

some modifications of the gears in the driveline.

**DATES:** This deviation is effective from 8 a.m. on September 23, 2002 until 5 p.m. on September 26, 2002.

**ADDRESSES:** Materials referred to in this deviation are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obc), 501 Magazine Street, New Orleans, Louisiana, 70130-3396. Appointment hours are between 7 a.m. and 3 p.m. Monday through Friday except federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip Johnson, Bridge Administration Branch, at the address given above or telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Union Pacific Railroad vertical lift drawbridge across the Ouachita River, mile 114.3, near Riverton, Caldwell Parish, Louisiana, has a vertical clearance of 7 feet above mean high water, elevation 71.0 feet NGVD, in the closed-to-navigation position and 57 feet above mean high water in the open-to-navigation position. Navigation on the waterway consists of tugs with tows and occasional recreational craft. Presently, the draw opens on signal for the passage of vessels.

The Union Pacific Railroad requested a temporary deviation for the operation of the drawbridge to accommodate the replacement of diesel-powered generators and to modify the gears in the driveline. This work is essential for continued operation of the draw span of the bridge.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 29, 2002.

**Roy J. Casto,**  
Rear Admiral, U.S. Coast Guard, Commander,  
Eighth Coast Guard District.

[FR Doc. 02-22828 Filed 9-6-02; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[ME056-1-7005a; FRL-7269-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Reasonably Available Control Technology for Nitrogen Oxides

**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. This SIP revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NO<sub>x</sub>) in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Lincoln, and Knox counties. The intended effect of this action is to approve regulatory provisions and source specific air emissions licenses which require major stationary sources of NO<sub>x</sub> to reduce their emissions in accordance with requirements of the Clean Air Act.

**DATES:** This direct final rule is effective on November 8, 2002 without further notice, unless EPA receives adverse comment by October 9, 2002. If adverse comment is received, EPA 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:** You should address your comments to Mr. David Conroy, Unit Manager, Air Quality Planning Unit, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA, and 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:** Dan Brown, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, One Congress Street, Suite 1100, Boston, MA 02114-2023; (617) 918-1532; [brown.dan@epa.gov](mailto:brown.dan@epa.gov).

**SUPPLEMENTARY INFORMATION:** This document is organized according to the following Table of Contents.

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#### I. What Action Is EPA Taking Today?

The EPA is approving Chapter 138 as well as the air emissions licenses for Pioneer Plastics Corporation in Auburn; Dragon Products, Incorporated, in Thomaston; Tree Free Fiber Company, LLC, (formerly Statler Tissue) in Augusta; Mid-Maine Waste Action Corporation in Auburn; Maine Energy Recovery Company in Biddeford; Portsmouth Naval Shipyard in Kittery; S.D. Warren Company in Westbrook; FMC Corporation—Food Ingredients Division in Rockland; the Chinnet Company in Waterville; Scott Paper Company in Winslow; and FPL Energy's (formerly Central Maine Power) W.F. Wyman Station in Yarmouth, as collectively meeting the CAA requirements for NO<sub>x</sub> RACT in the moderate nonattainment areas of Maine. This approval action will incorporate these documents into the Maine SIP.

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 November 8, 2002 without further notice unless the Agency receives relevant adverse comments by October 9, 2002.

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. Only 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 November 8, 2002 and no further action will be taken on the proposed rule.

## II. Why Is the EPA Taking This Action?

The EPA is approving Maine's SIP submittals because they comply with EPA's NO<sub>x</sub> RACT related policies, including the "Nitrogen Oxides Supplement to the General Preamble" (57 FR 55620) and additional EPA guidance memoranda, such as those included in the "NO<sub>x</sub> Policy Document for the Clean Air Act of 1990," (EPA-452/R-96-005, March 1996). Review of the NO<sub>x</sub> RACT SIP submittals, including Chapter 138, the miscellaneous NO<sub>x</sub> RACT determinations, the alternative NO<sub>x</sub> RACT determinations, as well as the licenses containing testing, monitoring, recordkeeping, and reporting requirements, indicate that Maine has sufficiently defined the NO<sub>x</sub> RACT requirements for major stationary sources of NO<sub>x</sub> located in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Lincoln, and Knox counties in Maine. These seven counties make up the three areas of Maine classified as moderate nonattainment for the one-hour national ambient air quality standards for ozone.

The Clean Air Act (CAA) requires that States develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of NO<sub>x</sub> in areas classified as "moderate," "serious," "severe," and "extreme" ozone nonattainment areas, and in all

areas of the Ozone Transport Region (OTR). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the CAA as described below.

Section 182(b)(2) of the CAA requires States to require implementation of RACT with respect to all major sources of volatile organic compounds (VOCs) in moderate ozone nonattainment areas or in areas with higher than moderate nonattainment classifications as expeditiously as practicable but no later than May 31, 1995. Furthermore, section 182(f) states that, "the plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen." Additionally, section 184(b)(2) requires major stationary sources in the OTR, which includes all of Maine, to meet the requirements applicable to major sources as if the area is classified as a moderate nonattainment area (unless already classified at a higher nonattainment level) as well. These sections of the CAA, taken together, establish the requirements for Maine to submit a NO<sub>x</sub> RACT regulation which covers major sources statewide.

