

**Note:** Because the agenda will be organized based on subject matter, the Office cannot guarantee that it can accommodate requests to testify on particular dates (apart from the Technology Hearing). Depending on the number and nature of the requests to testify, it is possible that the Office will not be able to accommodate all requests to testify. All persons who submit a timely request to testify will receive confirmation by email or telephone. The Office will notify all witnesses of the date and expected time of their appearance, and the time allocated for their testimony.

*Addresses for requests to testify:*

Requests to testify must be submitted via the Office's Web site form located at <http://www.copyright.gov/1201/> and must be received by 5 p.m. E.D.T. on Monday, April 2, 2012. Persons who are unable to send requests via the Web site should contact Ben Golant, Assistant General Counsel, Office of the General Counsel at (202) 707-8380 to make alternative arrangements for submission of their requests to testify.

*Form and limits on testimony at public hearings:* There will be time limits on the testimony allowed for persons testifying that will be established after receiving all requests to testify. In order to avoid duplicative and cumulative testimony and to ensure that all relevant issues and viewpoints are addressed, the Office encourages parties with similar interests to select common representatives to testify on behalf of a particular position. A timely request to testify does not guarantee an opportunity to testify at these hearings. The Office stresses that factual arguments are at least as important as legal arguments. The hearings provide an opportunity to explain and, in some cases, demonstrate the factual basis of an argument. The Office encourages persons who wish to testify to provide demonstrations of particular problems or solutions as supplements to testimony. While testimony from attorneys who can articulate legal arguments in support of or in opposition to a proposed exempted class of works is useful, testimony from witnesses who can explain and demonstrate pertinent facts is strongly encouraged by the Office.

If audiovisual demonstrations or handouts will be used at any hearing, the Office requires submission of such materials to the Copyright Office 7 days prior to the hearing in order to make this information available to the other witnesses on the same panel. For the Technology Hearing, if a demonstration will consist of proprietary hardware or software, witnesses may need to provide representative handouts to be distributed to other witnesses prior to the hearing. Witnesses should assume

that they will have to provide whatever electronic or audiovisual equipment is necessary for their presentations, although in particular cases the Office may be able to provide basic equipment (e.g., a personal computer and a large monitor) or software. Persons intending to bring such equipment into the Library of Congress, e.g., laptops, slide projectors, etc., are encouraged to give the Office advance notice and to arrive early in order to clear security screening by the Library police.

The Office intends to organize individual sessions of the hearings around particular or related classes of works proposed for exemption. If a request to testify involves more than one proposed exemption or related exemption, please specify, in order of preference, the proposed exemptions on which you would prefer to testify. Following receipt of the requests to testify, the Office will prepare an agenda of the hearings which will be posted at: <http://www.copyright.gov/1201/>. The Office will also provide additional information on directions and parking for all persons testifying at the Los Angeles, CA round of hearings. To facilitate this process, it is essential that all of the required information listed above be included in a request to testify.

Dated: March 12, 2012.

**Maria A. Pallante,**

*Register of Copyrights.*

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**BILLING CODE 1410-30-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2009-0696; A-1-FRL-9647-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Reasonably Available Control Technology (RACT) for the 1997 8-Hour Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve several State Implementation Plan (SIP) revisions submitted by the State of Maine Department of Environmental Protection. These SIP revisions consist of a demonstration that Maine meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs) set forth by the Clean Air Act (CAA) with

respect to the 1997 8-hour ozone standard as well as several new and revised VOC regulations. The intended effect of this action is to propose approval of Maine's RACT demonstration for satisfying the State's RACT SIP revision obligation as of September 15, 2006 and to propose approval of Maine's other submitted SIP regulations. This action is being taken in accordance with the CAA.

**DATES:** Written comments must be received on or before April 16, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2009-0696 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

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

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2009-0696," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (mail code OEP05-2), Boston, MA 02109-3912. 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 a.m. to 4:30 p.m., excluding legal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R01-OAR-2009-0696. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov), or email, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly

to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 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.

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

**FOR FURTHER INFORMATION CONTACT:** Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1660, fax number (617) 918-0660, email [garcia.ariel@epa.gov](mailto:garcia.ariel@epa.gov).

