standards outlined in the RAP model rule. Maine adopted the NO<sub>x</sub> standards for ozone attainment areas outlined in the RAP model rule. The RAP model rule includes a third, more stringent, phase of standards as well as NO<sub>x</sub> standards for non-attainment areas, which Maine did not include in Chapter 148. The specific requirements of the regulation and EPA's evaluation of these requirements are detailed in a memorandum dated March 1, 2005,

entitled "Technical Support Document—Maine—Smaller-Scale Electric Generating Resources Regulation" (TSD). The TSD and Maine's Chapter 148 are available in the docket supporting this action.

Maine is not submitting Chapter 148 to meet any requirements under the Clean Air Act. EPA is approving Chapter 148 because it will strengthen Maine's SIP. If Maine elects to rely on Chapter 148 in a future control strategy SIP (e.g., a rate of progress plan or an attainment demonstration), the rule will become a control measure required under the Clean Air Act for purposes of that control strategy SIP.

### D. What Is the Process for EPA To Approve This SIP Revision?

The EPA is publishing this rule 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 adverse comments be filed. This action will be effective July 25, 2005 without further notice unless the EPA receives adverse comments by June 27, 2005.

If the EPA receives such comments, then EPA will publish a document 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. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 25, 2005, and no further action will be taken on the proposed rule.

### III. Final Action

EPA is approving Maine's Chapter 148, "Emission Standards for Smaller-Scale Electric Generating Resources" and incorporating this regulation into the Maine SIP.

### IV. 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 July 25, 2005. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 9, 2005.

**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 adding paragraph (c)(55) to read as follows:

**§ 52.1020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(55) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on July 29, 2004.

(i) Incorporation by reference.

(A) Chapter 148 of the Maine Department of Environmental Protection Regulations, “Emissions from Smaller-Scale Electric Generating Resources” effective in the State of Maine on August 9, 2004.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

■ 3. In § 52.1031, Table 52.1031 is amended by adding a new state citation, 148, 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
148	Emissions from Smaller-Scale Electric Generating Resources.	7/15/04	5/26/05	[Insert <i>FR</i> citation from published date]	(c)(55).

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

[FR Doc. 05–10508 Filed 5–25–05; 8:45 am]

**BILLING CODE** 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[R03–OAR–2005–PA–0008; FRL–7917–2]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eleven Individual Sources; Partial Withdrawal of Direct Final Rule**

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

**ACTION:** Partial withdrawal of direct final rule.

**SUMMARY:** Due to incomplete information contained in the Commonwealth’s submission, EPA is withdrawing an individual source that was included as part of a direct final rule to approve Pennsylvania’s SIP pertaining to source-specific volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) RACT determinations for eleven individual sources located in Pennsylvania. The direct final rule was published on March 31, 2005 (70 FR 16416). Subsequently, EPA is withdrawing the one provision of that direct final rule.

**DATES:** The addition of the entry for Dart Container Corporation in 40 CFR 52.2020 (d)(1) published at 70 FR 16419 is withdrawn as of May 26, 2005.