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STATE OF MAINE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN RE: OZONE TRANSPORT REGION RESTRUCTURING

DOCKET NO. EPA-R01-OAR-2012-0895

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PRESIDING OFFICER: **MELANIE LOYZIM**

This hearing is being held on September 10, 2013,
beginning at 1:00 p.m.

1 (This hearing is being held at the Maine Department
2 of Environmental Protection, Augusta, Maine, on September
3 10, 2013, beginning at 1:00 p.m.)

4 *****

5 PRESIDING OFFICER: Good afternoon. Welcome
6 everyone for coming this afternoon. My name is Melanie
7 Loyzim, today is September 10, 2013, and I am the Director
8 of the Bureau of Remediation and Waste Management. I will
9 be presiding over the conduct of this public hearing
10 today.

11 This public hearing relates to a proposal to
12 begin the process to remove the Nonattainment New Source
13 Review applicability requirements for major new and
14 modified stationary sources of ozone precursors. If this
15 proposal is approved by the U.S. Environmental Protection
16 Agency, Nonattainment New Source Review requirements will
17 not apply to major new and modified stationary sources of
18 ozone precursor emissions in any area of Maine, because
19 the entire state is now designated
20 attainment/unclassifiable for the National Ambient Air
21 Quality Standards for ozone.

22 Without this revision, Nonattainment New Source
23 Review requirements would apply on a statewide basis by
24 virtue of the fact that Maine is located in the Ozone
25 Transport Region. Under this proposal, major new and

1 modified stationary sources of ozone precursor emissions
2 in Maine will continue to be subject to prevention of
3 significant deterioration permitting requirements.

4 If this request is approved, Maine will propose
5 amending its State Implementation Plan by revising its
6 Chapter 113 Growth Offset Regulation and Chapter 115 Major
7 and Minor Source Air Emission License Regulations at a
8 later date as a subsequent action.

9 Present at this public hearing as subject matter
10 experts on DEP's behalf are: Marc Cone, Director of the
11 Bureau of Air Quality; Andy Johnson, Acting Director of
12 the Division of Air Quality Assessment; Tom Downs, Chief
13 Meteorologist; and Jeff Crawford, Policy Development
14 Specialist. Mr. Cone and Department staff will be
15 providing an overview of this proposal.

16 The Department initially noticed this proposal
17 to a 30-day public comment period in accordance with
18 Section 110(a)(1) and (2) of the 1990 Clean Air Act
19 Amendments, 40 CFR Part 51.102, and EPA guidance, which
20 also require a public hearing be held if requested before
21 the end of the public comment period. Today's hearing was
22 scheduled following the receipt of requests to hold a
23 public hearing, and notice of today's hearing was
24 published in newspapers statewide, and sent to all persons
25 on the Department's regulatory notice mailing list, as

1 well as to potentially affected facilities and to other
2 persons who have expressed interest in today's proposal.

3 In addition, because this proposal will be
4 submitted as part of a revision to Maine's State
5 Implementation Plan for Air Quality, today's hearing will
6 be conducted pursuant to the requirements of Title 40,
7 Part 51 of the Code of Federal Regulations.

8 Copies of the Department's restructuring request
9 that is the subject of today's public hearing are on the
10 table by the door. If you plan to provide verbal comments
11 at this public hearing, please fill in the required
12 information on the appropriate sign-in sheet that is also
13 on the table by the door. And, I have not seen anyone
14 else come in, so I believe I likely have the names of the
15 people who have signed in.

16 If you plan to provide verbal comments at -- my
17 apologies -- at this public hearing, please fill in the
18 required information on the appropriate sign-in sheet,
19 there are separate sheets for those supporting this
20 action, those opposed, and those neither for nor against.
21 If you have not already filled in your information, please
22 do so.

23 I will plan to call individuals for testimony
24 based on those sign-in sheets, first by proponents of the
25 proposal, then by opponents, and then last for people

1 neither for nor against. Given the number of people
2 expected to provide comments today, I will be giving each
3 commenter a maximum of 10 minutes. For your planning
4 purposes, that has the potential to have us going into
5 approximately 4 to 5 p.m., so somewhere in the midst
6 depending on how we are proceeding through the comments, I
7 will provide a break likely around 3 p.m.

8 If you feel there is a reason to deviate from
9 the order I've described, or the allotted time for
10 providing verbal comments, please approach and speak with
11 Mr. Karagiannes, who is here today assisting with the
12 conduct of the hearing. If any request is made, I will
13 confer with Mr. Cone and Mr. Karagiannes, and I will make
14 a determination as to whether it is appropriate to change
15 the order.

16 Today's hearing is being recorded, as well as
17 being broadcast over the internet. The recording will be
18 used to create a written transcript of these proceedings.
19 To assist with our recording of the testimony, and for the
20 benefit of those listening on the internet, people
21 testifying will be required to present at the podium,
22 which will be moved from this table to that table
23 (indicating). When you are called forward, please clearly
24 identify yourself into the microphone, state the town of
25 your residence, and the name of the organization you are

1 here representing, if any. This hearing does not include
2 provision for electronic display of information, if you
3 intend to provide comments in a presentation format,
4 please verbalize your comments, and provide copies of your
5 slides as part of your comment submission, and there will
6 also be the ability to submit information electronically,
7 which I will describe in a moment.

8 Individuals providing comments may be asked
9 questions when a point being made appears unclear to me or
10 the DEP staff in charge of overseeing this rulemaking.
11 Any questions seeking clarity will be asked in order to be
12 sure that the comment is sufficiently understood so that
13 DEP staff may address it in the agency's response to
14 comments.

15 This public hearing is being held to provide
16 individuals with the opportunity to provide information
17 and express their opinion in a public forum. This public
18 hearing is not a forum where participants should expect to
19 pose questions to DEP staff regarding the rule proposal,
20 and have answers provided during today's proceeding. If
21 you have questions for DEP, please state them clearly
22 during your allotted time for providing comments, and they
23 will be addressed in the DEP's response to comments
24 document that will be generated after the public comment
25 period closes.

1 I would ask that everyone present for this
2 hearing today conduct themselves in a respectful manner.
3 Please silence all electronic devices, this would be the
4 time if you haven't, to find it and do so. Please also
5 refrain from applause or other outbursts; it is important
6 that we be able to hear commenters, and that statements
7 are not obscured in the recording and transcript.

8 All public comments received by the DEP, the
9 transcript of this hearing, and the Department's response
10 to comments will be submitted to the U.S. Environmental
11 Protection Agency. All submissions to the U.S. EPA in
12 accordance with federal register notices that were issued
13 on August 5th, 2013, and September 6th, 2013, should be
14 available for public access at www.regulations.gov referencing
15 Docket ID No. EPA-R01-OAR-2012-0895.

16 UNIDENTIFIED MALE SPEAKER: Could you repeat
17 that, please?

18 PRESIDING OFFICER: Yes. It is EPA Docket ID
19 No. EPA-R01-OAR-2012-0895. And those federal register
20 notices do contain further information regarding the U.S.
21 EPA's docket. And so if you go to those federal register
22 notices, they also include the docket ID and hyperlinks to
23 that website.

24 Written comments on this proposal may be
25 submitted at today's public hearing or to DEP following

1 the hearing. All comments submitted subsequent to this
2 public hearing must be received by 5:00 p.m., on September
3 20th, and should be addressed and mailed to Jeffrey
4 Crawford, at 17 State House Station, Augusta, Maine 04333.
5 Comments also may be emailed to jeff.s, as in
6 Sam,.crawford@maine.gov or faxed to Mr. Crawford's
7 attention at 287-7826. All written comments must clearly
8 reference the proposal under consideration by at least
9 including the title of the proposal and the date when
10 either this public hearing was held or when the written
11 comment period closes.

12 Are there any questions about the procedures
13 I've outlined?

14 **(NO AUDIBLE RESPONSE)**

15 PRESIDING OFFICER: Okay. As mentioned earlier,
16 we will begin with an overview of the proposal by Mr. Cone
17 and Department staff. Mr. Cone, please approach the
18 microphone.

19 UNIDENTIFIED FEMALE SPEAKER: (Whispers) What do
20 you need?

21 UNIDENTIFIED MALE SPEAKER: (Whispers) We oppose
22 and I would like to have Ed speak before myself.

23 UNIDENTIFIED FEMALE SPEAKER: Okay. Thanks so
24 kindly.

25

1 MR. CONE: Thank you, Madam Hearing Officer. I
2 would like to thank -- it's nice to see so many familiar
3 faces today. I'd like to thank Ron Severance for hiring
4 our prestigious Hearing Officer, Melanie Loyzim, into the
5 Air Bureau family. Great hire, Ron.

6 My name is Marc Cone, Director of the Bureau of
7 Air Quality at the Department of Environmental Protection.
8 I have a Bachelors of Science in Chemical Engineering from
9 the University of Maine, an MBA from Thomas College, I am
10 a Registered Professional Engineer in Maine, and I have
11 been with the Bureau of Air Quality for 27 years with over
12 25 years as a Licensing Engineer directing the Air
13 Licensing Engineering Group. I would also like to thank
14 John Chandler for bringing me into the Air Bureau family
15 over 27 years ago. Thanks, John.

16 Also with me, here, are Andy Johnson, longtime
17 Ambient Monitoring Expert Supervisor in charge of the Air
18 Quality Assessment Division, Tom Downs our excellent Chief
19 Meteorologist, and Jeff Crawford longtime SIP Submittal
20 Expert for the Air Bureau. Another prestigious hire of
21 Ron Severance.

22 Before I get into my presentation, let me say
23 air pollution is complicated, if it was easy we wouldn't
24 be here. It is an exciting challenge that makes coming to
25 work fun, and it continues to be that way, that's why

1 those of us that got into the field seem to stay here so
2 long. An example, the four of us here have over 100 years
3 of combined experience in air pollution related work. Ron
4 Severance and John Chandler retired after long careers.
5 It's fun and it's family. I would also like to say that
6 it is great that we live in a country that recognizes
7 environmental issues and continues to address them, and
8 that we can have public discussions like this one today.

9 We are here today representing the Department at
10 this public hearing on the State of Maine's request for
11 Restructure of the Ozone Transport Region's Nonattainment
12 New Source Review. Maine is also requesting a Section
13 182(f) NOx waiver under the 2008 Ozone National Ambient
14 Air Quality Standard.

15 We are at this juncture because of the success
16 of meeting the 2008 National Ambient Air Quality Standard
17 for ozone. If a state outside the Ozone Transport Region
18 had met these standards they too would be able to propose
19 making these changes to New Source Review.

20 This request is not unlike requests that the
21 State of Maine and New Hampshire have made in the past and
22 have been granted. One difference today is that the
23 entire State of Maine is monitoring attainment for the
24 ozone standard. Like the previous requests, the

25

1 Department worked under EPA's guidance to formulate the
2 technical justification for this request.

3 For a little background of what the Ozone
4 Transport Region is, the area was created in the Clean Air
5 Act Amendments of 1990. The amendment recognized that
6 ozone is a regional air pollution issue and treated the
7 entire northeast region of the U.S. from northern Virginia
8 through the entire state of Maine as nonattainment,
9 whether it was in attainment or not. So under this
10 scenario the Fort Kent area in Maine, an attainment area,
11 would be treated similarly as areas around New York or
12 Boston as it pertains to New Source Review and reasonable
13 available control technology requirements for existing
14 sources. This brings us to the basis of this action: 1)
15 Maine is in attainment of the ozone Ambient Air Quality
16 Standards, 2) Maine's nitrogen oxide and volatile organic
17 compound or VOC emissions do not significantly impact
18 nonattainment areas in the Ozone Transport Region, 3)
19 ozone episodes are not dominated by VOC-limited or NOx-
20 limited conditions.

21 The Department will go through the following
22 technical background information that the supports this
23 request: 1) Maine's Attainment History, 2) Back
24 Trajectories and Modeling, 3) Ozone Ambient Air Quality
25 Monitoring Network, 4) we'll describe NOx and VOC

1 Inventories, 5) we'll look at VOC and NOx Limited
2 Analysis, 6) we will talk about New Source Review vs.
3 Nonattainment New Source Review, 7) we'll look at the
4 Canadian Considerations, 8) and we'll look at -- or talk
5 about Future Emission Reductions.

6 This slide shows Maine's ozone nonattainment
7 status history since 1992. The upper left of this slide
8 shows the coastal area of Maine, in orange, as
9 nonattainment to the .12 ppm standard. For the 1997 ozone
10 standard our nonattainment designations shrunk and are
11 represented in yellow in the lower left part, here
12 (indicating), of this slide. In 2008 the standard was
13 changed to a more stringent standard which we have
14 monitored attainment for since the standard was
15 promulgated, and thus today we have the entire State in
16 attainment for the ozone standard. At this point, I would
17 like to point out that the majority of Maine has been in
18 attainment for the ozone standards since the 1980s. And
19 as we can see here (indicating), the majority of the state
20 has always been in attainment.