Section 302 of the CAA generally defines "major stationary source" as a facility or source of air pollution which has the potential to emit 100 tons per year or more of air pollution. This definition applies unless another provision of the CAA explicitly defines major source differently. For NO<sub>x</sub>, in marginal and moderate areas, and attainment areas in the OTR, a major source is one with the potential to emit 100 tons per year or more. Therefore, for purposes of applicability to NO<sub>x</sub> RACT in Maine, a major stationary source of NO<sub>x</sub> is a facility with the potential to emit 100 tons or more per year of NO<sub>x</sub>.

At the time of adoption of Chapter 138, Maine had four areas which were designated as ozone nonattainment: the Hancock and Waldo area, which was classified as marginal nonattainment; the Knox and Lincoln county area, which was classified as moderate nonattainment; the Lewiston-Auburn area, which was classified as moderate nonattainment; and, the Portland area, which was classified as moderate nonattainment (see 40 CFR Part 81 for the list of affected towns). On February 28, 1997, the EPA approved a request by the State of Maine to redesignate the Hancock and Waldo area from marginal nonattainment to attainment (62 FR 9081).

On December 26, 1995, EPA approved Maine's Chapter 138 NO<sub>x</sub> RACT rule as it applied to the Hancock and Waldo

area as well as the other non-moderate counties in Maine (*i.e.*, Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, and Aroostook) that collectively make up the Northern Maine Area (see 60 FR 66748). The December 26, 1995, approval also included a NO<sub>x</sub> waiver under section 182(f) of the Clean Air Act. The waiver was limited in that it did not require anything above the Chapter 138 NO<sub>x</sub> RACT rule for the nine counties making up the northern Maine area at that time. Section 182(f) allows the Administrator to issue such a waiver upon making a determination that air quality benefits would be greater in the absence of NO<sub>x</sub> reductions from sources in a RACT subject area.

In today's action we are approving Chapter 138 as it applies in the three current moderate nonattainment areas: Knox and Lincoln area, Lewiston-Auburn area (Androscoggin and Kennebec Counties) and Portland area (York, Cumberland and Sagadahoc Counties). With this action Chapter 138 will be approved statewide and, therefore, will meet requirements that Maine submit a NO<sub>x</sub> RACT regulation which covers major sources statewide.

## III. What Did Maine Submit as Part of Its SIP?

On August 5, 1994, the State of Maine formally submitted Chapter 138 as a SIP revision. On July 1, 1997, Maine submitted case-specific NO<sub>x</sub> RACT determinations as single source SIP revisions for the following facilities: Pioneer Plastics Corporation in Auburn (Pioneer); Mid-Maine Waste Action Corporation in Auburn (MMWAC); Tree Free Fiber Company, LLC, (formerly Statler Tissue) in Augusta (TF/ST); Dragon Products, Incorporated in Thomaston (Dragon); and Maine Energy Recovery Company in Biddeford (MERC). On August 14, 1998, Maine submitted case-specific NO<sub>x</sub> RACT determinations as single source SIP revisions for the following facilities: FPL Energy's (formerly Central Maine Power) W.F. Wyman Station in Yarmouth (FPL); FMC Corporation—Food Ingredients Division's Rockland facility (FMC); Portsmouth Naval Shipyard (PSNY) in Kittery; the Chinet Company's Waterville facility (Chinet); Scott Paper Company's Winslow facility (Scott); and S.D. Warren Company's Westbrook facility (S.D. Warren). On October 9, 1997, Maine submitted an amendment to the case specific NO<sub>x</sub> RACT determination for PSNY in Kittery.

The following is a description of the Maine SIP revisions being approved in this action, including regulations and

case-specific NO<sub>x</sub> RACT determinations. For a more detailed discussion of Maine's submittals and EPA's proposed action, the reader should refer to, "Technical Support Document—Maine NO<sub>x</sub> RACT in the Moderate Nonattainment Areas" (TSD), dated December 14, 1998. Copies of the TSD are found in the rulemaking docket (see ADDRESSES).

#### A. Chapter 138

Chapter 138 of Maine's regulations contains five general sections. Section 1 deals with applicability and exemptions of facilities and equipment. In general, Chapter 138 applies to any existing stationary source that has potential to emit quantities of NO<sub>x</sub> emissions greater than or equal to 100 tons per year statewide. Subsections 1(A)(1) and (2) of the regulation further define the applicability of various control technology requirements for sources subject to Chapter 138 depending on the ozone nonattainment classification of their location.