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

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

- I. Background and Purpose
- II. Summary of Maine's SIP Revisions
- III. EPA's Evaluation of Maine's SIP Revisions
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

### I. Background and Purpose

In 1997, EPA revised the health-based NAAQS for ozone, setting it at 0.08 parts per million (ppm) averaged over an 8-hour time frame.<sup>1</sup> EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour ozone standard would be more protective of human health, especially with regard to children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23857), EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 8-hour ozone standard. These designations became effective on June 15, 2004. In Maine, EPA designated two areas as 8-hour ozone nonattainment based on air quality monitoring data from 2001–2003. One area, the Portland nonattainment area located in southern Maine consisted of 57 coastal towns and cities located in York County (partial), Cumberland County (partial), Sagadahoc County (full) along with Durham, Maine, a town in Androscoggin County. The other area, the Midcoast area was located north of the Portland area and consists of 55 coastal towns and islands in Hancock, Knox, Lincoln, and Waldo Counties (all are partial Counties).

Subsequently, on August 3, 2006, Maine requested redesignation to attainment for the 8-hour ozone standard for the both areas. The redesignation request included three years of complete, quality-assured data for the period of 2003 through 2005, indicating the 8-hour NAAQS for ozone had been achieved for the both areas. On December 11, 2006 (71 FR 71489), EPA approved ME DEP's redesignation request and as such the entire state was then designated attainment for the 1997 8-hour NAAQS.

Additionally, the entire State of Maine is part of the Ozone Transport

Region (OTR) under Section 184(a) of the CAA. Section 184 of the CAA requires states in the OTR to submit a revision to their applicable State Implementation Plan (SIP) to include provisions that require the implementation of reasonably available control technology (RACT) for sources covered by a Control Techniques Guideline (CTG) and for all major sources. A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category.

EPA requires under the 8-hour ozone NAAQS that states meet the CAA RACT requirements, either through a certification that previously adopted RACT controls in their SIP approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 8-hour attainment purposes, or through the establishment of new or more stringent requirements that represent RACT control levels. See "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2." 70 FR 71612 (Nov. 29, 2005). EPA has determined that States that have RACT provisions approved in their SIPs for the 1-hour ozone standard have several options for fulfilling the RACT requirements for the 8-hour ozone NAAQS. If a State meets certain conditions, it may certify that previously adopted 1-hour ozone RACT controls in the SIP continue to represent RACT control levels for purposes of fulfilling 8-hour ozone RACT requirements. Alternatively, a State may establish new or more stringent requirements that represent RACT control levels, either in lieu of or in conjunction with a certification. In addition, a State may submit a negative declaration if there are no CTG sources or major sources of VOC and NO<sub>x</sub> emissions in lieu of or in addition to a certification.

As noted in the Phase 2 Rule, the RACT submittal for the 1997 8-hour ozone standard was due from Maine on September 15, 2006. On March 24, 2008 (73 FR 15416), EPA issued Maine a finding of failure to submit for the 1997 8-hour ozone RACT requirement, essentially determining that Maine had failed to submit by the September 15, 2006 deadline a SIP revision demonstrating that sources specified under the CAA were subject to RACT. This finding started an 18-month sanctions clock, as well as a 24 month Federal Implementation Plan (FIP) clock. Maine submitted its SIP revision on August 27, 2009, and EPA determined the submittal to be complete on September 18, 2009, stopping the 18-month finding sanctions clock. Pursuant

<sup>1</sup> Today's action is in respect to the 1997 8-hour ozone standard and does not address the 2008 ozone standard.

to a consent decree entered in *Sierra Club v. Jackson* in the United States District Court for the District of Columbia (Civ. No. 1:11-cv-00035-GK), EPA shall, no later than May 31, 2012, sign a notice of the Agency's final rule promulgating a FIP addressing the RACT requirements for VOCs and NO<sub>x</sub> as they relate to the 1997 8-hour ozone NAAQS for Maine (except for the NO<sub>x</sub> RACT requirement in Northern Maine) addressing any VOC and NO<sub>x</sub> RACT SIP revision for which the State was required to submit to EPA by the September 15, 2006 deadline and for which EPA has not signed an approval notice by May 31, 2012. The approvals proposed here with respect to Maine's RACT SIP revision obligation as of September 15, 2006, once finalized, will

accomplish Condition 5 of the consent decree.

In addition, on October 5, 2006, EPA issued four new CTGs which states were required to address by October 5, 2007 (71 FR 58745). Also, on October 9, 2007, EPA issued three new CTGs which states were required to address by October 9, 2008 (72 FR 57215). Furthermore, on October 7, 2008, EPA issued four new CTGs which states were required to address by October 7, 2009 (73 FR 58841).