21 With that, I'll pass the torch on to my
22 colleague Andy Johnson in charge of the Ambient Monitoring
23 Network.

24 MR. JOHNSON: Thank you, Marc. Good afternoon.

25

1 As Marc said, my name's Andrew Johnson and I
2 have been with DEP for 35 years coming this November. It
3 has all been with the Bureau of Air Quality, and has all
4 been associated with the field of ambient air monitoring
5 and laboratory analysis (indiscernible).

6 So my job is to kind of give you folks a good
7 idea and understanding of are ambient air monitoring
8 network for ozone from which most of the data that's been
9 used in this technical analysis has been derived from.
10 And this map illustrates our current ozone monitoring
11 locations where all that attainment that Marc has referred
12 to has been most recently documented.

13 The statewide network right now consists of 19
14 sites, again, statewide, and this network has evolved over
15 the last four decades of monitoring. And what we do every
16 year is assess each site and the data that's collected
17 from it to determine whether or not we need to stay there
18 or we should move the monitoring and equipment to a new
19 location to help us answers other questions, and that's
20 been going on, as I said, for 40, plus, years now. So
21 it's a constantly evolving network, and we look at it to
22 make the most use of those resources to give us the
23 information data that this department needs to protect air
24 quality.

25

1 There are several very long-term sites in this
2 network. I'll just point out a couple. There are two
3 sites in Southern Maine, the one at Kennebunkport and the
4 one at Cape Elizabeth that have a 30, plus, year data
5 record. So we've got a very good long-term understanding
6 of ozone from those locations. Some of the other ones
7 are, you know, in the 20/25 year data-record range, for
8 example like at Acadia National Park, Downeast, and
9 elsewhere. But the point is, is that we constantly
10 revisit where do we need to put our market resources to
11 best understand and document air quality for ozone.

12 This network is possible because of our
13 collaboration with our federal and tribal partners, for
14 example, we work very closely with the National Park
15 Service folks and Acadia, and we work with our tribal
16 partners that run marketing sites for us at Pleasant
17 Point, at Old Town, and up in Presque Isle. And what
18 we've realized is that this collaborative effort allows
19 both agencies that are working at a given site to
20 accomplish much more than we could individually as an
21 individual organization. So we're making the most use of
22 those resources as possible.

23 Another feature I point out is, you probably
24 notice that there's a concentration of sites along the
25 coastline, and more so in Southern Maine. That is because

1 over the years as we've moved sites around throughout all
2 of the state, that we have clearly determined that Maine's
3 ozone problem was its worst along the immediate coastline.
4 And in the earlier days it used to be focused mostly in
5 Southern Maine, but as we made changes to the precursors
6 to ozone, the NOx and VOC's that we've referenced, we've
7 changed the photochemistry of the production of ozone and
8 the maximum ozone peaks then shifted somewhere down
9 towards the midcoast area for a while, and then actually
10 Acadia and the top of Cadillac Mountain, where one site is
11 measuring some of the highest ozone values that we see.

12 So the point was is that, we've been constantly
13 refining this, and then as far as trying to help identify
14 where do we draw that boundary of attainment or
15 nonattainment, there's sort of a second tier of sites just
16 inland here (indicating). What we've known in looking at
17 the data is that, once you move just a few miles inland
18 away from the coast, the ozone concentrations drop off
19 dramatically, there's a very sharp gradient of where that
20 transported ozone comes in up along the coast, it just
21 doesn't really penetrate very often and very far inland.

22 Just to give you a flavor of some of the
23 challenges that we have encountered in doing it, we're not
24 shy about embracing monitoring challenges. We have put
25 sites where we determined they really need to go in order

1 to answer questions. So for example, we've monitored on a
2 number of islands along the coast, and so that involves,
3 you know, getting into a boat, and bringing your equipment
4 over, and being able to maintain a site that is not
5 necessarily the easiest of one to get to. So we've
6 monitored, for example, on Isle au Haut, which is actually
7 a part of Acadia National Park, that site actually was the
8 location of the highest out of the ozone value ever
9 measured in Maine back in two -- 1988 of 2.02 ppb. We've
10 measured at Mount Desert Rock which is almost 20 miles off
11 the coast of Acadia. Again, these are challenges that are
12 not without some consequence to collect good data. In
13 Southern Maine we've been on Goat Island, we've been at
14 Nubble Light, crossing over into -- on a little rubber
15 raft with your equipment wrapped up in garbage bags. So
16 the point is, is that, you know, we are willing to
17 definitely embrace whatever challenges that the technical
18 requirements made may throw at us to locate a site where
19 it's important to have the information from.

20 The last thing I'll mention, too, is that from
21 1992 to the early 2000's, we actually put an ozone monitor
22 on a ferry that ran between Portland and Yarmouth, Nova
23 Scotia, was called the Scotia Prince. And its course was
24 basically due east to west traverse across the Gulf of
25 Maine, and we knew the position of the boat every hour,

1 and so every hourly average of ozone we knew exactly where
2 the boat had crossed. And this data, I don't think we
3 really realized when we embarked on this project, how
4 valuable and important it would become, but what we
5 realized is, that it really became very instructive of
6 documenting that there was very high levels of ozone being
7 transported out over open water, we could track the
8 plumes, if you will, of ozone from the metropolitan areas
9 to Southwest Boston and New York, very clearly
10 distinctive, and they also helped to (indiscernible) truth
11 and validate ozone models that help us predict future air
12 quality concentrations.

13 One other feature I wanted to mention that
14 you'll see some data coming from these sites in some
15 upcoming slides, two of our sites, ozone sites, are what
16 we also refer to as PAM sites, and that's an acronym that
17 stands for Photochemical Assessment Monitoring station.
18 And at PAM sites we actually monitor the -- two of the
19 precursors that go into forming those on the VOC's and the
20 NOx. And so we have actually measured NOx, which is NO,
21 NO2, we currently measure NOy which includes more reactive
22 species of nitrogen to give us, again, a bigger picture,
23 and when you have these multi-pollutant data sets at these
24 locations where we have had our highest ozone values
25 measured, it just helps improve our understanding of the

1 atmosphere chemistry that's going on, and being able to
2 really understand what is in the best approaches for
3 future controls if necessary.

4 So in conclusion, I would just mention that, you
5 know, this is a robust network that has a dynamic element
6 of moving sites around where they need to be to provide
7 information, but it's also balanced with some long-term
8 sites, so we know from year to year to year at the same
9 location that air quality has been -- how it's been
10 changing. Next slide.

11 This next slide, one of the things that we
12 needed to do in the technical analysis for EPA is to look
13 at the nonattainment areas in the OTR, and where they're
14 nonattainment for ozone, what -- where was that air mass
15 coming from. So a back trajectory basically is that, at
16 the point where you measured an ozone exceedance, if you
17 look back 24 or 48 hours, depends on the time frame, of
18 where did that air mass originate from 24, 48 hours ago,
19 and that's what all these little dots represent at the two
20 locations here, the nonattainment areas are southeastern
21 Mass., actually Martha's Vineyard, and Connecticut, south
22 coast of Connecticut -- coastline of Connecticut. And as
23 you can see from this illustration that, there are no
24 emissions or air quality -- air trajectories that came
25 from Maine that impacted these nonattainment areas, so we

1 were not contributing to any ozone nonattainment in the
2 OTR.

3 Next we want to just give you an idea of where
4 we had measured in Maine our ozone exceedances during the
5 last three years from 2012 -- '11 to '13, where did those
6 air masses come from. And right now this one is looking
7 at Cadillac at Acadia National Park, the different colors
8 represent different vertical profiles in the atmosphere,
9 the legend there is, I think, the green is 10, the blue is
10 100 meters, and the red is 250, so we've got a vertical
11 profile of winds of where those winds came from that
12 impacted Cadillac. A more important one here is probably
13 upper ones because Cadillac is at 1,500 feet above sea
14 level, and as you can clearly see, that when you go back
15 those 24 hours of when we measured our ozone exceedance,
16 where did that air mass come from. And it shows that, you
17 know, most -- almost every instance is coming over the New
18 York, southern New England, Boston area, out over the Gulf
19 of Maine, and then rising up into Cadillac. Sea breezes
20 help to bring that river of ozone closer to the coast as a
21 mechanism for why we see it so much along the coastline.
22 Next slide.

23 Then we took a couple of examples of looking at
24 our Midcoast region. These sites are, again, Jonesport,
25 Acadia, Holden, and Port Clyde, and these are mostly at

1 sea level, low elevation, so we're looking at the lower
2 level and the back trajectory, so again, when you go back
3 24 hours from when we measured the exceedance, where did
4 that air mass come from, what areas did it travel over,
5 and it's the same -- it's a little easier to see in this
6 illustration (indicating), again, coming out of southeast
7 New England, Connecticut, southeast Mass., out over the
8 Gulf, and into the coastline. Next slide.

9 And lastly, for our Southern Maine coastal
10 sites, this one is at, looks like at Cape Elizabeth?

11 MR. CONE: Kennebunk.

12 MR. JOHNSON: Kennebunk. So, both --

13 MR. CONE: Kennebunk and Cape Elizabeth.

14 MR. JOHNSON: It's massed, yeah. There's --

15 Mr. CRAWFORD: It's Kennebunk, yeah.

16 MR. JOHNSON: -- Kennebunk right there and Cape

17 --

18 MR. CRAWFORD: (Indiscernible).

19 MR. JOHNSON: -- Elizabeth right there. So it's
20 the same idea, ozone exceedance that we measured at those
21 locations, where did that air quality come from, and it's
22 essentially the same kind of path, this is what we refer
23 to as long-range transport. Back to Marc.

24 MR. CONE: Thank you, Andy. Next, the State
25 looked at previous regulatory ozone modeling. For the

1 1998 Massachusetts's ozone state implementation plan
2 modeling, Maine emissions were turned off which resulted
3 in no change in ozone levels. Modeling performed for the
4 regional NOx state implementation plan done in 2005 for
5 the Clean Air Interstate Rule also recognized as the CAIR
6 program showed a .3 ppb impact in Massachusetts and a .1
7 ppb impact in Connecticut. Modeling performed more
8 recently in 2011 for the Cross State Air Pollution Rule,
9 Maine's impact was even lower at .14 ppb in Massachusetts
10 and .01 ppb in Connecticut. Maine's contribution to
11 nonattainment in upwind areas of the Ozone Transport
12 Region is not significant.

13 The Department also considered the State's
14 impact on the regional haze for Class 1 areas. What we
15 looked at was the visibility impacts from secondary
16 formation of nitrates from NOx emissions. This slide
17 shows the percent contribution of light extinction at the
18 Acadia National Park monitoring site for the worst and
19 best visibility days. For the worst visibility days all
20 nitrate which is from all sources mobile, stationary, and
21 area sources in the Northeast contributes only 7 percent
22 of the light extinction and on the best days only 3
23 percent. Again, 7 percent here (indicating); 3 percent in
24 the best days. The greatest impact on the worst
25 visibility days is caused by sulfate, represented by the

1 blue, here (indicating), and the greatest impact on the
2 best visibility days is what we called Rayleigh, new word
3 for me, Rayleigh scattering, which is a scattering of
4 light from background levels of molecules and very small
5 particles in the atmosphere. In the simplest of terms,
6 Rayleigh scattering is the reason why our sky is blue.
7 Thus, Maine's NOx emissions are not a significant
8 contributor to visibility degradation.

9 The Department also looked at the NO2 ambient
10 air quality data. Our monitor with the greatest ambient
11 levels is in Portland. Ambient levels continue to trend
12 downward and are now below half the standard today.

13 Next we looked at the Ozone Transport Region's
14 NOx inventory thru EPA's National Emissions Inventory.
15 The latest released data is from 2008 and shows Maine's
16 NOx contribution is under 3 percent.

17 The next slide shows all anthropogenic VOC and
18 nitrogen oxide emissions from all sources compared to
19 other Ozone Transport Region state, "While Maine makes up
20 roughly 18 percent of the geographic area of the Ozone
21 Transport Region, our emissions of VOC and nitrogen oxides
22 are between 3 and 4 percent of the region's total."

23 The next slide shows our emissions inventory
24 over the years for nitrogen oxides and volatile organic
25

1 compounds. We continue to see a trend of lower emissions
2 over time.

3 Again, here is the nitrogen oxide shown on a
4 different scale, and again we see the trend it continues
5 to be downward.

