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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2009-0696; FRL-9673-4]

#### 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:** Final rule.

**SUMMARY:** EPA is approving 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 approve Maine's RACT demonstration for satisfying the State's RACT SIP revision obligation as of September 15, 2006, and to approve Maine's other submitted SIP regulations. This action is being taken in accordance with the CAA.

**DATES:** *Effective Date:* This rule is effective on June 21, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2009-0696. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the 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.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the State Air Agency: 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: OEP05-02), 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.

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

- I. Background and Purpose
- II. Final Action
- III. Statutory and Executive Order Reviews

#### I. Background and Purpose

On March 15, 2012 (77 FR 15329), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's RACT demonstration for satisfying the State's RACT SIP revision obligation as of September 15, 2006 and proposed approval of Maine's five other submitted SIP regulations aimed at reducing VOC emissions. Amongst Maine's other submitted SIP regulations are two amended regulations and one newly adopted regulation, covering a total of four of the 11 Control Techniques Guidelines (CTGs) issued since 2006. The state must still address the remaining seven CTGs.

A detailed explanation of the applicable NO<sub>x</sub> and VOC RACT CAA requirements with respect to the 1997 8-hour ozone standard, as well as EPA's analysis of Maine's RACT SIP submittal and Maine's other VOC regulations were provided in the NPR and will not be restated here. No public comments were received on the NPR.

#### II. Final Action

EPA is approving Maine's RACT demonstration as meeting the state's SIP revision obligation as of September 15, 2006 with respect to the 1997 8-hour ozone standard. EPA is also approving and incorporating into the Maine SIP an

amendment (A-459-71-D-A, also referred to as “Amendment #2”) of the Air Emission License A-459-72-B-R issued to the McCain Foods USA, Inc., Tatermeal facility.

In addition, EPA is also approving the following Maine regulations and incorporating them into the Maine SIP: Revised Chapter 131, Cutback Asphalt and Emulsified Asphalt Regulation; revised Chapter 123, Control of Volatile Organic Compounds from Paper, Film and Foil Coating Operations; revised Chapter 129, Surface Coating Facilities; revised Chapter 152, Control of Volatile Organic Compounds from Consumer Products; and newly adopted Chapter 161, Graphic Arts—Lithography and Letterpress Printing.

#### III. 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 action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 8, 2012.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA  
Region 1.*

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

#### PART 52—[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:

■ a. Amending the table in paragraph (c) entitled “EPA-Approved Maine Regulations” by revising entries for Chapters 123, 129, 131, and 152, and adding a new entry in numerical order for Chapter 161.

■ b. Amending the table in paragraph (d) entitled “EPA-Approved Maine Source Specific Requirements” by adding a new entry at the end of the table for McCain Foods.

■ c. Amending the table in paragraph (e) entitled “Maine Non Regulatory” by adding a new entry at the end of the table for Reasonably Available Control Technology Demonstration (RACT).

The revisions and additions read as follows:

#### § 52.1020 Identification of plan.

\* \* \* \* \*

(c) *EPA approved regulations.*

EPA-APPROVED MAINE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * Chapter 123 .....	* Control of Volatile Organic Compounds from Paper, Film, and Foil Coating Operations.	* 05/18/2010	* 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*
* * Chapter 129 .....	* Surface Coating Facilities .....	* 04/16/2011	* 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*
* * Chapter 131 .....	* Cutback Asphalt and Emulsified Asphalt.	* 09/15/2009	* 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*
* * Chapter 152 .....	* Control of Volatile Organic Compounds from Consumer Products.	* 12/15/2007	* 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*
* * Chapter 161 .....	* Graphic Arts—Offset Lithography and Letterpress Printing.	* 04/06/2010	* 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*
* * .....	* .....	* .....	* .....	*

(d) EPA-approved State Source specific requirements.

EPA-APPROVED MAINE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
* * McCain Foods USA, Inc., Tatermeal Facility.	* * Amendment #2 of Air Emission License A-459-72-B-R.	* * 03/19/2003	* * 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*

(e) Nonregulatory.

MAINE NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA-approved date	Explanations
* * Reasonably Available Control Technology Demonstration (RACT) for the 1997 8-hour Ozone National Ambient Air Quality Standard.	* * Statewide .....	* * Submitted 08/27/2009 .....	* * 05/22/2012 [Insert <b>Federal Register</b> page number where the document begins].	*

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**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 65****[Docket ID FEMA-2012-0003; Internal Agency Docket No. FEMA-B-1253]****Changes in Flood Elevation Determinations****AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The modified BFEs may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-4064, or (email) [Luis.Rodriguez3@fema.dhs.gov](mailto:Luis.Rodriguez3@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The

changes in BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.*

This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

*Executive Order 12988, Civil Justice Reform.* This interim rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

**PART 65—[AMENDED]**

- 1. The authority citation for part 65 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 65.4 [Amended]**

- 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Florida: Sumter .....	Unincorporated areas of Sumter County (11-04-4816P).	September 22, 2011; September 29, 2011; <i>The Sumter County Times</i> .	The Honorable Don Burgess, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	January 27, 2011 .....	120296
Georgia: Bryan .....	City of Richmond Hill, (11-04-4401P).	December 7, 2011; December 14, 2011; <i>The Bryan County News</i> .	The Honorable E. Harold Fowler, Mayor, City of Richmond Hill, 40 Richard Davis Drive, Richmond Hill, GA 31324.	November 29, 2011 .....	130018