**II. Summary of Maine's SIP Revision**

On August 27, 2009, Maine submitted a SIP revision documenting RACT requirements for the 1997 8-hour ozone standard. In this SIP revision, Maine certifies that RACT requirements are

being met for all non-CTG major stationary sources of VOCs and NO<sub>x</sub> (those sources exceeding 50 tons per year (tpy) of VOCs, and 100 tpy of NO<sub>x</sub>), and all pre-2006 CTGs with the exception of one category, cutback asphalt.<sup>2</sup> Maine's submittal states that the Maine regulations which have been approved by EPA as RACT for the 1-hour ozone standard also represent RACT for the 8-hour ozone standard, including any subsequent revisions to the ozone standard that maintain an 8-hour averaging period. The CTG categories, Maine's regulations including Code of Maine Rules citation, and the citations to EPA's prior approval of these rules are shown in Table 1.

TABLE 1—MAINE RACT CERTIFICATION

CTG	Maine regulation	EPA approval citation
Design Criteria for Stage 1 Vapor Control Systems—Gasoline Service Stations (November 1975, no EPA number).	CMR Chapter 118, Gasoline Dispensing Facilities Vapor Control.	60 FR 33730; June 25, 1995.
Control of Volatile Organic Emissions From Existing Stationary Sources—Volume II: Surface Coating of Cans, Paper, and Fabrics (May 1977, EPA-450/2-77-008).	CMR Chapter 129, Surface Coating Facilities .....	59 FR 31154; June 17, 1994.
	CMR Chapter 123, Paper Coating Regulation .....	57 FR 3946; February 3, 1992.
Control of Volatile Organic Emissions from Solvent Metal Cleaning (November 1977, EPA-450/2-77-022).	CMR Chapter 130, Solvent Cleaners .....	70 FR 30367; May 26, 2005.
Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products (June 1978, EPA-450/2-78-015).	CMR Chapter 129, Surface Coating Facilities .....	59 FR 31154; June 17, 1994.
Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling (June 1978, EPA-450/2-78-032).	CMR Chapter 129, Surface Coating Facilities .....	59 FR 31154; June 17, 1994.
Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals (October 1977, EPA-450/2-77-026).	CMR Chapter 112, Bulk Terminal Petroleum Liquid Transfer Requirements.	61 FR 53636; October 15, 1996.
Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture (December 1977, EPA-450/2-77-032).	CMR Chapter 129, Surface Coating Facilities .....	59 FR 31154; June 17, 1994.
Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography (December 1978, EPA-450/2-78-033).	CMR Chapter 132, Graphic Arts-Rotogravure and Flexography.	59 FR 31154; June 17, 1994.
Control of Volatile Organic Emissions from Bulk Gasoline Plants (December 1977, EPA-450/2-77-035).	CMR Chapter 133, Petroleum Liquids Transfer Vapor Recovery at Bulk Gasoline Plants.	60 FR 33730; June 29, 1995.
Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks (December 1977, EPA-450-2-77-036).	CMR Chapter 111, Petroleum Liquid Storage Vapor Control.	57 FR 3946; February 3, 1992.
Control of Volatile Organic Compounds Leaks from Gasoline Tank Trucks and Vapor Collection Systems (December 1978, EPA-450/2-78-051).	CMR Chapter 120, Gasoline Tank Truck Tightness Self-Certification.	60 FR 33730; June 29, 1995.
Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (61 FR 44050, August 27, 1996).	CMR Chapter 134, Reasonably Available Control Technology for Facilities That Emit Volatile Organic Compounds. Addressed by single source SIPs for Portsmouth Naval Shipyard. Addressed by single source SIPs for Bath Iron Works	65 FR 20749; April 18, 2000. 65 FR 20749; April 18, 2000. 67 FR 35439; May 20, 2002.

<sup>2</sup> Maine subsequently submitted a SIP revision on September 11, 2009 consisting of amendments to

CMR Chapter 131, Cutback Asphalt and Emulsified

Asphalt, and EPA is proposing approval of the revised rule in today's action.