6 Here we wanted to show the contribution of
7 nitrogen oxide from major sources compared to area sources
8 and mobile sources. We see that mobile sources make up
9 the majority of emissions at 68 percent, compared to major
10 sources at 22 percent, and stationary sources at 10
11 percent.

12 VOC emissions also continue to have a downward
13 trend. Although, here in 2009 and to 2010, we see a
14 little increase, and we've looked at the data and that
15 kind of reflects the economic times of that time frame.

16 This next slide shows the contribution of VOC
17 emissions from major sources compared to area and mobile
18 sources. Again mobile sources at 59 percent make up the
19 majority of our inventory with area and other sources
20 making up 37 percent of the inventory. Finally, the major
21 sources make up only 4 percent of this inventory.

22 The Department analyzed whether our area's VOC
23 limited or NOx limited in regards to ozone formation. Low
24 VOC to NOx ratios mean VOC reductions will be most
25 effective at reducing ozone. High VOC to NOx ratios mean

1 an area is NOx limited where VOC controls may be
2 ineffective. Most time periods show a mix in the
3 transitional category where either NOx or VOC controls may
4 be similarly effective.

5 New Source Review. The New Source Review
6 program is a technology forcing system. Meaning as better
7 controls develop those controls are required for new and
8 modified sources. In our state, unlike many other states,
9 Maine's New Source Review applies best available control
10 technology standards to minor sources as well as major
11 sources. This enhances the technology forcing evaluation
12 of controls.

13 At this point I will describe Best Available
14 Control Technology also known as BACT, it is a case by
15 case determination of pollution control systems accounting
16 for energy, environmental, and economic impacts of the
17 system. For nonattainment review the control technology
18 is represented by Lowest Achievable Emission Rate or LAER
19 for short, which is the most stringent emission limitation
20 which has been demonstrated in practice.

21 When a BACT analysis is submitted with an
22 application, the applicant is to look at the best
23 controlled similar unit and justify why that level is not
24 appropriate. Many times BACT can be very similar to or
25 the same as LAER. Maine has had a history of applying

1 BACT to sources that has resulted in very stringent
2 limits. The municipal waste combustors licensed in the
3 1980s were examples of very stringent BACT determinations.
4 In 1989 the Department issued a license to the pulp and
5 paper mill in Skowhegan for a large multi-fuel power
6 boiler and required a Selective Non-Catalytic Reduction
7 system to control nitrogen oxides; one of the first, if
8 not the first, multi-fuel boiler in the country with this
9 control. One could argue at the time it was LAER. In
10 1998 the State required a BACT limit on a gas turbine that
11 would have been considered LAER at 3.5 ppm nitrogen oxides
12 in May. In December of that year the Department issued an
13 LAER determination of 2.5 ppm for nitrogen oxides. This
14 demonstrates the technology forcing nature of the New
15 Source Review program. Thus the Department has issued
16 very stringent limits to sources where BACT and LAER have
17 been very similar. In some cases LAER might not be the
18 most environmentally best solution because you would only
19 look at the nonattainment pollutant and not the entire
20 environmental impact as in BACT. For instance, a VOC
21 source LAER determination might be a thermal oxidizer to
22 control volatile organic compounds, but would increase the
23 NOx, particulate, carbon monoxide, and sulfur dioxide
24 emissions from the source, which may not be the best
25 overall environmental solution. A wet scrubber with a VOC

1 control efficiency that is less but is not creating
2 additional pollutants may result in a lower overall
3 environmental impact. Flexibility can be an asset. In
4 the end, there should be no doubt that state of the art
5 pollution control devises will continue to be required at
6 new or modified sources in the state if this change
7 occurs.

8 The other major difference with New Source
9 Review in an attainment area versus a nonattainment area
10 is that, major modifications and major new sources are
11 required to obtain offset emission credits. This means
12 that once you are above the threshold for major
13 modification or major new source you are required to find
14 offset emission credits. Usually these credits are from
15 sources that have been shut down. That might make sense
16 for areas that are in nonattainment, but are an overly
17 burdensome requirement for areas that are in attainment
18 and have been shown that they do not impact a
19 nonattainment area. I give you a scenario that represents
20 how offset provisions work. Say your child has just
21 passed their drivers test for their license; they can
22 obtain a license once you have purchased someone else's
23 driver's license. The new driver is thus buying an offset
24 from a retired driver's license. This is an example of
25

1 how offsets would work for major sources. This is not
2 needed in an attainment area.

3 Next, we looked at impacts on Canada where the
4 standard is 65 ppb, and no monitoring sites east of the
5 Montreal region are violating the standard in any of the
6 3-year periods since 2008. Our meteorologist Tom Downs
7 had looked at when there had been violations in the
8 Maritime Provinces in the past, and the back trajectories
9 showed the air mass was, again, from the Boston and mid-
10 Atlantic metropolitan areas.

11 Looking at the future emission reductions in the
12 mobile source sector. Reformulated gas will be required
13 in the southern part of the state which will result in
14 lower emissions of volatile organic compounds and nitrogen
15 oxides from automobiles next year and beyond. Also in the
16 future EPA's Tier 3 requirements will lower the sulfur
17 content in gasoline which will make existing exhaust
18 controls more effective. Tier 3 will also require lower
19 tailpipe emissions from automobiles over a number of
20 years. The federal requirements for higher gas mileage
21 standards from automobiles will also help with lowering
22 emissions from mobile sources. And as the automobile fleet
23 is replaced with new vehicles, lower emissions will occur.
24 Our future modeling of mobile sources with EPA's model,

25

1 results in emission reductions of up to 60 percent from
2 the mobile source sector from 2011 to 2020.

3 Future emission reductions from stationary
4 sources will occur as well. Natural gas continues to
5 penetrate the State to major sources lowering NOx emission
6 from these facilities. Boiler maximum achievable control
7 technology will result in cleaner fuels and more efficient
8 operations which will also lower emissions. The future
9 requirements for SO2 in regards to visibility and Ambient
10 Air Quality Standards will also push efficiencies, cleaner
11 fuels which will result in lower emissions.

12 Future power plant requirements will also
13 contribute to lower NOx emissions. The Mercury Air Toxic
14 Rule along with Regional Greenhouse Gas Initiative will
15 require power plants to use cleaner fuels and continue to
16 be more efficient, which may result in older higher
17 emitting sources to close. This will reduce NOx emissions
18 over the entire region. Also federal greenhouse gas
19 requirements for new and existing power plants will force
20 more efficient plants, again, resulting in less NOx
21 emissions over the entire country.

22 At this point, I'd like to have Jeff talk about
23 what this is not.

24 MR. CRAWFORD: Thank you Marc. Good afternoon,
25 my name is Jeff Crawford. I've been with the Department

1 for about 24 years. During most of my tenure I worked in
2 the Bureau of Air Quality where I was responsible for
3 developing a lot of our regulations and state
4 implementation plan submittals, air quality plans, how
5 we're going to actually achieve clean air quality and
6 maintain it over the long-term.

7 What this proposal is, is a proposal to provide
8 some relief for major new sources and modifications of
9 major sources. It is not a wholesale rollback of existing
10 control programs. This proposal does not affect or repeal
11 any of our other existing programs, it does not affect our
12 Chapter 134, Reasonably Available Control Technology,
13 those of us in the air program like to call that RACT.

14 Reasonably Available Control Technology is a
15 mid-level of control that takes into consideration both
16 environmental benefit and costs. There's no rollback
17 here. We're not going to roll it back for Chapter 134, in
18 volatile organic compounds, we're not going to rollback
19 Chapter 138, which is our Reasonably Available Control
20 Technology requirements for nitrogen oxides, we're not
21 going to rollback our Chapter 145 NOx Control program,
22 some of you in the environmental field may remember our
23 hearings back in the early 2000s, and Chapter 145 was an
24 effort to address nitrogen oxide emissions from power
25 plants, as it was primarily Wyman Station, it was a

1 successful program that resulted in the implementation of
2 some combustion controls that reduced nitrogen oxides
3 emissions from that facility by about 70 percent, off the
4 top of head, and it's not a rollback of Control Techniques
5 Guideline Rules.

6 The Department has about 14 different rules that
7 implement EPA's federally required Control Techniques
8 Guidelines. These are rules addressing volatile organic
9 compound emissions from any number of sources ranging from
10 bulk petroleum terminals, to asphalt paving materials, to,
11 for example, our recently adopted Chapter 162, Fiberglass
12 Boat Manufacturing Materials Rules. These are all going
13 to continue to be in effect, and in fact, they're often
14 times implemented and in effect at some of these very same
15 major sources of emissions; the big factories, the mills,
16 the big guys have to meet the same requirements where
17 these other control programs, as the little guys. Thank
18 you.

19 MR. CONE: Thank you, Jeff. In closing, we
20 understand that transported air pollution causes our
21 occurrences of high ozone. Be assured that the State will
22 continue to require advanced air pollution control systems
23 at new sources and modified sources throughout the State
24 if this proposal is approved. Consider that a flexible
25 more holistic approach of BACT may result in a superior

1 environmental solution than the application of LAER
2 focusing on just the nonattainment pollutant. The
3 previous waiver actions did not cause an increase in our
4 nonattainment status, in fact, the entire State of Maine
5 is now in compliance with the ozone standard. With the
6 continued projection of decreasing pollution levels
7 throughout the State, we would not expect any different
8 result with this action. This proposal is not a race to
9 the bottom as some might profess; the proposal is based on
10 strong data and sound science. A previous governor, now
11 senator, told us at one time to follow the science, let it
12 guide our regulations. This is what we have done and this
13 is what has been presented to you today.

14 I want to thank all my staff who worked
15 tirelessly on this, and thank you for your attention, and
16 we welcome your comments.

17 PRESIDING OFFICER: Thank you very much. I'd
18 like to now proceed, we'll take a moment to relocate the
19 podium, and then I will be calling up those individuals
20 who have signed up on the sign-in sheets. As I said at
21 the beginning, we'll be taking comments first from those
22 who have signed in, in support of the proposal, then from
23 those who have signed in, in opposition, and I have no one
24 who has signed up neither for nor against.

25

1 So the first individual I will call is Dixon
2 Pike. I apologize in advance if I mispronounce your name,
3 again, please remember to state your name clearly into the
4 microphone, the town and state of your residence, and any
5 organization you are representing, here, today. Thank
6 you.

7 MR. PIKE: Thank you. Good afternoon. Hearing
8 Officer Loyzim, Director Cone, and other members of the
9 Department, my name is Dixon Pike, I'm a resident of
10 Falmouth, Maine, I'm an attorney at Pierce Atwood, and
11 representing the Maine Pulp and Paper Industry today in
12 support of the Department's proposal.

13 As you may know, the Maine Pulp and Paper
14 Association, MPPA for short, represents the majority of
15 pulp and paper mills in the state, and has approximately
16 24 associate members, which are companies and
17 organizations that support the industry by supplying
18 services, products, et cetera, so as an organization, it
19 represent many thousands of employees, or jobs.

20 We're pleased today to be here speaking in
21 support of the proposal. All too often we are speaking
22 against something, or at least some aspect of something,
23 this is somewhat of an unusual situation for me, I've been
24 doing this for 27 years, and to be here on behalf of

25

1 industry supporting something that both the U.S. EPA and
2 the Department have supported.

3 The reason why it's a little bit more simple
4 than is usually the case is, everything that Mr. Cone and
5 your colleagues just went through, was an excellent
6 overview of the science behind this proposal, and the
7 science makes it very clear that this -- that the proposal
8 is justified, that we're not jeopardizing environmental
9 protection, weakening environmental protection, or risking
10 elevated ozone levels by undertaking this proposal, but
11 are removing, and I'll get into this is a minute, some
12 potential hurdles to investment by the mills and other
13 similar facilities in the state.

14 The proposal is in accord with the legal
15 provision of the Clean Air Act. You're technical analysis
16 document does a good job of outlining the provisions
17 there, a NOx waiver has been granted twice before, and
18 there was the waiver from the Automobile Inspection and
19 Maintenance program, commonly referred to as Car Test,
20 approved in 2001 that was approved under the same
21 provisions for which you're seeking the restructuring
22 approval on VOC side of things. So the legal authorities
23 are there. The science, your technical analysis, of which
24 you just provided a summary, does an excellent job of
25 showing how the science supports the Department's

1 proposal. It's good policy supported by science, legally
2 justified, and we believe will help Maine's businesses
3 remain competitive.