Subsection 1(A)(1) states that, "[B]y May 31, 1995, any source located in any area designated by the Federal Government under 40 Code of Federal Regulations, Part 81 as a moderate nonattainment area for ozone shall comply with the standards specified in Section 3." Prior to May 31, 1995, EPA designated the following counties in Maine as moderate nonattainment: York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Lincoln, and Knox counties.

Section 1(A)(2) states that, "[B]y May 31, 1995, any source located in an area in the state that is not designated by the Federal Government under 40 Code of Federal Regulations, Part 81 as a moderate nonattainment area for ozone shall comply with the standards specified in Sections 3(A), 3(C)–3(O), and Section 4." By May 31, 1995, the areas that were not designated as moderate areas in Maine included: Aroostook, Penobscot, Piscataquis, Washington, Somerset, Franklin, and Oxford counties, classified as attainment areas, as well as Hancock and Waldo counties, classified as marginal non-attainment areas. The reader should note that on December 26, 1995, EPA published a document in the **Federal Register** (60 FR 66748) approving Chapter 138, as it applies to the non-moderate areas of the State, into the Maine SIP.

Section 1(B) of the regulation contains provisions to exempt equipment and facilities where the NO<sub>x</sub> emitting equipment has the potential to emit less than 10 tons per year of NO<sub>x</sub> or where emergency standby engines operate for

less than 500 hours during any consecutive 12 month period and the ignition timing is set and maintained at four degrees retarded to standard timing.

Section 2 of Chapter 138 contains a number of definitions. Several are particular to Maine's regulation and are not related to a federal requirement. These include: large boiler, small boiler, mid-size boiler, lime kiln, MgO recovery boiler, auxiliary/standby boiler, and kraft recovery boiler. Chapter 138 also contains definitions of several terms that have been defined in EPA regulations or guidance. These terms include: potential to emit, and, repowering project unit.

Section 3 defines NO<sub>x</sub> emission limitations, technology standards, or work practice standards for RACT subject sources. Section 3 sets NO<sub>x</sub> emission limitations for large boilers, *i.e.*, boilers with an energy input capacity of 1500 million Btu per hour (mmBtu/hr). These limits are set on a 24 hour basis and compliance must be demonstrated through the use of a continuous emissions monitoring system (CEMS).

Section 3 defines NO<sub>x</sub> emission limits or technology standards for mid-size boilers (*i.e.*, boilers with energy input capacities greater than or equal to 50 mmBtu/hr but less than 1500 mmBtu/hr). Section 3 requires mid-size boilers with heat input capacities greater than 200 mmBtu/hour or greater to demonstrate compliance on a 24 hour block average basis through the use of continuous emission monitoring systems.

For small boilers (*i.e.*, units with heat input capacities greater than 20 mmBtu/hour but less than 50 mmBtu/hour), section 3 of Chapter 138 requires that annual tune-ups be performed on the boilers. The regulations specify the types of records to be kept during the tune-up procedure as well as a requirement for the periodic verification of the parameter settings. Similarly, for auxiliary or standby boilers (*i.e.*, boilers limited to less than 100 tons per year, 12 month rolling average, and 20 tons per month), section 3 defines RACT as the same annual tune-up and recordkeeping procedures for small boilers.

For kraft recovery boilers, magnesium oxide (MgO) recovery boilers, and lime kilns, section 3 of Chapter 138 sets NO<sub>x</sub> emission limitations. For the recovery boilers, the regulation requires compliance to be demonstrated on a 24 hour basis by a CEMS. For lime kilns, compliance is determined by stack testing. Section 3 of Chapter 138 sets NO<sub>x</sub> emission limits for refuse derived

fuel (RDF) municipal solid waste (MSW) incinerators and mass burn MSW incinerators as well with compliance demonstrations on a 24 hour basis using a CEMS.

For NO<sub>x</sub> emitting units located at major stationary sources not covered by the specific standards of sections 3(A) through 3(G), *i.e.*, miscellaneous RACT sources, section 3 of Chapter 138 requires that the source conduct a RACT alternatives analysis. Section 3 also requires sources seeking alternative RACT determinations to submit an application to revise the facility's air emission license, including a description of the NO<sub>x</sub> emitting equipment at the facility, an examination of the technical and economic feasibility of various NO<sub>x</sub> control options, the option chosen, including emission limits, test methods, and means of assessing compliance, the amount of NO<sub>x</sub> to be reduced, and a schedule for implementation. In order for these determinations to satisfy the SIP requirements of the CAA, the RACT orders must be submitted and approved as case-specific SIP revisions.

Section 3 of Chapter 138 also allows sources to comply with alternative emission limitations through the seasonal combustion of different fuels (*i.e.*, "fuel-switching") or through the use of emissions averaging. Additionally, section 3 allows a facility to delay the installation of NO<sub>x</sub> controls on existing NO<sub>x</sub> emitting equipment in order to complete the dismantling and repowering of any of its equipment. In order to be eligible for such "repowering" provisions, the facility have an enforceable agreement with the DEP by January 1, 1995, committing them to shut down and repower the equipment by May 15, 1999. Furthermore, the replacement unit must have a BACT or LAER limit in place. The regulations contain a presumptive NO<sub>x</sub> RACT control requirement that units to be repowered perform annual tune-ups between March 15 and June 15 of each year, starting in 1995, until the new unit is in place.