TABLE 1—MAINE RACT CERTIFICATION—Continued

CTG	Maine regulation	EPA approval citation
Control of Volatile Organic Compounds Emissions from Wood Furniture Manufacturing Operations (April 1996, EPA-453/R-96-007).	CMR Chapter 134, Reasonably Available Control Technology for Facilities That Emit Volatile Organic Compounds. Addressed by single source SIPs for Moosehead Manufacturing's Facilities in Dover-Foxcroft and Monson.	65 FR 20749; April 18, 2000. 67 FR 35439; May 20, 2002.
Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations (December 1997, EPA-453/R-97-004).	CMR Chapter 134, Reasonably Available Control Technology for Facilities That Emit Volatile Organic Compounds. Addressed by a single source SIP for Pratt and Whitney.	65 FR 20749; April 18, 2000. 67 FR 35439; May 20, 2002.

Regarding non-CTG sources, Maine is also certifying that the State's adopted VOC RACT regulation, CMR Chapter 134, Reasonably Available Control Technology for Facilities That Emit Volatile Organic Compounds, approved into the Maine SIP on April 18, 2000 (65 FR 20749) represents RACT for major non-CTG sources under the 1997 8-Hour ozone standard. For major sources of NO<sub>x</sub>, Maine is certifying that the State's adopted NO<sub>x</sub> RACT regulations CMR Chapter 138, Reasonably Available Technology for Facilities That Emit Nitrogen Oxides, approved into the Maine SIP on September 9, 2002 (67 FR 57148), represent RACT for major NO<sub>x</sub> sources under the 1997 8-hour ozone standard, and that CMR Chapter 148, Emissions From Smaller-Scale Electric Generating Resources, approved into the Maine SIP on May 26, 2006 (70 FR 30376), represents NO<sub>x</sub> RACT for the subject sources under the 1997 8-hour ozone standard.

Maine's August 27, 2009 SIP submittal also states that the State has determined that there are no applicable stationary sources of VOC in Maine and makes a negative declaration for the following CTG categories identified by EPA in CTG documents issued prior to 2006:

1. Surface Coating of Coils (May 1977, EPA-450/2-77-008)
2. Surface Coating for Insulation of Magnet Wire (December 1977, EPA-450/2-77-033)
3. Surface Coating of Automobiles and Light Duty Trucks (May 1977, EPA-450/2-77-008)
4. Surface Coating of Large Appliances (December 1977, EPA-450/2-77-034)
5. Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds (October 1977, EPA-450/2-77-025)
6. Manufacture of Synthesized Pharmaceutical Products (December 1978, EPA-450/2-78-029)

7. Large Petroleum Dry Cleaners (September 1982, EPA-450/3-82-009)

8. Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment (March 1984, EPA-450/3-83-006)

9. Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry (December 1984, EPA-450/3-84-015)

10. Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry (August 1993, EPA-450/4-91-031)

11. Petroleum Refinery Equipment (June 1978, EPA-450/2-78-036)

12. Petroleum Liquid Storage in External Floating Roof Tanks (December 1978, EPA-450/2-78-047)

13. Manufacture of Vegetable Oils (June 1978, EPA-450/2-78-035)

14. Manufacture of Pneumatic Rubber Tires (December 1978, EPA-450/2-78-030)

15. Equipment Leaks from Natural Gas/Gasoline Processing Plants (December 1983, EPA-450/2-83-007)

16. Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins (November 1983, EPA-450/3-83-008).

In addition to the items discussed above, Maine's August 27, 2009 SIP submittal included a list of Maine's major sources of VOC and NO<sub>x</sub> and the source's applicable RACT regulations. Maine has determined that all major sources of VOC and NO<sub>x</sub> are meeting RACT. The submittal also included, as a single-source VOC RACT SIP, an amendment (A-459-71-D-A, also referred to as "Amendment #2") to the Air Emission License A-459-72-B-R issued to the McCain Foods USA, Inc., Tatermeal facility (Tatermeal) for incorporation into the Maine SIP. Amendment #2 incorporates by reference the conditions found in the Air Emission License A-459-72-B-R and amendment A-459-71-C-M to that License, which were issued to the Tatermeal facility by Maine pursuant to

an EPA-approved SIP permitting program. While Maine's August 27, 2009 SIP submittal did not include copies of the Tatermeal Air Emission License A-459-72-B-R and amendment A-459-71-C-M to that License as elements of the State's SIP revision, EPA has added them to the administrative record supporting this proposed action.

On September 11, 2009, Maine submitted adopted amendments to CMR Chapter 131, Cutback Asphalt and Emulsified Asphalt, to EPA as a SIP revision. The amendments to CMR Chapter 131 were based on control measures recommended by the Ozone Transport Commission (OTC). Maine has determined that the amended CMR Chapter 131 was the only regulation required to be amended to fulfill Maine's RACT requirements for the 1997 8-hour ozone standard.