4 If it's been -- if something similar has been
5 approved essentially three times in the past, what's
6 changed? Why is -- why was it not controversial last
7 time, the last few times, but it is this time? Well, I'm
8 going to point out a few things which we would leave an
9 objective person scratching their head because everything
10 makes a stronger case today than was in the past for this
11 -- for these waivers to occur. The air quality is better,
12 in the prior instances southern Maine was in
13 nonattainments it's now in attainment, and other parts of
14 New England are similarly in attainment that were then in
15 nonattainment. The ozone standard is tougher, there was
16 one thing I didn't see up there, but it's been -- the
17 goalposts have been moved three times, we're now not just
18 in attainment, we're meeting a tougher standard now than
19 in the past, so the air quality's gotten that much better.
20 The back trajectories are even clearer this time around
21 than they were previously, quite clearly show that on --
22 when parts in southern New England had those own problems,
23 you could shut Maine down, and that isn't going to help
24 them significantly.

25

1 Our main -- sort of Maine's point sources, the
2 mills and other large sources, worse now than they were?
3 Have they not made any progress? Well, the slides, the
4 technical analysis, show there's been a lot of progress
5 made. But I'll tell you, most of it would not because of
6 LAER and offsets, I'm going to get to this, but LAER and
7 offsets have stood in the way of more improvements than
8 they have made improvements over time. Have controls been
9 relaxed? No. We have more controls now with control
10 regulations -- I was tempted to bring in, but I didn't
11 want to carry it, my Federal Registers, that are this tall
12 (indicating), and very fine, small print on air
13 regulations, and the Department's are pretty thick, too,
14 and we have more, we have an addition to a tougher, more
15 stringent New Source Performance Standards for boilers, we
16 now have boiler max standards where we had none before, we
17 have tougher sulfur and fuel rules than we had before, we
18 have the Regional Haze BART Requirements that we didn't
19 have before, so we have a lot more control requirements
20 than there were previously. So again, we're making
21 progress, moving toward a situation where it's an even
22 stronger case now to support the Department's proposal
23 than in the past.

24 There's been this concern about the club falling
25 apart, those are transport region falling apart, and

1 everybody else, you know, going for the same thing, if we
2 seek this relief as a state won't the others, and although
3 I would defer to the professionals, the meteorologists, I
4 suspect it would be very difficult for other areas of the
5 Ozone Transport Region to make the same case to meet the
6 legal standards in the Clean Air Act that Maine can make,
7 that essentially we can shutdown and it's not going to --
8 on a bad ozone day and it's not going to help those areas
9 of the Ozone Transport Region that experience elevated
10 ozone.

11 And you say, well, what's the impact of having
12 LAER offsets, why don't we just keep it? Well, it can
13 impose very significant costs. Mr. Cone did an excellent
14 job of explaining why LAER may not be the best overall
15 solution for the environment. It may target a pollutant -
16 - one pollutant, VOCs or NOx, as the case may be, and
17 result in higher emissions of other pollutants, or higher
18 energy use, or higher water discharges, but you have to do
19 it because it's LAER and you can't consider those other
20 factors. Offsets can add -- I remember the first -- when
21 the first projects came along, this was the late '90s, or
22 so, the market prices for offsets was in the \$7,000 per
23 ton range, at that time that was adding over a couple
24 million dollars to a project, those projects were burning
25 natural gas, it's the cleanest power you can, you know,

1 that you could have, particularly when compared to coal or
2 oil or other types of fuels, and yet we were imposing this
3 artificial additional cost of a couple million dollars on
4 them due to offsets, paid in most part to a source in
5 Massachusetts that shut down years ago, like your license
6 -- driver's license example.

7 It has caused several wood product manufacturer
8 proposed projects to be put on the back burner. If you
9 have a wood products facility that is, maybe, a couple
10 million dollars in costs but will generate the VOCs from
11 drying wood, and now you have to add, perhaps, hundreds of
12 thousands of dollars in offset costs, that can easily
13 break the economics of a project like that. A number of
14 the mills have had to look at, design around, and maybe
15 not proceed with conversions from oil to natural gas
16 because of the LAER offset requirements. Now, these are
17 requirements that a mill in Maine, between LAER and
18 offsets adds a huge amount of cost and procedure, in terms
19 of air permitting, that its competitors, whether its
20 within the same company or in other companies located in
21 areas with similar air quality and meeting the ozone
22 standards in other areas of the country, which is the
23 Midwest or the South who are competing for these capital
24 investments, don't incur, they don't have to face those if
25 there in an ozone attainment area, but Maine's mills do,

1 so you already start behind the eight ball when you're
2 trying sell investment in Maine to your board versus
3 investing in a sister mill somewhere else. Well, do we
4 not need the jobs? I think we can all agree that today
5 we're probably in more need of investment, healthy
6 industry, and good jobs even more so than 10 years ago, or
7 so. So -- when the last waivers were approved.

8 So it's been done several times before, the case
9 is significantly stronger this time around both legally
10 and scientifically for these -- the Department's proposal
11 to be approved, and therefore, we think it makes good
12 policy. And to get back to my original statement about,
13 that we advocate the whole purpose of MPPA's to advocate
14 positions that help Maine's pulp and paper industry
15 compete in a global economy, this is a key aspect of that.

16 One last thought I want to leave you with, and
17 for those -- I know those of you at the table are very
18 familiar with this, but some in the room may not be, and
19 that is, the entire Clean Air Act is set up, and has been
20 for a long time under the permitting program, so that when
21 a business makes an investment for that business, that's
22 the time when there will also be environmental
23 improvements required through the air permitting process,
24 and we went through BACT, BACT is part of it, LAER is part
25 of it, and the state has a much more comprehensive

1 requirements than the federal -- than required by EPA in
2 this regard.

3 PRESIDING OFFICER: One more minute.

4 MR. PIKE: One minute, okay. So you've got a
5 program that says when you make an investment that's good
6 for your business so that you can produce more or better
7 widgets, we're also going to make you include some in that
8 project for environmental improvement. What happens with
9 LAER and offsets can be the case where the business says,
10 all right, we want to make this investment, but instead of
11 making an incremental environmental improvement, we have
12 to go to all the way to LAER offset which breaks the
13 economics of the project, internally, there's -- the
14 return on investment is gone. So now what happens? The
15 business doesn't get the business advantage of the
16 investment, and the environment doesn't see that
17 incremental improvement, and the jobs aren't as secure, or
18 additional jobs aren't added. So if you -- if sometimes,
19 as with LAER and offsets, when it reaches too far, than
20 you don't get either the business or environmental
21 improvement, and that's one more huge reason that we
22 support this proposal is to eliminate those hurdles to
23 good investment in the mills in Maine.

24 So with that, I did submit comments to the
25 Department, written comments at the end of July, and MPPA

1 submitted comments to EPA during its comment period, and I
2 believe you have copies of those. So, thank you, and if
3 you have any questions, I know my time is up, but if you
4 have questions I'm happy to answer them.

5 **(NO AUDIBLE RESPONSE)**

6 MR. PIKE: (Indiscernible) none.

7 PRESIDING OFFICER: Thank you very much.

8 MR. PIKE: Okay. Thank you very much.

9 PRESIDING OFFICER: Next, I would call Ken
10 Gallant.

11 MR. GALLANT: Thank you, Ms. Loyzim. Marc Cone,
12 members of the staff. My name is Ken Gallant, I currently
13 live in Turner, I've lived in Maine my entire life, I've
14 worked in the environmental field in Maine for 34 years
15 now; seems a lot shorter than that.

16 I currently work as the Environmental Manager at
17 Verso Paper Corp., the Androscoggin Mill in Jay, and I was
18 also previously the Environmental Manager at Verso's mill
19 in Bucksport. Together these two mills, Jay and
20 Bucksport, employ approximately 1,500 people in Maine
21 directly, in....

22 **(AUDIO CHANGE)**

23 MR. GALLANT:totaling approximately
24 \$450,000,000 per year to zip codes located within the
25 State of Maine.

1 I'm speaking today in favor of Maine's proposal
2 to revise the state implementation plan to provide a
3 limited opt-out or restructure of the Clean Air Act Ozone
4 Transport Region requirements, and to allow NOx waiver
5 applicable to the entire state. Both the facts and the
6 best scientific knowledge support this change.

7 Here are the facts. Number 1, unless the
8 current rule is changed, some Maine businesses seeking to
9 expand or modernize will continue to be saddled with
10 additional prohibitive cost with no discernible
11 improvement in that ability to achieve attainment within
12 the ozone standard. Secondly, the Clean Air Act allows
13 for these types of actions. Section 176(a) "provides that
14 the EPA Administrator may remove any State or portion of a
15 State from an interstate transport region, in this case
16 the OTR", the Ozone Transport Region, "whenever the
17 Administrator has reason to believe that control of
18 emissions in that State or" transport region "will not
19 significantly contribute to attainment of a" National
20 Ambient Air Quality Standard. Section 182(f), regarding
21 NOx, allows a so-call NOx waiver to be granted if it is
22 demonstrated that "NOX emissions in Maine are not having a
23 significant adverse impact on" an area within "the" Ozone
24 Transport Region "to attain" "ozone standards". Thirdly,
25 the DEP has provided legal and scientific justification

1 for changing the rule. In the August 5th, 2013, Federal
2 Register, EPA stated it "is proposing to approve Maine's
3 request because a technical demonstration submitted by ME
4 DEP shows convincingly that the control of VOC emissions
5 throughout the entire State of Maine" "will not
6 significantly contribute to the attainment of the 2008, 8-
7 hour ozone standards in any area of the" Ozone Transport
8 Region. Furthermore, the EPA has stated that "based on"
9 the same "technical demonstration", "NOX emissions in
10 Maine are not having a significant adverse effect on the
11 ability of any nonattainment area located in the Ozone
12 Transport Region to attain the ozone standards" "when
13 elevated ozone levels are monitored in those areas."
14 Fourthly, both the law and the science support making the
15 proposed change to the state implementation plan. What
16 about the science? Here's what it tells us, it tells us
17 that Maine has been in compliance with the ozone standards
18 since 2004. It tells us that changing this rule will not
19 lead to harmful ozone levels anywhere in Maine, other
20 states, or the Maritime Provinces. Thirdly, currently
21 emissions from sources in Maine do not cause or contribute
22 to excess -- excessive levels of ozone found in parts of
23 Massachusetts, Connecticut, and the other states within
24 the OTR. Economists like to refer to the Cost Benefit
25 Analysis, which in this case is simple, it will cost

1 companies money to buy or generate offsets for NOx of VOC,
2 and could prevent businesses from seeking expansion
3 opportunities, limiting growth, and a secure future in
4 Maine. There will be no measurable resulting health
5 benefits for purchasing these offsets. Some may argue we
6 in Maine should adopt higher standards than the law or
7 science says is necessary. Economists would point out
8 that the benefits of gaining the moral high ground in this
9 instance cannot be quantified or justified, therefore the
10 Cost Benefit Analysis favors changing this rule as DEP as
11 proposed.

12 Our people at Verso are constantly looking for
13 ways to modernize Verso's operations. For us the
14 consequences of additional cost to obtain emissions
15 offsets, one of the current rules more owners
16 requirements, are not hypothetical, having to purchase
17 offsets for a project can wipe out any potential return on
18 investment, as a result the project is shelved. If
19 starved of investment, operations such as Verso's in Maine
20 cannot be sustained.

21 Because of all these reasons, based on the facts
22 and the science, Verso supports the DEP's proposed rule
23 change. And I'd be happy to answer and questions, and
24 than you for the opportunity to comment.

25

1 PRESIDING OFFICER: Thank you. Next we have
2 Carl Wilcox.

3 MR. WILCOX: Thank you. I thank the Department
4 for this opportunity for this public hearing.

5 I'm Carlton Wilcox, a resident of New
6 Gloucester, that's on the northern frontier of Cumberland
7 County. And I was born and raised here, and went to
8 school out in the Midwest, and then come back, and been a
9 practicing waste water engineer for 25 years. I happen to
10 be in town today, I thought I'd stay over and make a few
11 comments, take the opportunity here. So a lot of this
12 RACT, and LAER, and all that, I think this industry's got
13 too many acronyms, but I'll give it the best shot.

14 I want to, let's see, I had a little story on
15 what a wow experience. It was -- I had to check this
16 morning when Hurricane Bob happened, which was August of
17 1991. At that time I had to drive over to Massena, New
18 York, for a job, and it was like raining on my rear
19 windshield, and clear on the front all the way over there.
20 And then when Hurricane Bob blew out, it was just, you
21 know, after a big hurricane, big storm, is beautiful,
22 brilliant clear air. And I remember a couple days later I
23 wanted to get back 'cause we still didn't have power, and
24 I'm driving across New York, and Vermont, and New
25 Hampshire, and it's one of those days to live for, crystal

1 blue sky. So I turned on the radio, got the radio to a
2 Portland station, and they're talking about health
3 advisories, bad air, and I'm thinking, you got to be
4 crazy, this is, you know, unbelievable. They're nuts.