Section 4 of Chapter 138 only applies to NO<sub>x</sub> sources in the non-moderate areas of the State. As noted above, EPA published a **Federal Register** notice on December 26, 1995, approving that section into the Maine SIP. Therefore, no further action is necessary for that section of Chapter 138.

Section 5 of the regulations include provisions for the submittal and approval of NO<sub>x</sub> RACT applications for facilities subject to section 3 of Chapter 138. These provisions also lay out the process by which DEP issues RACT orders, including the public comment

process. Section 5 requires units to specify testing, monitoring, recordkeeping, and reporting procedures, which are subject to State and EPA approval as part of the RACT order application and issuance process. However, in order for the testing, monitoring, record keeping, and reporting requirements to be enforceable, as they apply to units for which Chapter 138 does not define such requirements, those requirements must be made part of final RACT orders in air emission licenses and subsequently submitted to EPA as SIP revisions.

*B. Miscellaneous NO<sub>x</sub> RACT and the Alternative NO<sub>x</sub> RACT for Pioneer Plastics Corporation in Auburn, Maine*

Pioneer Plastics is a plastics manufacturing company with a facility which is subject to Chapter 138. The Pioneer Plastics' Auburn facility includes a thermal oxidizer unit (incinerator) used to destroy volatile organic compounds (VOCs) and hazardous air pollutants (HAPs). Chapter 138, section 3(H) requires owners of miscellaneous stationary sources to submit an analysis of NO<sub>x</sub> RACT options and for Maine to determine RACT for those sources on a case by case basis.

In its RACT analysis, Pioneer demonstrated that because the use of add-on NO<sub>x</sub> controls would reduce the destruction efficiency incinerator, those methods are considered technically infeasible as RACT options. Therefore, Maine issued air emissions licenses A-448-72-K-A/R and A-448-71-O-M, amendment #2, on August 23, 1995, and March 10, 1997, respectively, requiring annual inspection and repair of the duct work, including the seals of the doors of the unit, as well as of the burner components, as NO<sub>x</sub> RACT for this unit.

Pioneer also has a boiler, Boiler #6, which meets the Chapter 138 definition of a mid-size boiler. However, Pioneer applied for an alternative NO<sub>x</sub> RACT determination which examined a number of NO<sub>x</sub> control technologies for the boiler. As a result, Maine issued licenses A-448-72-K-A/R and A-448-71-O-M, amendment #2, which define alternative RACT as optimizing the boiler and using natural gas whenever available at the interruptible purchase rate (approximately 8 months of the year). The licenses were submitted to EPA as a SIP revision on July 1, 1997.

*C. Miscellaneous NO<sub>x</sub> RACT for Dragon Products Company, Inc., in Thomaston, Maine*

Dragon Products Company in Thomaston, Maine, (Dragon) has a cement making facility subject to

Chapter 138. Chapter 138 does not define NO<sub>x</sub> RACT explicitly for cement kilns but rather section 3(H) requires owners of such miscellaneous stationary sources to submit an analysis of NO<sub>x</sub> RACT options from which Maine can define RACT on a case by case basis.

Dragon submitted an analysis of NO<sub>x</sub> controls to Maine which demonstrated that post combustion controls were not economically feasible. On June 5, 1996 and March 5, 1997, Maine issued air emission licenses A-326-72-N-A, amendment #5, and A-326-71-P-M, amendment #7, which require the implementation of a variety of combustion and process changes, including the installation of a low-NO<sub>x</sub> burner system. The license was submitted to EPA as a SIP revision on July 1, 1997.

*D. Alternative NO<sub>x</sub> RACT for Tree Free Fiber Company, LLC, (Formerly Statler Tissue) in Augusta, Maine*

Tree Free Fiber Company's facility in Augusta (formerly Statler Tissue) is subject to Chapter 138. Statler Tissue applied for alternative NO<sub>x</sub> RACT determinations for two of the mid-size boilers at the facility, Boilers #3, and #5. In their application, Statler analyzed a number of RACT options for boilers #3 and #5 but no option was shown to be economically feasible. Therefore, Maine DEP determined that for boilers #3 and #5, annual boiler tune-ups was RACT.

In February 1995, operations at the Statler Tissue (ST) facility were suspended. The property and licenses were transferred to Tree Free Fiber Company (TF). Subsequently, TF/ST requested several minor revisions to the air emission license for the facility. On June 12, 1996, the Maine DEP issued air emission license A-195-71-G-M which superseded a number of conditions found in the earlier license. For example, license A-195-71-G-M requires TF/ST to reevaluate the RACT alternatives within 6 months of the facility exceeding a capacity utilization threshold of 3,000,000 gallons on a 12 month rolling average basis of fuel oil burned. The license was submitted to EPA as a SIP revision on July 1, 1997.