In addition to the items discussed above, Maine has also adopted several regulations based on model rules developed by the OTC. Maine believes these regulations establish a benchmark for RACT for the relevant source categories. EPA has previously approved the following regulations into the Maine SIP: (1) CMR Chapter 151, Control of VOC emissions from Architectural and Industrial Maintenance (AIM) Coatings, approved into the Maine SIP on March 17, 2006 (71 FR 13767); (2) CMR Chapter 153, Control of VOC emissions from Mobile Equipment Repair and Refinishing, approved into the Maine SIP on May 26, 2005 (70 FR 30367); and (3) CMR Chapter 155, Control of VOC emissions from Portable Fuel Containers, approved into the Maine SIP on February 7, 2005 (70 FR 6352). Maine has determined that these regulations, as previously approved into the Maine SIP, still constitute as RACT for the respective source categories. Another such regulation, CMR Chapter 152, Control of Volatile Organic Compounds from Consumer Products, previously

approved into the Maine SIP on October 24, 2005 (70 FR 61382), has been determined to no longer represent RACT, and thus has been amended and was submitted to EPA as a SIP revision on February 28, 2008. Furthermore, Maine has made SIP submittals addressing some of the eleven new CTGs that have been issued since 2006.

In this rulemaking, EPA is acting on Maine's submittal for the purpose of determining the State's compliance with its RACT SIP revision obligation as of September 15, 2006 in relation to the 1997 8-hour ozone NAAQS. In addition, EPA is acting on the following received SIP submittals:<sup>3</sup>

1. On June 1, 2010, Maine submitted amendments to CMR Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations, which addresses the Paper, Film, and Foil Coatings CTG (September 2007, EPA-453/R-07-003);

2. On October 26, 2010, Maine submitted newly adopted regulation CMR Chapter 161, Graphic Arts—Lithography and Letterpress Printing, which addresses the Offset Lithographic Printing and Letterpress Printing CTG (September 2006, EPA-453/R-06-002); and

3. On May 3, 2011, Maine submitted amendments to CMR Chapter 129, Surface Coating Facilities, which addresses the Flat Wood Paneling Coatings CTG (September 2006, EPA-453/R-06-004) and the Metal Furniture Coatings CTG (September 2007, EPA-453/R-07-005).

### III. EPA's Evaluation of Maine's SIP Revision

EPA has evaluated Maine's VOC and NO<sub>x</sub> regulations which the state certifies as meeting RACT for the 1997 8-hour ozone standard, and has found that they are generally consistent with the respective EPA guidance documents, and/or OTC model rules, referenced above. EPA previously approved the Maine rules, with the exception of the revised asphalt paving regulation, as meeting RACT for the 1-hour ozone standard (see 57 FR 3946, 59 FR 31154 and 60 FR 33730). In the absence of any information to the

contrary, EPA agrees with Maine's determination that these rules continue to meet RACT for the 1997 ozone standard with the exception of the asphalt paving category.

Maine's Chapter 131, Cutback Asphalt and Emulsified Asphalt, initially incorporated the requirements of the Cutback Asphalt CTG (December 1977, EPA-450/2-77-037) and prohibited the use of cutback asphalt on public roads during the ozone season, but allowed for a number of exemptions. EPA previously approved Maine's Chapter 131 into the SIP on June 17, 1994 (59 FR 31154). Maine's revisions to Chapter 131 limit the VOC content of cutback and emulsified asphalt, eliminate exempted uses of cutback asphalt, and extend the scope of the regulation to all asphalt paving activities. The amendments to CMR Chapter 131 were based on control measures recommended by the OTC. EPA has evaluated Maine's rule and has found that it is consistent with EPA's 1977 cutback asphalt CTG, similar regulations adopted by other states in the region, and the recommended control measures of the OTC for emulsified and cutback asphalt paving. Therefore, EPA finds the revised Chapter 131 constitutes RACT for the 1997 ozone standard. Also, because the revised Chapter 131 rule is more stringent than the previously approved cutback and emulsified asphalt VOC requirements, the revised regulation satisfies the section 110(l) anti-backsliding requirements of the CAA.