5 Then I get down to Hemond Hill in Minot, I don't
6 know how many you know where that is, it's just west of
7 Auburn. You can almost -- I think if you had a pair of
8 binoculars you could see the ocean, and right there in
9 front of me was this big smog band. And I lived in New
10 Gloucester, and probably another dozen miles across Route
11 100 between Auburn and Gray, and you could feel the smog
12 in your lungs, and you could look up and you could see it
13 right there. And I live another 5 miles closer, about 12
14 miles inland from the ocean, and by the time I got home
15 you could really feel the air and how bad it was. And
16 there's just been tremendous, tremendous improvement on
17 our air quality since then, that's 22 years ago.

18 I also remember at that time Car Test, I
19 remember I had to take my wife's little Ford Ranger pickup
20 truck to Car Test, and all these people were complaining
21 about it, and, you know, I got my car up there and it
22 tests. Seemed like a good program to me, you know, I'm
23 looking at all this mobile source pollution, and all the
24 great reductions that industry's done, and I don't really
25 see mobile sources have made much improvement. So anyway,

1 my little pickup truck gets zoomed through, meanwhile
2 there was a man there, he's retired, he was pounding
3 (demonstrating) on the table, I said, you know, what's up?
4 He had this old Cadillac, probably always wanted a
5 Cadillac, and he got one in retirement, and it was the
6 third time he'd been there, spent a lot of money, and I'm
7 sure he was on the phone with his elected representative.
8 So that's the way Car Test went.

9 To this day, and I commute to work, and seems
10 like a couple days every week I get on and there's this
11 dirty old Suburban puking out smoke, probably putting out
12 enough pollution for a thousand cars. So frankly, you
13 know, people might be complaining here later in this
14 session the fact that there's waivers being issued, I
15 would say that major sources have done their part, and if
16 there's any cleanup that should be done it should be on
17 the mobile sources, but.

18 And there's a lot of discussion about these
19 waivers, I mean, we had waivers in the King
20 Administration, we had two in the Baldacci Administration,
21 and, you know, while these waivers have happened our air's
22 gotten cleaner and cleaner. It went from 120 ppb ozone
23 limit, to 80, I saw in a slide, and down to 75, and we
24 were -- it was terrible 22 years ago, and now we're in a
25 hundred percent attainment.

1 And, you know, also I read recently that out of
2 all our VOC emissions, in fact it was in the report,
3 there, that it was like three -- from the DEP that we only
4 contribute 3.6 percent of the VOCs to the entire OTR. And
5 the 95 percent of the VOCs emitted in the state are
6 biogenic sources from trees, and we're still meeting the
7 attainment.

8 Frankly, I don't know, we're the oldest state in
9 the nation; I thought we would never pass Florida in that
10 respect. I don't think it's 'cause of our tax situation
11 where they got no income tax and we have income tax, I
12 don't think it's due to our cold winters that old people
13 don't like, and ice that they fall and break their hip, I
14 don't think that's what's attracting them here, I think
15 what's attractive to old people here is all the young
16 people have left (laughter). And, you know, I've got two
17 kids, and, well, one's just left, he's going to leave
18 later this week and go off to college in California. I
19 got a junior in high school and he's already planning to
20 leave. And my daughter went up to MSSM got a fabulous
21 education, she's gone, I don't think she'll ever come
22 back. It's a matter, you know, we need jobs, we need good
23 jobs, we need jobs where people will get, you know,
24 emotional satisfaction and economic satisfaction, and the
25 way we're going we're just having the oldest state in the

1 MR. WILCOX: Thanks.

2 PRESIDING OFFICER: Next is Scott Reed.

3 MR. REED: And good afternoon. My name is Scott
4 Reed, and I'm a resident of Turner. I'm the Environmental
5 Manger at the Rumford Paper Company which is in Rumford,
6 Maine, it's a subsidiary, NewPage Corporation. I've
7 worked at that mill for 21 years, and was born and raised
8 in Rumford.

9 I'm here today to testify, provide comment in
10 support of the Department's proposal to remove the
11 Nonattainment New Source Review requirements for the --
12 for ozone precursors. That major source is in for the NOx
13 waiver, to adopt the NOx waiver.

14 You know, as the term indicates, the
15 Nonattainment New Source Review requirements are designed
16 to improve the air quality in regions that are not
17 attaining ambient air standards. Maine is attaining the
18 ozone standards and these more restrictive Nonattainment
19 New Source Review standards are not necessary. But
20 currently, if a major source is considering a project,
21 then these more restrictive Nonattainment New Source
22 Review standards are still acquired so that the NNSR, the
23 Nonattainment New Source Review standards require LAER for
24 ozone precursors and -- such as NOx and VOCs, and emission
25 offsets.

1 These requirements can become overly
2 restrictive, and they can add substantial cost to a
3 project to a point where it becomes infeasible. Our
4 facility did a project in 2008 to convert our line kiln,
5 the fire, natural gas to convert from fire on No. 6 oil.
6 That project was permitted as a major modification, and
7 had there not been NOx waiver in place we would have been
8 subject to LAER and emission offsets, and those additional
9 costs would very well could have prevented that project
10 from going forward, which was both an economic benefit for
11 the mill, and an improvement in emissions overall,
12 switching from oil to gas. So if this proposal to amend
13 the SIP is adopted, there's not going to be a degradation
14 in air quality.

15 Major sources in Maine like ourselves are still
16 required to follow requirements of New Source Review which
17 require you employ BACT, Best Available Control
18 Technology, as was mentioned earlier, and we still need to
19 meet the Ambient Air Quality Standards for all the
20 pollutants. So there's no degradation in air quality
21 should this proposal be adopted.

22 So we just appreciate today the opportunity to
23 comment in support of the Department's proposal to revise
24 the State implementation plan to remove the Nonattainment
25 New Source Review standards, or provisions, and to adopt a

1 NOx waiver for Maine. And that's -- I have submitted
2 comments to the record earlier on the Department's
3 proposal, and intend to submit comments to the APA docket
4 as well. If anyone has any questions I'd be happy to
5 answer them.

6 PRESIDING OFFICER: Did the comments that you
7 provide quantify the difference in the emissions that you
8 described with the oil to natural gas conversion of the
9 unit you referenced?

10 MR. REED: They did not, no. The earlier
11 comments did not include that.

12 PRESIDING OFFICER: And what is the quantified
13 difference for VOC and NOx between those two technologies
14 with that change that was made?

15 MR. REED: Firing natural gas in line kiln can
16 actually result in an increase in NOx emissions due to the
17 nature of how the fuel combusts in the kiln, and that's
18 what triggered the need for the project to potentially be
19 a major modification was that increase. Later stat
20 testing showed that the increase was not as great, but
21 because of the project being permitted as a major mod, we
22 would have had to pursue offsets or LAER regardless of the
23 emissions.

24

25

1 MR. CONE: As I recall, Mr. Reed, the emissions
2 from the line kiln for firing gas were actually became
3 lower than the oil firing; was that not correct?

4 MR. REED: Even the emissions of NOx were the
5 same or lower, and other emissions associated with that
6 project did decrease.

7 MR. CONE: Um-hum.

8 PRESIDING OFFICER: Thank you.

9 MR. REED: Thank you.

10 PRESIDING OFFICER: Scott Beal.

11 MR. BEAL: Good afternoon, Hearing Officer
12 Loyzim. Mr. Cone, Mr. Johnson, Mr. Downs, Mr. Crawford,
13 my name is Scott Beal, I'm the Environmental Health and
14 Safety Manager at Woodland Pulp located in Baileyville,
15 Maine. I have been at the mill for 33 years always in the
16 capacity of one form or another of environmental affairs.

17 Just a little bit about our mill, in 2010 we
18 were sold from the Domtar Corporation to International
19 Grand Investment Corporation, which is our current owner,
20 prior to Domtar ownership from 2001 to 2010, we were a
21 Georgia Pacific facility for many years. So that gives
22 you just a little bit of history of the facility.

23 I started at the mill in 1980, as I said, I have
24 33 years of service at the facility in this capacity, and
25 this afternoon I rise on behalf of the 320 men and women

1 that call Woodland Pulp home, in support of the 182(f)
2 waiver, and the VOC restructuring request, and we applaud
3 the DEP's scientific conclusions that they have arrived,
4 and are happy to be here today to add our voice in support
5 of this request to seek this restructuring and the waiver
6 for NOx.

7 I have a little bit of experience with LAER.
8 Going back to the mid-1980s when a gentleman I hadn't seen
9 in some time, Mr. Chandler, Marc, I think back then you
10 had pretty much just joined the Bureau, we were looking to
11 replace two old environmentally inferior, at the time,
12 Kraft recovery boilers that were unreliable, and were
13 frequently going down for pressure problems. At the time
14 the Baileyville airshed was designated as nonattainment
15 for total suspended particulates, and we were working hard
16 to find a way to build a new state-of-the-art Kraft
17 recovery boiler, and locate it. And it wasn't easy, but
18 we did it. But in so doing, we had to meet LAER for total
19 suspended particulates, and BPT required BACT for
20 everything else, pretty straightforward.

21 What took a little bit of a sales job back then
22 in Fulton County, Georgia, was explaining that we would
23 get 48 percent of the New Source Performance Standard
24 limit of .044 grains per dry standard cubic foot. Our
25 limit then as it is today is .021 grains per dry standard

1 cubic foot, we have a precipitator on our recovery boiler
2 that is nothing short of enormous, and it works well, and
3 it continues to work well, and we work hard to take very
4 good care of it. We were nonattainment, those were what
5 the rules required, it made sense. We did it, wasn't
6 easy, wasn't inexpensive.

7 Through the years, I'm sad to say, in 2007 --
8 I'm going to fast forward here a little bit, and I'll be
9 brief, and I'll be to the point, and, Madam Hearing
10 Officer, I'll be seated. I'm sad to say, we lost our
11 paper machine, the only one we had, in 2007. It's been a
12 struggle, and I'm not exaggerating when I say, to be a
13 single-line pulp mill producing 400,000 metric tons a year
14 to compete in the global marketplace against mills that
15 are two or three times the size, it has been a struggle.
16 We were purchased by people that want and need our pulp,
17 and we are thankful. But if we were to consider doing
18 some of the things that our current owners are
19 considering, even though the State is in attainment, we
20 would have to seek offsets, if they're available, and we
21 would have to do LAER, which would add a significant
22 capital cost to the project. With these waivers in place,
23 it would be a significant catalyst for some of the things
24 we're considering, nothing's final, but there's a lot of
25 work being invested in terms of stabilizing the mill, and

1 for those of us that work in Baileyville at Woodland Pulp,
2 instead of looking over our shoulder in doubt, which is
3 where we've been since 2007, we would be able to look
4 ahead to a future. I'm not trying to get sensational
5 about it, but I can speak with great conviction because I
6 know this to be true.

7 With these waivers in place, I'll close, because
8 I agree with everything that has been said from the prior
9 speakers, and I've enjoyed listening to the presentation
10 on behalf of the staff, with these waivers, if they're
11 granted, nothing is eradicated from the existing
12 regulatory framework, nothing goes away, we're still
13 required to do all of those things for new sources, this
14 isn't a case where we hear it's payroll or pickerel, this
15 isn't the case. You might hear that, but this is not the
16 case. We're not jeopardizing pickerel to support jobs and
17 payroll. This could be a significant catalyst, not just
18 in our area, but for the State of Maine, in terms of new
19 investment.

20 I thank you for your time and your attention.
21 Appreciate being here this afternoon.

22 PRESIDING OFFICER: Thank you.

23 MR. BEAL: Any questions.

24 **(NO AUDIBLE RESPONSE)**

25 MR. BEAL: Thank you.

1 PRESIDING OFFICER: Um-hum. Moving on to those
2 individuals who have signed up to provide comment in
3 opposition. The first person I have is Mary Trescot.

4 MS. TRESHOT: Thank you. I enjoyed your
5 presentation. My name is Mary Trescot, I'm a native of
6 Damariscotta, Maine, and I have asthma, and I don't want
7 to have asthma.

8 It was interesting to find that I live in a spot
9 on the Midcoast Maine that is the hotspot for ozone. I
10 always wondered that, but thank you for educating me on
11 that spot.