*E. Alternative NO<sub>x</sub> RACT for Mid-Maine Waste Action Corporation's Facility in Auburn, Maine*

Mid-Maine Waste Action Corporation (MMWAC) has a facility in Auburn, Maine which includes two refractory lined, mass-burn municipal waste combustors (MWCs) which are subject to Chapter 138, section 3(G). Mid-Maine Waste Action Corporation submitted a RACT application pursuant to Chapter 138, section (I) which examined a

number of NO<sub>x</sub> control techniques. The NO<sub>x</sub> controls were found to be technically and economically infeasible. On October 16, 1996, Maine issued license A-378-72-E-A, Amendment #2 to MMWAC which was submitted to EPA as a SIP revision on July 1, 1997.

*F. Alternative NO<sub>x</sub> RACT for Maine Energy Recovery Company in Biddeford, Maine*

Maine Energy Recovery Company (MERC) has a facility in Biddeford, Maine which includes two refuse-derived fuel (RDF) boilers which are subject to the NO<sub>x</sub> RACT emissions limit in Chapter 138, section 3(F) for RDF units. In this case, the proposed alternative NO<sub>x</sub> RACT determination expresses the emission standard in another form and does not result in an increase in actual NO<sub>x</sub> emissions from the NO<sub>x</sub> RACT limit defined in Chapter 138. Therefore, it was not necessary that MERC analyze alternative NO<sub>x</sub> control systems. Air emissions license A-46-71-L-A was submitted to EPA as a SIP revision on July 1, 1997.

*G. Miscellaneous and Alternative NO<sub>x</sub> RACT for Portsmouth Naval Shipyard in Kittery, Maine*

Portsmouth Naval Shipyard (PNSY) is subject to Chapter 138. The NO<sub>x</sub> emitting equipment at the Kittery facility include four boilers and eleven diesel fired internal combustion (IC) engines. PNSY has eleven IC engines which operate more than 500 hours per year. However, Chapter 138 does not define NO<sub>x</sub> RACT for engines that operate more than 500 hours. Therefore, these engines are considered miscellaneous stationary sources under Chapter 138, section 3(H). In February 1995, PNSY submitted to Maine a RACT analysis for the eleven engines which examined a variety of NO<sub>x</sub> reducing techniques. Of all the techniques studied, only the ignition timing retard was shown to be economically and technically feasible for the three air compressor engines. For the eight crane engines, however, a number of safety concerns make even the use of ignition timing retard technically infeasible as RACT.

The PNSY facility also has four boilers which are subject to Chapter 138, section 3(B). Chapter 138 section 3(I), however, allows owners of stationary sources at RACT subject facilities to apply for an alternative RACT determination. As part of its alternative NO<sub>x</sub> RACT application, PNSY examined a number of NO<sub>x</sub> control techniques prior to the time when each boiler will be converted to natural gas-firing.

On October 21, 1996, Maine DEP issued license A-452-71-D-A, amendment #2, to PNSY which contained a schedule to convert the four boilers to natural gas, requirements for the boilers to meet the interim equipment standards and emission limits, as well as requirements for the IC engines. On August 14, 1998, Maine submitted the license A-452-71-D-A, amendment #2, to EPA as a SIP revision. On July 25, 1997, Maine DEP issued license A-452-71-F-M, amendment #4, to PNSY in which a minor revision was made to include the boiler optimization procedures in the Order section of the license (they were previously listed in the "Findings of Fact" section). On October 9, 1997, Maine submitted the license A-452-71-F-M, amendment #4, to EPA as a SIP revision.

*H. Capacity Limitations and the Testing, Monitoring, Recordkeeping, and Reporting Requirements for S.D. Warren Company in Westbrook, Maine*

S.D. Warren Company (S.D. Warren) has a facility in Westbrook, Maine which is subject to Chapter 138. At the Westbrook facility, there are three boilers for which S.D. Warren has requested capacity limitations on Power Boiler #17 (PB 17), Power Boiler #18 (PB 18), and Power Boiler #20 (PB 20) in order to avoid triggering the requirement for the installation and operation of NO<sub>x</sub> continuous emission monitoring systems under Chapter 138, section 3(B). On June 12, 1996, Maine DEP issued S.D. Warren air emission license A-29-71-Y-A, amendment #13, which limits the firing capacities of each of these boilers.

Additionally, Chapter 138 does not define the testing, monitoring, recordkeeping, and reporting requirements for all emission units at facilities subject to the regulation. Therefore, on August 14, 1998, Maine submitted to EPA air emission license A-29-71-Y-A, amendment #13, which contains the additional monitoring, recordkeeping, and reporting requirements necessary to fully define RACT for the boilers at S.D. Warren. The license was submitted to EPA as a SIP revision on August 14, 1998.