EPA has evaluated Amendment #2, the single-source VOC RACT Air Emission License amendment for the McCain Foods USA, Inc., Tatermeal facility (Tatermeal) that Maine submitted for incorporation into the State's SIP. EPA finds that Amendment #2 is consistent with EPA guidance for major stationary sources of VOC (see EPA-450/2-78-022, May 1978 and EPA-453/R-95-010, April 1995). The Tatermeal permit covers the potato waste drying operations at the McCain Foods USA, Inc., Tatermeal facility in Presque Isle, ME. The air pollution sources at the facility consist of three dryers that dehydrate potato wastes to produce a material for use as a binder and nutritional supplement in animal feed. These dryers combust #6 fuel oil, a process that generates minimal VOC emissions. The drying of the potato waste, in contrast, generates a significant amount of VOC emissions, over 205 tons per year. Maine also estimates that a small amount of VOC emission results from the use of VOC-based solvent degreasers for cleaning equipment. The Tatermeal facility uses

no more than 50 gallons of such solvent per year, which Maine has determined would result in approximately 0.2 tons of VOC per year. The Tatermeal facility is subject to the requirements of Maine's CMR Chapter 134, due to Tatermeal's potential to emit more than the CMR Chapter 134 applicability threshold of 40 tons of VOC per calendar year. The Tatermeal facility is meeting the RACT requirements of CMR Chapter 134 Section 3(A)(3) Option C, which consists of an examination of the technical and economical feasibility of control device equipment and pollution prevention options capable of reducing VOC emissions equivalent to or greater than a VOC reduction achieved by CMR Chapter 134 Section 3(A)(1) or Section 3(A)(2) and implementation of a program pursuant to CMR Chapter 134 Section 3(B)(3). As part of this examination, various VOC control options were considered, including a number of methods of incineration, condensation, wet and dry scrubbing, and biological treatment. All of the incineration methods considered were found to be technically or economically unfeasible. For example, the analysis performed by McCain Foods concluded that for incineration using a regenerative thermal oxidizer, the cost effectiveness would be almost \$18,000 per ton of VOC removed. Similarly, the various methods of condensation, wet and dry scrubbing, and biological treatment considered were all found to be either technically or economically infeasible, with cost effectiveness ranging from about \$8,600 to about \$23,000 per ton of VOC removed. EPA agrees with Maine's determination that the installation and operation of add-on control equipment is not cost-effective for the potato drying operation.

Amendment #2 of the Tatermeal Air Emission License A-459-72-B-R restricts the facility's total annual VOC emissions to 208 tons per year on a twelve-month rolling total basis and limits the annual fuel use to 2,628,000 gallons of #6 fuel oil, with a sulfur content of no greater than 2.0% sulfur by weight, based on a twelve-month rolling total. Given that the installation of add-on control equipment is not cost-effective for the potato drying operation, EPA agrees that the provisions in Amendment #2 of the Tatermeal Air Emission License A-459-72-B-R constitute RACT for the Tatermeal facility.

As with the other SIP revisions in Maine's submittals that we propose to approve today, Amendment #2 satisfies EPA's enforceability analysis. We note, in particular, that although Amendment #2 incorporates two documents that

<sup>3</sup> EPA's March 24, 2008 failure to submit finding did not address Maine's obligation to submit RACT SIP revisions addressing the Metal Furniture Coating CTG and the Paper, Film, Foil Coating CTG (which were due October 9, 2008) nor the Lithographic Printing Materials and Letterpress Printing Materials CTG and the Flat Wood Paneling Coatings CTG (which were due October 5, 2007). Thus, EPA's actions regarding these CTGs today are in addition to EPA's action regarding Maine's submittal for the purpose of meeting the State's RACT SIP revision obligation as of September 15, 2006.

were not included in Maine's August 27, 2009 SIP submittal, Air Emission License A-459-72-B-R and Amendment A-459-71-C-M, EPA's evaluation of these documents indicates that they are consistent with the terms of Amendment #2. Additionally, although Amendment #2 only restricts the total annual amount and not the type of fuel oil combusted by the Tatermeal facility, enforceability of the VOC emission limitation in Amendment #2 is not affected because Tatermeal is required to use only #6 fuel oil under Condition 12(f) of Air Emission License A-459-72-B-R—a condition derived from a Best Practicable Treatment determination made pursuant to an EPA-approved SIP permitting program.

With respect to the CTGs issued in 2006 and later, Maine has submitted a number of regulations addressing some of these 11 CTGs. In this rulemaking, EPA is proposing to approve two amended regulations and one newly adopted regulation, covering a total of four of the 11 CTGs issued since 2006. The state must still address the remaining seven CTGs. EPA's evaluation of these regulations is presented below.