12 I've had allergies since my 20s, it wasn't until
13 I was in my 40s the doctor diagnosed me with exercised
14 induced asthma caused with being active during the summer
15 months on hot days. When I was exercising hard on those
16 days I had trouble breathing and would have to stop to
17 rest. I didn't need an inhaler or other medication
18 because I only had it on hot summer days. Years passed
19 and I finally figured out that on those hot summer days,
20 with a beautiful blue sky that had a touch of gray showing
21 at a distance, and a warm wind blowing from the southwest,
22 I had to be cautious about what I did physically. I
23 recognized that it was ozone coming into Maine from the
24 southwest bringing dirty air from states that have
25 smokestacks oozing black smoke and the summer wind pushing

1 it into Maine. Today when that warm summer wind blows
2 into Maine, I'm stuck in my air conditioned house wishing
3 I could be outside. These are the days that I take my
4 grandchildren to the movies, or go shopping in air
5 conditioned buildings. These are also the days that my
6 friends are at the beach, or having fun outside.

7 One of the difficult parts of having asthma is I
8 love the outdoors, working in my many gardens; I have a
9 large perennial garden that always needs work, a small
10 vegetable garden in my front yard that provides vegetables
11 for my husband and myself. What does it mean to have
12 asthma? It means I have to take meds, and I want to show
13 you (indicating) in this plastic bag are meds that I have
14 to take almost every day to control my asthma. And just
15 recently I was at my specialist in Brunswick and he
16 changed because I had a cough related to asthma, and he's
17 working on trying to reduce that cough. So I have
18 Symbicort at least twice a day, and nasal spray twice a
19 day, Spiriva once a day, a cough suppressant three times a
20 day, and allergy medication twice a day. I can't go to my
21 church anymore because of perfumed ladies, or the smell of
22 flowers on the altar that take my breath away, or starting
23 my uncontrolled coughing. All for the same reason I have
24 to leave a meeting in sit in the open door so the scent
25 doesn't find me. My neighbor uses a woodstove to heat his

1 home, and when the wind is blowing towards my home, which
2 is a north wind, I have to hold my breath and get into my
3 house as quickly as I can. Did you know that in the
4 summer, with my car windows shut, and air conditioner on,
5 I can still smell cigarette smoke from the car in front of
6 me as the driver of that car blows the smoke out his
7 window? When I'm struggling to breath my body gets very
8 tired, and many times I have to go into my air conditioned
9 bedroom to rest, and when my breathe is loud, and I am
10 struggling to breath, I have to use a nebulizer to get
11 some control of my breathing.

12 I'm not sure that many of you understand what
13 it's going to mean to the 148,000 Maine residents who
14 presently suffer from asthma or other lung conditions, or
15 the youth who haven't yet been diagnosed with a breathing
16 condition that is caused by increase by the dirty
17 emissions released either here in Maine or in other
18 states. Maine's current air quality standard is out of
19 date and inefficient based on current science. EPA
20 scientist that are always tighten the standard from 75 ppb
21 to between 60 and 70 ppb, has lowering the ceiling on
22 allowable ozone levels, making air healthier to breathe,
23 even this isn't enough.

24 Please don't weaken the present air quality
25 standards, increase them to protect our air, and to reduce

1 asthma and other breathing problems so more people can
2 enjoy our beautiful State of Maine. Thank you.

3 PRESIDING OFFICER: Thank you, Ms. Trescot. To
4 the extent that you're comfortable discussing it, would
5 you be able to describe what things you have allergies to,
6 and how much of the medication is allergy related versus
7 asthma related?

8 MS. TRESBOT: I have been tested for allergies
9 and they can't determine, they say environmentally. I
10 have environment allergies which is ozone, smog, car
11 exhaust, diesel exhaust, perfumes, things that are
12 naturally in our environment right now. And I agree with
13 the person who said, we should be going after the cars on
14 the road who are expelling exhaust, but that's another
15 piece. I think we have to attack all those things to make
16 a difference. So it's not just perfume, it's
17 environmental. I have an allergy to environment -- our
18 environment. So, any other questions.

19 PRESIDING OFFICER: Thank you.

20 MS. TRESBOT: Thank you very much.

21 PRESIDING OFFICER: Next, is Ed Miller.

22 MR. MILLER: Hearing Officer Loyzim, Marc Cone,
23 and the other members of the staff. My name's Ed Miller.
24 I'm the Senior Vice President for Public Policy for the
25 American Lung Association of the Northeast. I work out of

1 our Augusta, Maine, office, and I'm a resident of
2 Hallowell.

3 I'm sorry, but I think I'm going to have to
4 break up what has been a very warm kind of environment
5 here because we are testifying here in strong opposition
6 to the Maine Department of Environmental Protection's
7 proposal to modify ozone control strategies in the state.
8 We believe these recommendations are short-sited and could
9 endanger the health of thousands of Maine residents and
10 visitors.

11 The 1990 revision of the Clean Air Act, led by
12 Senator George Mitchell, created the Ozone Transport
13 Region. The requirements of this law to control toxic
14 emissions continues to be one of the most beneficial
15 aspects of the entire law for Maine due to our downwind
16 location from major sources of pollution. Maine in fact
17 may be the primary beneficiary of the ozone control
18 standards that are part of the OTR.

19 Our position is based on the evidence that
20 Maine's air is not as healthy as it should be or could be.
21 In fact in some areas of the state, ozone air pollution
22 levels are as high as possible without triggering EPA's
23 nonattainment status under the current law and the
24 inadequate 75 ppb ozone standard. We do not believe that
25

1 Maine people want to live in the unhealthiest air allowed
2 under federal law.

3 While the current standard is the law of the
4 land, the EPA's own scientific advisors and dozens of
5 medical and public health groups, including the American
6 Lung Association, are in agreement that based on current
7 scientific knowledge, a level of between 60 and 70 parts
8 per billion is needed to protect public health. If the
9 ozone standard today were set within that range, we would
10 not be having a hearing here since many areas of the state
11 would be in nonattainment.

12 I want to point out just a couple of examples of
13 how people in different parts of Maine would be impacted
14 by unhealthy air days under the more health protective
15 standard recommended by EPA's advisors versus the current
16 standard; and there's an attachment to my testimony that
17 I'll pass.

18 In 2012, Kennebunkport would have reported 12
19 unhealthy air days in that 60 to 69 ppb range, versus the
20 four days that residents were told the air was unhealthy
21 under the current standard. In Port Clyde during 2012,
22 the difference is six unhealthy air days versus none under
23 the current standard. And finally, this summer on top of
24 Cadillac Mountain, there were 12 unhealthy air days in
25 that 60 to 69 ppb range, versus two under the current

1 standard. While this is not a hearing about changing the
2 current standard, it's critical that we take into account
3 how healthy our air is whether or not it is above a
4 certain concentration when decisions are made to relax
5 control regulations. We are very, very close to that 75
6 ppb limit in some parts of this state, and you'll hear
7 more from a member of our Leadership Board on that.

8 This proposal requesting EPA approval for
9 changes is based on the premise that we can relax
10 provisions in the Clean Air Act that have been working for
11 20 years because progress has been made in cleaning up our
12 air. While it certainly is correct that our air is
13 cleaner than it was 20 years ago, we are not in a position
14 to declare victory. Results produced by DEP's own
15 monitors demonstrates that the air quality in 2012 was
16 worse than in 2011, and to date in 2013 we have not seen
17 significant improvements.

18 The DEP has raised the issue of offsets and has
19 asked EPA to grant them a waiver on these. While we do
20 not support this aspect of the request either, we do feel
21 that the DEP has identified a strategy that needs to be
22 reexamined to assure that real emission reductions occur
23 as part of the offset process, and not some paper process
24 where you end up retiring emission allowances that

25

1 actually don't even exist, where there is no significant
2 improvement in air quality.

3 In summary, we oppose this proposal by the DEP
4 and believe it is not in the best interests of the health
5 of Maine residents and the many visitors our state hosts
6 during the ozone season each year. We need to continue
7 and expand effective efforts to push and assure that Maine
8 has the healthiest air possible. Thank you.

9 PRESIDING OFFICER: Thank you. Thank you very
10 much. I would like to recognize that representatives of
11 the Maine Lung have several individuals who have signed up
12 individually to speak, they have asked for a change in the
13 order, so I am changing the order, but they did not all
14 sign up together, so the next individual in the order
15 requested is Mark Connolly.

16 MR. CONNOLLY: Hi, everybody. I appreciate the
17 opportunity to talk today. 'Cause I get very nervous in
18 these things, 'cause I don't do this a lot, but, you know.
19 My name is Mark Connolly, and I'm from Raymond, Maine.
20 And where I live I can see all the White Mountains, they
21 sit up very high, and, you know, it's a beautiful view.

22 And my son, Jake, has asthma, and we've
23 struggled with that from the beginning of his life. And
24 it makes it very difficult to see my child try to breathe
25 when he has an asthma attack. A lot of times we've

1 struggled knowing exactly what to do when we see him
2 trying to breathe and he's having a hard time with that;
3 I'm not sure if should go to the hospital, or what we
4 should do exactly, so we've struggled over the years to
5 try and make sure that we do everything possible. We have
6 a specialist that we see that has him, you know, under a
7 format that will help him to be able to get through them,
8 but even still, even with those medications, that are
9 very, very expensive, we still struggle, at times, and
10 actually have to give him steroids in which to get him so
11 that he can actually breathe properly.

12 My concern here, listening to everybody today is
13 that, you know, we're at a point where we're talking about
14 how the standards are at a certain level, and we've begun
15 to meet those levels. Well, for me, for my child and all
16 the other people that I know that have asthma, you know,
17 if we cut back, you know, on the requirements to these
18 industries, what's going to happen to those levels? And
19 that's my concern, because ultimately at this point, you
20 know, we know that there's 21,000 cases of asthma for
21 kids, and 127,000 for adults. And the thing that doesn't
22 show here is the amount of people that actually have
23 asthma and don't really know it, don't really realize it.
24 If we cut back and allow those levels for the industries
25 here in Maine to increase, what's going to happen to the

1 healthcare system? You know, how many more people are
2 going to have to go to the hospital, how many more people
3 are going to have to have medications? Right now, crazy
4 as it sounds, but, you know I have my own business as an
5 HCH contractor, and I pay \$1,200 a year -- excuse me, a
6 month for a \$5,000 deductible insurance policy, by the
7 time that I get done, okay, I have to pay a \$30 co-pay for
8 everything that we do, plus we have to pay a certain
9 amount for any medications that we get, okay, so I never
10 actually get to the \$5,000. When I'm almost there, it's
11 almost a new year, so I have spent a lot of money just to
12 have insurance because ultimately my son's medications are
13 extremely expensive.

14 So my concern here is, and I understand what
15 they're saying about, you know, they want to move forward,
16 and they want to be able to advance their businesses, but
17 my concern here is the people here in the state. I just -
18 - as I was saying before, about the people that we don't
19 even know that actually have asthma, since I've been in
20 Raymond for 18 years, we have turned on at least a dozen
21 people that have been just going to a regular practitioner
22 and not really admitting the fact that this is asthma, and
23 those dozen people have gone to our specialist, and that
24 specialist has done all kinds of tests to figure out what
25 they actually have, and all of them are now under a

1 maintenance program, like my son is, and they're doing
2 much, much better, but again as I've said before, the
3 medications are only so good. If we cut back these
4 standards just so they can make more money, you know, what
5 is that doing for the State? What is that doing to all
6 the people that, you know, I have talked about here, the
7 148,000 individuals that have asthma that are recorded,
8 how many more do we have that are unrecorded, and what
9 does that do to our healthcare?

10 So my concern here is, is that, we start
11 dropping back because all of a sudden it seems like we're
12 doing good, what's to say that that level isn't all of a
13 sudden going to start shooting up, and once that starts to
14 shoot up, how do we put the reins on it? I mean, lets
15 look at the Clean Air Act, those major electricity
16 producing coal-fired plants down south that, you know,
17 we're we sit, it all comes up here. Okay. They knew for
18 21 years that they were going to have to meet the
19 standards, they knew that they had the right people in the
20 right places that had to be paid a little bit of money to
21 go in there and lobby against what they knew they had to
22 do in that 21 years, and they didn't do a thing about it,
23 and the people that are running these businesses, these
24 plants, you know, they don't even live in these areas,
25

1 they could care less. The bottom line here is, they care
2 about themselves and making money.

3 This isn't about money, I know that I'm not the
4 only one that has seen the pictures of China, and those
5 people that walk around outside with masks on just so they
6 can breathe properly. To me that's not what I want for
7 my, you know, grandchildren, and what have you all the way
8 down the line for generations to come. We cannot let
9 ourselves fall back now when we've actually gotten to a
10 level where we're beginning to see the difference. If
11 anything, we need to strive more forward and get to the
12 point where, you know, these standards are where they
13 should be. And certainly, you know, I still stand with
14 the Clean Air Act for the country, you now, this is
15 something that, you now, we feel more than most because of
16 where we sit, but if we fall back now, what is that going
17 to say to all the other states that have these pollutant
18 producing industries that don't really care about us.
19 These rich people -- and that's the difference, think
20 about it, they got all the money, and all we got are
21 lungs, and when our lungs are gone we got nothing. So for
22 me, and my family (emotional), we have to stand fast and
23 say, no.