*I. Testing, Monitoring, Recordkeeping and Reporting Requirements for FMC Corporation—Food Ingredients Division in Rockland, Maine*

The FMC Corporation—Food Ingredients Division's (FMC) Rockland facility is subject to Chapter 138. However, Chapter 138 does not define the testing, monitoring, recordkeeping, and reporting requirements for all the emission units at facilities subject to the

regulation. Therefore, on February 7, 1996, Maine issued air emission license A-366-72-H-A, amendment #5, to FMC which defines additional testing, monitoring, recordkeeping, and reporting requirements for the three boilers. The license was submitted to EPA as a SIP revision on August 14, 1998.

*J. Alternative NO<sub>x</sub> RACT and Testing, Monitoring, Recordkeeping and Reporting Requirements for the Chinnet Company in Waterville, Maine*

Chinnet Company's Waterville facility (Chinnet) is subject to Chapter 138 of Maine's regulations. A number of boilers at the facility are subject to the NO<sub>x</sub> RACT requirements of section 3(L) for small boilers, including Boiler #1 and Boiler #4. However, Boilers #1 and #4 are rarely used. Therefore, Chinnet has proposed that only if either of these boilers operates at a capacity factor of greater than 2%, must they comply with the requirements of section 3(L). If and when the threshold is exceeded, Chinnet proposed to comply with the requirements of section 3(L) at both boilers within 90 days. On January 15, 1996, Maine issued air emission license A-416-72-B-A to Chinnet formalizing the capacity trigger for Boilers #1 and #4, including the recordkeeping requirements.

Also, Chapter 138 does not define the testing, monitoring, recordkeeping, and reporting requirements for Boiler #5 at Chinnet's Waterville facility. Therefore, on January 18, 1996, Maine issued air emission license A-416-72-B-A to Chinnet which defines the testing, monitoring, recordkeeping, and reporting requirements for Boiler #5. The final license for Chinnet was submitted to EPA as a SIP revision on August 14, 1998.

*K. Testing, Monitoring, Recordkeeping and Reporting Requirements for Scott Paper Company in Winslow, Maine*

Scott Paper Company's Winslow Facility (Scott) is subject to Chapter 138. However, Chapter 138 does not define the testing, monitoring, recordkeeping, and reporting requirements for Boiler #1, Boiler #2, and Boiler #4 at Scott. Therefore, on November 15, 1995, Maine issued air emission license A-188-72-E-A, amendment #2, to Scott which defines additional testing, monitoring, recordkeeping, and reporting requirements for Boilers #1, #2, and #4. The license was submitted to EPA as a SIP revision on August 14, 1998.

*L. Testing, Monitoring, Recordkeeping and Reporting Requirements for FPL Energy's (formerly Central Maine Power) W.F. Wyman Station in Yarmouth, Maine*

FPL Energy's W.F. Wyman Station in Yarmouth (FPL) is subject to Chapter 138. However, Chapter 138 does not define the testing, monitoring, recordkeeping, and reporting requirements for Boiler #5. Therefore, on May 18, 1995, and February 16, 1996, Maine issued air emission license A-388-71-C-A, amendment #1, and A-388-71-D-M, amendment #1, respectively, to FPL which define additional testing, monitoring, recordkeeping, and reporting requirements for Boiler #5. The licenses were submitted to EPA as SIP revisions on August 14, 1998.

**IV. What Is the Relationship Between the Chapter 138 NO<sub>x</sub> RACT Rule and the Chapter 117 Source Surveillance Rule?**

For large boilers, mid-size boilers with input capacities greater than 200 mmBtu/hour, kraft recovery boilers, MgO recovery boilers, mass burn and RDF incinerators, and units using emissions averaging for compliance, Chapter 138 requires the source to demonstrate compliance through the use of a NO<sub>x</sub> CEMS that satisfies the requirements of Chapter 117. Chapter 117 was first adopted by Maine on August 9, 1988 and approved it into the SIP on March 21, 1989. Chapter 117 contains the performance specifications, record keeping, reporting, and compliance schedule requirements for NO<sub>x</sub> sources.

On May 9, 1994, Maine revised Chapter 117 and submitted the adopted revisions to EPA on June 20, 1994. The revised Chapter 117 contains additional performance specifications, recordkeeping, reporting, compliance schedule, quality assurance/quality control, data availability, and compliance/enforcement requirements which apply to sources using a CEMS. The current, revised state version of Chapter 117 would apply to sources covered by Chapter 138. Through a separate rulemaking in the future the EPA will take action on the revised version Chapter 117.

**V. What Are the Administrative Requirements?**

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 (Public Law 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 November 8, 2002. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 16, 2002.

**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 paragraphs (c)(46) and (c)(47) to read as follows:

#### **§ 52.1020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(46) Revision to the State Implementation Plan submitted by the Maine Department of Environmental Protection on August 5, 1994.

(i) Incorporation by reference.