1. Maine's CMR Chapter 123, Paper Coating Regulation, was approved into the Maine SIP on February 3, 1992 (57 FR 3946), as meeting the May 1977 CTG requirements for controlling VOC emissions from surface coating of paper (Control of Volatile Organic Emissions from Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light-Duty Trucks, EPA-450/2-77-008). Maine's revised CMR Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations, submitted to EPA as a SIP revision on June 1, 2010, adds VOC emissions control requirements for film and foil surface coatings, as well as incorporating work practices to minimize VOC emissions. EPA finds that this regulation is generally consistent with the relevant EPA guidance (Control Techniques Guideline for Paper, Film, and Foil Coatings; September 2007, EPA-453/R-07-003). Also, because the revised Chapter 123 rule is more stringent than the previously approved paper, film, and foil coating operations VOC requirements, the revised regulation satisfies the section 110(l) anti-backsliding requirements of the CAA.

2. Maine's newly adopted CMR Chapter 161, Graphic Arts—Offset Lithography and Letterpress Printing, submitted on October 26, 2010, requires offset lithography and letterpress printing operations to control VOC

emissions from inks, fountain solutions, and cleaning materials used in graphic arts. EPA finds that the emission limits, work practices, test methods, record keeping, and monitoring requirements in the rule are consistent with the relevant EPA guidance (Control Techniques Guideline for Offset Lithographic Printing and Letterpress Printing, September 2006, EPA-453/R-06-002).

3. Maine's CMR Chapter 129, Surface Coating Facilities, was approved into the Maine SIP on June 17, 1994 (59 FR 31154), as meeting RACT requirements under the 1-hour ozone standard for several CTG surface coating categories. CMR Chapter 129 addressed the requirements of the June 1978 flat wood paneling CTG (June 1978, EPA-450/2-78-032) and the requirements of the December 1977 metal furniture coatings CTG (December 1977, EPA-450/2-77-032). The amended CMR Chapter 129 rule was submitted to EPA as a SIP revision on May 3, 2011 to address the updated Flat Wood Paneling Coatings CTG, issued in September 2006 (September 2006, EPA-453/R-06-004), by expanding the type of paneling regulated, covering exterior siding and tileboard, lowering the applicability threshold of the rule, and clarifying the units of measurements by which VOC emission limits are expressed. The amended CMR Chapter 129 also addresses the Metal Furniture Coatings CTG, issued in September 2007 (September 2007, EPA-453/R-07-005), by specifying VOC limits for eight types of coatings used on metal furniture and lowering the applicability threshold of the rule. EPA finds that Maine's amended CMR Chapter 129 regulation is consistent with the updated CTGs for flat wood paneling and metal furniture coatings. Also, because the revised Chapter 129 rule is more stringent than the previously approved flat wood paneling and metal furniture coatings VOC requirements, the revised regulation satisfies the section 110(l) anti-backsliding requirements of the CAA.

EPA has also evaluated Maine's amended CMR Chapter 152 regulation, Control of VOC emissions from Consumer Products. CMR Chapter 152, as approved on October 24, 2005 (70 FR 61382), was based on an OTC model rule developed in 2001. This regulation initially limited the VOC content of consumer products in approximately 80 categories. The amended CMR Chapter 152 regulation reflects a more recent model rule developed by the OTC in 2006, which includes 18 additional categories of regulated consumer products, places limits on certain toxic

compounds in some consumer products, streamlines the reporting requirements, and clarifies the sell-through period for products manufactured prior to the rule's effective date. EPA finds that the amended CMR Chapter 152 rule is consistent with EPA guidance and the 2006 OTC model rule for consumer products. In addition, because the revised Chapter 152 rule is more stringent than the previously approved consumer products VOC requirements, the revised regulation satisfies the anti-backsliding requirements of the CAA section 110(l).

#### IV. Proposed Action

EPA's review of Maine's SIP revisions indicates that these regulations and Amendment #2 of the Tatermeal Air Emission License A-459-72-B-R constitute RACT. EPA is proposing to approve Maine's RACT demonstration for meeting the State's SIP revision obligation as of September 15, 2006 in relation to the 1997 8-hour ozone standard. EPA is also proposing to approve the following Maine regulations and incorporate them into the Maine SIP: revised CMR Chapter 131, Cutback Asphalt and Emulsified Asphalt Regulation; revised CMR Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations; revised CMR Chapter 129, Surface Coating Facilities; revised CMR Chapter 152, Control of Volatile Organic Compounds from Consumer Products; and newly adopted CMR Chapter 161, Graphic Arts—Lithography and Letterpress Printing. Finally, EPA is proposing to approve Amendment #2 of the Air Emission License A-459-72-B-R for the Tatermeal facility and incorporate Amendment #2 into the Maine SIP.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the ADDRESSES section of this **Federal Register**.