24 I think that you guys have done a tremendous job
25 in monitoring what's going on, I was quite impressed. You

1 know, we don't, as regular people here in Maine, we don't
2 know about all this stuff, and I wouldn't know about this
3 stuff if it hadn't been for the American Lung Association
4 bringing us in years ago pertaining to this Clean Air Act,
5 but because of that I know more about it, and I realize
6 the dangers that we're talking about. And so for me, we
7 can't fall back, we have to keep striding forward, and
8 they'll find a way, businesses are not going to just fold,
9 they will find a way to make it through this, and they
10 need to understand how important it is to the people that
11 live in this state -- yes.

12 PRESIDING OFFICER: One more minute.

13 MR. CONNOLLY: Oh. I didn't realize I was
14 rambling so much. Listen, that's about all I have to say.
15 I just want to make sure that you understand coming from a
16 parent. Thank you.

17 PRESIDING OFFICER: Thank you. So following
18 with the order of other commenters who have signed up,
19 next is Angela Westhoff.

20 MS. WESTHOFF: Good afternoon. My name is
21 Angela Westhoff. I'm the Executive Director of the Maine
22 Osteopathic Association. I am a resident of Waterville,
23 Maine. I'm here today to present testimony on behalf of
24 Dr. Leigh Forbush who is a solo family medicine
25 practitioner in Hampden, Maine. And, Madame Chair, with

1 your permission I'm also presenting testimony, I signed up
2 twice on your list, on behalf of the Maine Public Health
3 Association. I happen to serve on the Board of Directors
4 of the MPHA as their Vice President.

5 PRESIDING OFFICER: Let me interrupt you just
6 for a moment.

7 MS. WESTHOFF: Sure.

8 PRESIDING OFFICER: I have you signed up also
9 with a Tina Harnett, so I have you signed up to represent
10 Maine Osteopathic --

11 MS. WESTHOFF: Correct.

12 PRESIDING OFFICER: -- for which I could give
13 you ten minutes --

14 MS. WESTHOFF: Yeah.

15 PRESIDING OFFICER: -- and would give you and
16 Tina Harnett a combined ten minutes for the Maine Public
17 Health Association.

18 MS. WESTHOFF: Thank you. I promise I'll take
19 ten for both organizations. Tina Harnett's not here
20 today.

21 PRESIDING OFFICER: Okay.

22 MS. WESTHOFF: I'll speak on her behalf, as
23 well.

24 UNIDENTIFIED MALE SPEAKER: (Indiscernible).
25

1 MS. WESTHOFF: Is that confusing? Clear as mud?
2 (Laughter). I apologize.

3 All right. So I'll start with the Maine
4 Osteopathic Association, my day job; how's that?

5 So Dr. Forbush is the President of the Maine
6 Osteopathic Association, we are a professional
7 organization representing about 400 osteopathic
8 physicians, an additional 500 residents and medical
9 students. Our mission is to serve the osteopathic
10 profession of the state through a coordinated effort of
11 professional education, professional advocacy, and member
12 services, in order to ensure the availability of quality
13 osteopathic healthcare to the people of this great state.

14 On behalf of his physician colleagues, Dr.
15 Forbush is submitting testimony to express concerns about
16 Maine DEP's proposal to weaken clean air requirements,
17 specifically ozone controls. As a statewide physician
18 member organization, we often testify on matters before
19 the Maine State Legislature with regard to healthcare
20 delivery, cost, healthcare quality, and a variety of
21 public health issues, however this is the first time that
22 the Maine Osteopathic Association has commented at a
23 public hearing before this body, but when we heard about
24 the proposed revisions to Maine's Clean Air Act, we felt
25 the need to express some concerns.

1 Any action that would detract from cross border
2 pollution control is concerning to us for the clear public
3 health implications associate with weakening ozone
4 controls. Smog is a serious issue that has potentially
5 devastating health effects, ozone or smog is a respiratory
6 -- can lead to respiratory discomfort, asthma attacks,
7 hospital emissions, and in some cases even death. As a
8 primary care provider, Dr. Forbush sees a large number of
9 children and adults with asthma. His patients already
10 have compromised health, and any additional respiratory
11 irritants from air pollution would only exacerbate that
12 problem. Weakening existing ozone controls will only put
13 the health of more Maine people at risk. Current trends
14 show Maine's air quality is getting worse not better, so
15 why would we ease up on efforts to clean up air pollution.

16 It is for these reasons the Maine Osteopathic
17 Association is expressing concern over the DEP's proposal
18 to revise Maine Clean Air Act State Implementation Plan
19 regarding ozone controls as it stands, we would like to
20 see the proposal withdrawn until a more thorough analysis
21 can be completed and the unintended and harmful public
22 health effects have been carefully analyzed.

23 I'll quickly just comment now on behalf of the
24 Maine Public Health Association. The representative that
25 was unable to be here today is Tina Pettingill. She is

1 the Executive Director of MPHA, an organization which
2 represent 400 public health professionals and students
3 across the state. They are committed to creating an
4 environment which sustains and improves the health and
5 wellbeing of Maine residents. Our diverse membership has
6 a common interest in the promotion and protection of the
7 public's health. MPHA works to educate decision-makers
8 and the public, we pass local and statewide policy with
9 protects us from toxins like second hand smoke, radon,
10 asbestos, and lead, and we work to bring in additional
11 funding to our state to support programs, to access
12 healthy choices, and preventative health measures. Our
13 400 members across the state work diligently every day to
14 ensure healthy outdoor environments for the people of
15 Maine to live, to work, and play, and we rely on our
16 partners at the DEP to make sure that we are protected
17 from the harms of ozone.

18 It is well known that ozone is a widespread air
19 pollutant that can lead to serious health effects, ozone
20 can lead to respiratory discomfort, severe asthma attacks,
21 hospital emissions, and unfortunately even death, all
22 serious threats to Maine people, and counter everything
23 MPHA and our public health partners work so hard for to
24 protect and preserve for our residents. DEP's own data
25 demonstrates that air quality was worse in 2012 when

1 compared to 2011, now is not the time to be easing up on
2 our efforts to clean up the air. If anything, it I time
3 to tighten the controls and get serious about protecting
4 our residents to the maximum extent possible.

5 Thank you for hearing our concerns.

6 PRESIDING OFFICER: Thank you.

7 MS. WESTHOFF: I'd be happy to take any
8 questions.

9 **(NO AUDIBLE RESPONSE)**

10 MS. WESTHOFF: All right. Thank you.

11 PRESIDING OFFICER: Thank you. Next is Ivy
12 Frignoca.

13 MS. FRIGNOCA: Good afternoon. My name is Ivy
14 Frignoca. Thank you for holding this hearing, and I am a
15 resident of Cumberland, Maine, and I'm employed by the
16 Conservation Law Foundation which is base out of Portland,
17 Maine.

18 I am here on behalf of Conservation Law
19 Foundation, which, as DEP knows, has a history of working
20 to clean up New England's air. And as has been recognized
21 by a number of speakers, ozone is a serious problem, it
22 impacts everyone, whether it's people with asthma or
23 healthy people, it impacts lung function, and in addition
24 to impacting people, it has negative impacts on the
25 environment, it damages vegetation, it reduces crop

1 yields, it increases a susceptibility to disease and
2 pests, and it stunts tree growth, among other harms. The
3 Ozone Transportation Region, or the OTR, is a major
4 achievement in reducing the harms of ozone.

5 We have two problems with the current proposal.
6 One is that, it was -- it's been put forth with a lack of
7 transparency, and a lack of adequate information to
8 evaluate the need for an exemption at this time. And I'm
9 sure you'll hear from other speakers that, it was very
10 difficult to find information about this proposal. It was
11 published in one newspaper that isn't a wide circulation
12 in Maine, and it was difficult to find on the web page.
13 If one of our members hadn't called and let us know that
14 this proposal was out there, we wouldn't have known. In
15 addition, when I went to the web page and pulled the
16 information so that I could write a letter requesting a
17 hearing, at the time the documentation that was available
18 did not include Appendix A, which would show what the
19 revisions are, and I also did not see the NOx waiver
20 petition until today, and the handouts that were available
21 in the hallway is the first time that Appendix A and the
22 NOx waiver were available to me. If they were someplace
23 else on your web page, I apologize, I simply could not
24 find them. I say that because it's really important with
25 a change like this that there is an adequate opportunity

1 for people to review the information and to have a chance
2 to comment.

3 Some of the questions that I have are that, when
4 I read the proposal, the justification for the proposal is
5 that the RACT, LAER, and VOC and NOx emission offset
6 requirements are hindering economic sustainability and
7 development in Maine, and we did hear some of that
8 testimony today about potential projects that might be
9 impacted if these provisions are kept in place. And I'm
10 wondering, has that analysis been done, has there been a
11 cost benefit analysis of projects that are being hindered,
12 and if so, if there is a cost benefit analysis or some
13 evidence or study that's DEP can point to, to support the
14 conclusion, does that analysis also assign a value to the
15 benefits of the healthier air quality, and to the
16 businesses that benefit in this healthier environment, and
17 does it to account the reductions in healthcare costs when
18 the air quality is better? And so if the rationale for
19 this proposal is to remove stumbling blocks to economic
20 sustainability, we believe that the cost benefit analysis
21 needs to be complete, and needs to consider all of these
22 other aspects, and that information should be made
23 available to the public.

24 The next question that I had is, the exemption,
25 and you heard about this as well, is in compliance with

1 the 2008 8-hour ozone standard, you've heard from some
2 people already that that standard is considered too weak
3 and not protective of human health, Maine joined with many
4 other New England and mid-Atlantic states in challenging
5 that regulation, and although a court case recently upheld
6 that standard under a rational basis review, we know that
7 EPA is working on coming up with a standard that's more
8 protective of human health. If EPA does come out with a
9 standard that is 60 or 70 ppb, then as you have heard from
10 other speakers, areas of this state will not be in
11 compliance. So we question, why now? Why is this
12 proposal being put forward now? We think that it should
13 wait until we see what the new standards are going to be
14 from EPA, and evaluate the proposal at that time.

15 Another area where there could be better data is
16 that, Maine is facing its exemption request on 2008 data,
17 and we're currently awaiting publication of the 2011
18 National Emissions Inventory, which is in draft, that's
19 also another piece of information that would make sense to
20 wait for, to see if that changes the analysis of whether
21 it makes sense to put forward this exemption request.

22 We're very concerned that if these changes are
23 approved, that when more stringent standards are put in
24 place of ozone, which we strongly believe will happen,
25 there won't be adequate pollution protections in place.

1 So we urge DEP to not put forward this request at this
2 time, and provide more and complete information to the
3 public.

4 Thank you. Do you have any questions I can
5 answer?

6 (NO AUDIBLE RESPONSE)

7 MS. FRIGNOCA: No?

8 PRESIDING OFFICER: Thank you. Next is John
9 Chandler.

10 MR. CHANDLER: Good afternoon. I'm John
11 Chandler. I'm here today as a member of the American Lung
12 Association's Maine Leadership Board. I have 40, plus,
13 years working for the Air Bureau, which by the way is two-
14 and-a-half of me makes all four of them. (Laughter).

15 I have firsthand knowledge and experience the
16 data presented by DEP used to justify the changes they're
17 proposing. I also have over 20 years of experience
18 working with the Maine Asthma Council, now the Maine
19 Asthma Coalition, and have seen the outcome of unhealthy
20 days due to ozone here in Maine. Maine does not have
21 healthy air everywhere, and ranks as one of the worst, if
22 not the worst state, for asthma problems.

23 I leave the specific health impacts to the
24 health experts that testify here today, but also draw
25 attention to the Clean Air Scientific Advisory Committees

1 findings that the current standard is not adequate
2 protection of public health. (Indiscernible) that CAASAC
3 finds acceptable is 70 ppb, well below what we are
4 measuring in Maine, and there is a strong possibility a
5 new standard will go even lower. Currently DEP issues
6 health warnings at levels of 60 ppb, values that are very
7 common in many Maine locations.

8 DEP's proposal to change the standards to allow
9 more ozone causing pollutants at this time does not
10 adequately address the unknown areas that might already be
11 in violation. Now the fact the ozone concentrations are
12 increasing and rapidly approaching the current standard
13 with less than 1 ppb currently as a buffer. There is also
14 a high probability that a new standard will be adopted
15 that Maine is definitely not meeting.