(A) Chapter 138 of the Maine Department of Environmental Protection Regulations, "Reasonably Available Control Technology For Facilities That Emit Nitrogen Oxides." Affects sources in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Lincoln, and Knox counties. This rule was adopted and effective in the State of Maine on August 3, 1994.

(ii) Additional materials.

(A) Letter from the Maine Department of Environmental Protection dated August 5, 1994 submitting a revision to the Maine State Implementation Plan.

(47) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on July 1, 1997, October 9, 1997, and August 14, 1998.

(i) Incorporation by reference.

(A) Air emission license A-388-71-C-A, Amendment #1, condition (q); and A-388-71-D-M, amendment #1, conditions 19 and 23 for FPL Energy's (formerly Central Maine Power) W.F. Wyman Station issued by Maine Department of Environmental Protection on May 18, 1995, and February 16, 1996, respectively.

(B) Air emission licenses A-195-71-G-M, Amendment #1, and A-195-71-D-A/R, section (II)(D), paragraphs (II)(F)(1) and (3), and conditions 12(A), 12(C), (13), (14) and (15) for Tree Free Fiber Company, LLC, (formerly Statler Industries Inc.) issued by Maine Department of Environmental Protection on June 12, 1996, and June 16, 1995, respectively.

(C) Air emission licenses A-448-72-K-A/R, paragraphs (II)(D)(2), (II)(D)(3) and conditions (13)(f) and 14(k); and A-448-71-O-M, Amendment #2, condition (14)(k), for Pioneer Plastics Corporation issued by Maine Department of Environmental Protection on August 23, 1995, and March 10, 1997, respectively.

(D) Air emission license A-188-72-E-A, Amendment #2, conditions 8, paragraph 1, and 9, paragraphs 1, 2 and 4, for Scott Paper Company issued by Maine Department of Environmental Protection on November 15, 1995.

(E) Air emission license A-416-72-B-A, conditions (l) 1, 2, 3a, 3b, 3c, 3e, and (m) for The Chinet Company issued by Maine Department of Environmental Protection on January 18, 1996.

(F) Air emission license A-366-72-H-A, Amendment #5, conditions 3, 4, 5, 7, 9, 11, 12, 15, 16, and 18 for FMC Corporation—Food Ingredients Division issued by Maine Department of Environmental Protection on February 7, 1996.

(G) Air emission licenses A-326-72-N-A, Amendment #5, and A-326-71-P-M, Amendment #7, for Dragon Products Company, Inc., issued by Maine Department of Environmental Protection on June 5, 1996, and March 5, 1997, respectively.

(H) Air emission license A-29-71-Y-A, Amendment #13, conditions (k)2, (k)3, (q)8 and (p) for S.D. Warren Company issued by Maine Department of Environmental Protection on June 12, 1996.

(I) Air emission license A-378-72-E-A, Amendment #2, for Mid-Maine Waste Action Corporation issued by Maine Department of Environmental Protection on October 16, 1996.

(J) Air emission licenses A-452-71-D-A, Amendment #2, conditions 3, 4, 5, 7, 9, 11, 16, 17, 18, 19, and 20; and A-452-71-F-M, Amendment #4, condition 4 for Portsmouth Naval Shipyard issued by Maine Department of Environmental Protection on October 21, 1996, and July 25, 1997, respectively.

(K) Air emission license A-46-71-L-A, Amendment #4, for Maine Energy Recovery Company issued by Maine Department of Environmental Protection on November 12, 1996.

(ii) Additional materials.

(A) Letters from the Maine Department of Environmental Protection dated July 1, 1997, October 9, 1997, and August 14, 1998, submitting case-specific NO<sub>x</sub> RACT determinations.

3. In § 52.1031 Table 52.1031 is amended by adding new entries under the existing state citation Chapter 138 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
138	NO <sub>x</sub> RACT ..	8/3/94	9/9/02	[Insert FR citation from published date].	(c)(46) ..... Affects sources in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Lincoln, and Knox counties.
138	NO <sub>x</sub> RACT ..	5/18/95 & 2/16/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for FPL Energy's (formerly Central Maine Power) W.F. Wyman Station.
138	NO <sub>x</sub> RACT ..	6/16/95 & 6/12/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Tree Free Fiber Company, LLC. (formerly Statler Tissue).
138	NO <sub>x</sub> RACT ..	8/23/95 & 3/10/97	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Pioneer Plastics Corporation.
138	NO <sub>x</sub> RACT ..	11/15/95	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Scott Paper Company.
138	NO <sub>x</sub> RACT ..	1/18/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Chinet Company. date]
138	NO <sub>x</sub> RACT ..	2/7/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for FMC Corporation—Food from Ingredients Division.
138	NO <sub>x</sub> RACT ..	6/5/96 & 3/5/97	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> FR RACT for Dragon Products Company, Inc.
138	NO <sub>x</sub> RACT ..	6/12/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for S.D. Warren Company.
138	NO <sub>x</sub> RACT ..	10/16/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Mid-Maine Waste Action Corporation.
138	NO <sub>x</sub> RACT ..	10/21/96 & 7/25/97	9/9/92	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Portsmouth Naval Shipyard.
138	NO <sub>x</sub> RACT ..	11/12/96	9/9/02	[Insert FR citation from published date].	(c)(47) ..... Case-specific NO <sub>x</sub> RACT for Maine Energy Recovery Company.