#### V. Statutory and Executive Order Reviews

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 proposed 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 proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### 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.

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

Dated: March 8, 2012.

**H. Curtis Spalding,**

*Regional Administrator, EPA Region 1.*

[FR Doc. 2012–6274 Filed 3–14–12; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 141 and 142

[FRL–9645–8 ]

#### Notice of Public Meetings: Arsenic Small Systems Compliance and Alternative Affordability Criteria Working Group

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

**ACTION:** Notice of Public Meetings.

**SUMMARY:** EPA is holding three meetings of the Arsenic Small Systems Working Group to discuss barriers to the use of arsenic treatment technologies and alternative affordability criteria. The first and second of these meetings will be held via Webcast. The third meeting will be held in Arlington, Virginia. Interested members of the public may participate in the two Webcasts via the Internet and may attend the third meeting in person.

**DATES:** The Working Group Webcast meetings will be held on March 20, 2012 (11:30 a.m. to 5:30 p.m. Eastern Time (ET)), and March 22, 2012 (1 p.m. to 5 p.m. ET). The third meeting will be held on April 4, 2012, at 9 a.m. ET and conclude on April 5, 2012, at 4 p.m. ET.

**ADDRESSES:** The first two meetings will be held via the Internet using a Webcast and teleconference. Persons wishing to participate in the Webcasts must register in advance as described in the **SUPPLEMENTARY INFORMATION** section. Registrants will receive an Internet access link and dial in number upon registration for the Webcast. The third meeting will be held at Potomac Yards South, first floor conference room located at 2777 South Crystal Drive Arlington, VA 22202. A government issued photo ID is required to obtain access to the building.

**FOR FURTHER INFORMATION CONTACT:** For questions about these specific meetings, contact Russ Perkinson, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency; telephone (202) 564–4901 or by email to [perkinson.russ@epa.govmailto:](mailto:perkinson.russ@epa.govmailto:).

**SUPPLEMENTARY INFORMATION:** Congressional language contained in the Conference Report (H.R. 2055) accompanying the Consolidated Appropriations Act of 2012 directs the

Environmental Protection Agency to convene an Arsenic Small Systems Working Group composed of representatives from States, small publicly owned water systems, local public health officials, drinking water consumers and treatment manufacturers to provide individual input and recommendations on barriers to the use of point-of-use and point-of-entry treatment units, package plant, and modular units, as well as alternative affordability criteria that give extra weight to small, rural, and lower income communities. Based upon input from the working group, the EPA will submit to Congress a report on actions to make alternative compliance methods more accessible to water systems and a report on alternative affordability criteria.

To participate in the Webcasts, you must register in advance at the following Web address: <https://www3.gotomeeting.com/register/127876830> for the March 20 Webcast on barriers to the use of arsenic treatment technologies; and <https://www3.gotomeeting.com/register/796765574> for the March 22 Webcast on alternative affordability criteria. The number of connections available for the Webcast is limited and will be available on a first come, first served basis. To participate in the April 4 through 5 meeting, you must register in advance no later than 5 p.m. ET on April 2, 2012, by email to [perkinson.russ@epa.gov](mailto:perkinson.russ@epa.gov) or phone at (202) 564–4901. Seating for the public is limited and will be available on a first come, first served basis for those persons registered. During the Webcasts and meetings, a public comment period will be held for those wishing to speak who have registered in advance. Individual comments should be limited to no more than three minutes and we ask that only one person present the statement on behalf of a group or organization. Individuals wishing to speak during the public comment period or individuals without Internet access seeking alternative means to participate in the Webcasts must contact Russ Perkinson at (202) 564–4901 or by email to [perkinson.russ@epa.gov](mailto:perkinson.russ@epa.gov) no later than 5 p.m. two business days prior to the meeting. Please specify the date of the meeting(s) to which the request applies.

#### Special Accommodations

To request special accommodations for individuals with disabilities, please contact Russ Perkinson at (202) 564–4910 or by email to [perkinson.russ@epa.gov](mailto:perkinson.russ@epa.gov). Please allow at least five business days prior to the meeting to allow time to process your request.