

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