[FR Doc. 02-22359 Filed 9-6-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-172-4194a; FRL-7271-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the State Implementation Plan (SIP) Addressing Sulfur Dioxide in Philadelphia County

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP). The revisions consists of Operating Permits modifying the sulfur dioxide (SO<sub>2</sub>) allowable emissions at four facilities in Philadelphia County, Pennsylvania. The Operating Permits were issued to Trigen-Philadelphia Energy Corporation, Schuylkill Station, Grays Ferry Cogeneration Partnership, PECO Energy Company, Schuylkill Generating Station, and Sunoco, Inc. (R&M) Philadelphia Refinery. EPA is approving these revisions to incorporate the four Operating Permits into the Federally-approved SIP. The intention of this action is to regulate SO<sub>2</sub> emissions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on November 8, 2002, without further notice, unless EPA receives adverse written comment by October 9, 2002. 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:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution

Avenue, NW, Room B108, Mail Code 6102T, Washington, DC 20460; the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Department of Public Health, Air Management Services (AMS), 321 University Avenue, Philadelphia, Pennsylvania 19104.

#### FOR FURTHER INFORMATION CONTACT:

Denis Lohman, (215) 814-2192, or Ellen Wentworth, (215) 814-2034, or by e-mail at [lohman.denny@epa.gov](mailto:lohman.denny@epa.gov) or [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov). Please note that while questions may be posed via e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 23, 2001, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). These revisions apply to sources in Philadelphia County, Pennsylvania, subject to Air Management Regulation (AMR) XIII under the authority of 25 PA Code Chapter 127, "Construction, Modification, Reactivation and Operation of Sources," to prevent and control air pollution from the emissions of SO<sub>2</sub>. The SIP revisions consist of four Operating Permits issued by the Philadelphia Department of Public Health, AMS, with authority under 25 PA Code Chapter 127, for four facilities in the County.

##### A. What Action Is EPA Taking in This Rulemaking?

The EPA is approving as SIP revisions and incorporating by reference into the Pennsylvania SIP, four Operating Permits containing new SO<sub>2</sub> emission limits for four facilities located in Philadelphia County. The facilities are Trigen-Philadelphia Energy Corporation, Schuylkill Station, Grays Ferry Cogeneration Partnership, PECO Energy Company, Schuylkill Generating Station, and Sunoco, Inc. (R&M) Philadelphia Refinery. This action approves these Operating Permits into the SIP and makes them Federally-enforceable.

##### B. Why Were Changes in Emission Rates Necessary?

A modeling analysis for a Prevention of Significant Deterioration (PSD) permit for replacement boilers at the Philadelphia Naval Shipyard revealed potential exceedances of the 24-hour SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS). Preliminary modeling indicated that these four

sources at their existing allowable emission rates, were substantial contributors to violations of the NAAQS for SO<sub>2</sub>. The Philadelphia Department of Public Health, AMS, required each of the sources with significant contributions to the exceedances to re-evaluate their emissions and, if necessary, to define new emission limitations to ensure attainment and maintenance of the SO<sub>2</sub> standards. The PSD permit was issued to the Philadelphia Naval Shipyard in 1996 when it was determined that the facility did not have a significant contribution to the modeled exceedances.

With the authority under the Pennsylvania Code Title 25, Philadelphia Code Title III, and AMR XIII, AMS issued these permits to address the potential deficiencies of the Philadelphia portion of the Pennsylvania SIP. Three of the sources, Trigen-Philadelphia Energy Corporation, Schuylkill Station, Grays Ferry Cogeneration Partnership, and PECO Energy Company, Schuylkill Generating Station are at a common location in what is termed, the Philadelphia Energy Complex (PEC). The fourth source is the Sunoco Inc. (R&M) Philadelphia Refinery which includes a combined cycle project PSD analysis.

##### C. What Is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS established by the EPA. These ambient air quality standards are established under the Clean Air Act and they address six criteria air pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit regulations and control strategies to EPA for approval and incorporation into the Federally-enforceable SIP. Each state has a SIP designed to protect its air quality. These SIPs are extensive, containing regulations, enforceable emission limits, emission inventories, monitoring networks, and modeling demonstrations. The Pennsylvania SIP contains various permits to meet the SIP requirements and other state statutory requirements. The permits are developed to contain specific conditions for a particular source and can provide specific conditions such as, emission limits, hours of operation, recordkeeping requirements, production rates, compliance demonstration requirements, etc. Once properly issued, state-enforceable Operating Permits are approved by EPA as SIP revisions and