16 The proposal will make air quality worse. This
17 proposal is a step in the wrong direction for public
18 health, and stands in stark contrast that DEP's
19 longstanding history of ensuring a healthy environment for
20 Mainers. And here it gets sticky because much of my
21 presentation was base on interactive slides I'd
22 anticipated putting up. As you folks know, your
23 presentation is very effective as you do that, you have
24 spoken about why you want to do it, I'm trying to say why

25

1 you shouldn't do it, I do not have the same opportunity,
2 I'll voice my concern here.

3 My first map would have been showing the OTC
4 counties with preliminary ozone design values. And design
5 values, essentially what EPA looks at to see if you're
6 meeting the standard or not. And they look at, basically,
7 the three-year periods and use the fourth highest and
8 average those. Now, we show here that in the Kennebunk --

9 UNIDENTIFIED FEMALE SPEAKER: (Whispers)
10 (Indiscernible).

11 MR. CHANDLER: -- yeah, the Kennebunkport area
12 that you're 74. I should point out that in 2010 you were
13 at 72, 2011 you were at 72, 2012 you're at 74, and 2013
14 you're at 74, and even gotten worse since 2012. The
15 concern I also have is that one of the key monitoring
16 sites that we had along the coast to show what the impacts
17 were was at Small Point. This monitor constantly showed
18 numbers similar to Kennebunkport, and leads you to
19 recognize that between Cape Elizabeth and Port Clyde, you
20 have a same -- there's some....

21 (AUDIO CHANGE)

22 MR. CHANDLER:EPA'S modeling for ozone also
23 corroborates the fact that those concentrations are
24 similar, and there you are bumping into the standard with
25 less than 1 ppb in those areas. I also would point out

1 that the concern I would have would be similar to
2 concentrations possibly found heading up towards
3 Auburn/Lewiston area. We had a site in Pownal originally
4 that showed some high numbers, we moved that because we
5 were chasing a 1-hour standard, we never really went back
6 there to reaffirm that we were meeting the 75, we said,
7 oh, no problem. But now the numbers in Kennebunkport
8 approaching 75, you got to ask yourself, what are we
9 seeing west of Portland heading up north into
10 Auburn/Lewiston area? That's a good question.

11 The other maps I would have presented, a dozen
12 of them, they say a picture's worth a thousand words,
13 well, I -- it would take 12,000 words to be able to
14 describe that one. (Laughter). But they essentially go
15 back through all the days that you had exceedances, which
16 are unhealthy days, in 2011, '12, and '13, that basically
17 show that there is air transport that goes over Maine,
18 that picks up Maine's emissions, and takes them either to
19 those sites, or possibly inland to other sites. It also
20 shows very definitely there's a flow that would be
21 impacting Small Point, which leads you back to the --
22 wondering what you really have for Small Point
23 concentrations.

24 And let's go back to -- okay, and also I found
25 out that when you're covered by the ozone transport

1 requirements, it didn't really make much difference on
2 those sites because you're going to do what you're going
3 to do, you aren't going to increase problems because you
4 put (indiscernible) offsets on, now you're talking about
5 reducing the standards so you could have a potential
6 increase in that. And the rationale for that is also
7 north of Portland. I hate to rush, but I got to be able
8 to do the 12,000 words.

9 We established a site in Durham trying to pick
10 up what the numbers were, that site was really not to pick
11 up what was going north from Portland area, and so forth,
12 into Auburn/Lewiston, that was to pick up what was going
13 from there into Gardiner to potentially track that, plus
14 also the Bowdoinham site, and the Charles Point at one
15 time to be able to find out what was going up the river
16 into Gardiner 'cause we'd have some high numbers there we
17 were concerned with. But you don't really have anything
18 that's going to define what's going on in Auburn/Lewiston
19 area, especially if you go to the 70 ppb standard.

20 And again, they're going to show -- all those
21 maps are going to show transport that could be coming from
22 Maine to either sites that are measuring violations, i.e.,
23 right there in Small Point, real big one, or further
24 inland, and every time you have an increase in precursors,
25 you're going to have an increase in the area that the

1 precursors are going to cause ozone to be both higher, and
2 cover a larger area that you now have concerns with.

3 Also, I'm going to touch, basically, on the LER
4 for large sources, DEP is proposing to do away with, it's
5 very important to air quality. It ensures that a large
6 source license (indiscernible) truly receiving advance
7 methods of control and have a small impact on the downwind
8 area is technology achievable. Good control is the
9 backbone of maintaining air quality is especially
10 important where air quality is at or near the standards as
11 parts of Maine currently are. DEP is of the position that
12 BACT is requiring all new sources independent of air
13 quality status will be as affective as LER for ozone, this
14 is not the case. A review of EPA's RACT, BACT, LAER
15 clearinghouse -- one minute?

16 PRESIDING OFFICER: No. (Indiscernible).

17 MR. CHANDLER: Oh. Okay. Sorry. (Laughter).
18 Getting jumpy here. (Laughter).

19 -- at least -- clearinghouse shows what the
20 listing shows throughout the country show a very large
21 range for BACT, woo ooo, pretty big, where LER is either
22 unique or better than RACT, or at least at the very top of
23 RACT. And example of how important keeping LER is, comes
24 from on of DEP's licenses from Portland pipeline's
25 proposed VOC incinerator (indiscernible) fumes from

1 loading crude oil into marine tank vessels. Since the
2 source was 39 tons of VOC per year, one ton less than the
3 40 tons that would require LER, only BACT was required.
4 Controls required include a 98 percent destruction of
5 efficiency, and 10 percent opacity limit is supported by
6 the BACT clearinghouse. If LER had been required, I
7 expect control would have been like 99.9 percent, and
8 closer to zero percent opacity. Since only BACT and not
9 LAER was required, this is what the company proposed, and
10 did -- or would do. This would also be the case for
11 sources that are larger enough to require LAER, but will
12 not based on your suggested proposals.

13 Many of the Maine sources do not have -- and not
14 a lot of -- I'll back up here a second and recognize -- a
15 recognize, Marc, that was not necessarily true BACT
16 requirement, that was a MAC requirement, which meant that
17 when they looked at the -- MAC is -- controls your
18 hazardous air pollutants, and what that did, it basically
19 put a ceiling -- or a floor where you couldn't go below
20 that for the BACT clearinghouse, you had to pick here, but
21 even MAC is not equate to LER, and where do you start
22 putting LER on there equates to -- BACT on -- equates to
23 the LER, is it at 40 tons, 41 tons, 50 tons, a hundred
24 tons, there's no surety that you're going to be requiring
25

1 that, and at what point you're going to be requiring it on
2 that.

3 PRESIDING OFFICER: Now, you (indiscernible).

4 MR. CHANDLER: Okay. Many of Maine's sources do
5 not have national LER listings available. Components of
6 the process have back listings, this leaves Maine free to
7 make the LER determination. A (indiscernible) LER, this
8 one shows the values, at least the top end of the BACT,
9 will be used. Consultants and the companies need to know
10 ahead of time the control will be strict and
11 (indiscernible) BACT is not appropriate. If DEP's
12 contention is BACT is as controlling as LER is true,
13 keeping LAER should not impose an additional problems and
14 remove the doubt that truly the best control will be
15 required.

16 I'll conclude by pointing out, there's three
17 areas of concern, 1) you're trying to go -- you're trying
18 to relax standards and increase emissions where you could
19 possibly be violating standards; 2) you're already bumping
20 that standard, you're right on the knife's edge, you're
21 74.33, or somewhere in there, right, Tom, he'll tell you
22 the exact number, that's getting pretty close to what you
23 are, you don't have any freeboard, it's gone. The other
24 thing is, you know, CAASAC's coming down with a 70 ppb
25 standard recommendation that in all probability is going

1 to take place. Also the trend that you're looking at for
2 the Kennebec -- Kennebunkport site is showing that if you
3 continue at the rate you've been doing for the last four
4 years, you're going to be violating next year or the year
5 after. You're not in a position where you can say you
6 have clean air, and this proposal that you're making is
7 premature until you know more about that site, and all the
8 sites, and also what is CAASAC going to come out with, and
9 what is EPA going to accept. You're putting Maine's
10 health at risk. And I thank you, I'd also like to make
11 sure it's entered into the record, the five year
12 maintenance (indiscernible) plan that we put together, the
13 Portland pipeline license, and also include references to
14 the EPA RACT, BACT, LAER clearinghouse. And I think I
15 just made it wrong so you don't have to get up and talk.
16 (Laughter). Again, I apologize for going through this
17 fast. There should have been some workshops ahead of this
18 to talk about this because an awful lot of what has to
19 happen is interactive, and this is not really an
20 interactive process. I appreciate your time, though.

21 PRESIDING OFFICER: Thank you.

22 UNIDENTIFIED MALE SPEAKER: Good job
23 (indiscernible).

24 PRESIDING OFFICER: I had earlier when we began
25 the proceedings, suggested that we would take a break at

1 3:00, I have four individuals who remain signed up to
2 provide comments, in the absence of any pressing need
3 otherwise, I would suggest that we simply continue with
4 that. Next is Pete Didisheim.

5 MR. DIDISHEIM: Good afternoon. Hearing Officer
6 Loyzim, and Marc Cone, and other DEP Air Bureau staff. MY
7 name is Pete Didisheim. I am the Advocacy Director for
8 the Natural Resources Council of Maine, and I appreciate
9 this opportunity to testify in opposition to DEP's
10 proposal that Maine be exempted from certain air pollution
11 control requirements established by the 1990 Clean Air Act
12 amendments for the 13 states that comprise the Ozone
13 Transport Region.

14 At the outset, let me just concur with comments
15 made in the technical presentation at the front end, that
16 air pollution regulation is complicated, and the DEP staff
17 has done an extraordinary job over the decades, and we
18 appreciate both what you have done, what the Legislature
19 has done in passing, adopting important laws, and also the
20 work that has been done by Maine businesses to comply with
21 those statutes. It has not been an easy path, but it's
22 been an important path, and we have cleaner air as result
23 of it.

24 Along with others who have testified today, NRCM
25 appreciates that you are holding this public hearing

1 because these proposals do raise very significant
2 questions about Maine's involvement in the regional air
3 pollution control strategies that have benefited Maine
4 over the last 23 years.

5 You've made two requests to the EPA, the first
6 is NOx, a statewide NOx waiver that's not been made
7 before, that's a statewide request to be relieved of the
8 requirements of the OTR for a very significant ozone
9 precursor; the second proposal is with volatile organic
10 compounds, also an ozone precursor, of course, but also
11 can contain toxic pollutants that pose a range of other
12 health risks to the public.

13 And we have both process concerns and substance
14 concerns with your proposal. As has been mentioned by a
15 previous individual, it was not easy to find out about
16 these proposals. The NOx waiver, although it was
17 submitted to the EPA October 13, 2012, to my knowledge the
18 actual proposal itself is being made available today for
19 the first time, 11 months later. I also have never seen
20 that before, and it's a little awkward to be here at a
21 public hearing on a proposal like this that was not made
22 public before today. It was also difficult to find on
23 your website what the VOC SIP provision proposal was, so
24 that was also difficult to identify. In Appendix A of my
25 testimony, I describe some additional concerns that we

1 have about the public notification process that you used
2 for this. We do urge DEP to review what you did to notify
3 the public about these proposals, and consider the
4 significance of these proposals in light of the importance
5 of Maine people being informed of an opportunity to bring
6 their perspectives forward regardless of what side of the
7 issue they are coming from.

8 Moving on to the substance, NRCM opposes the
9 proposed VOC revision and the statewide NOx waiver because
10 we believe Maine has more to lose than to gain through
11 these proposed changes.

12 As has been pointed out, the existing ozone
13 standard is not protecting Maine people. We believe it to
14 be a mistake for Maine to seek relief from OTR's
15 regulations on ozone precursors at a time that we know
16 that the federal ozone standard is not sufficiently
17 protective of public health. The DEP request, of course,
18 is to the 2008 8-hour ozone National Ambient Air Quality
19 Standard, which is set at 75, but the EPA has concluded
20 that the standard should be revised to a lower level based
21 on extensive review of the science. It's important, as
22 was pointed out by Mr. Cone, to follow the science; this
23 is also important science that you need to follow. EPA's
24 Clean Air Act Advisory Council unanimously recommended a
25 new 8-hour average ozone standard within the range of 60

1 to 70 ppb, and was pointed out, Canada to our north has a
2 standard of 65 ppb. And this was not a recommendation
3 that was made just once, it was made by this very
4 important EPA science advisory board unanimously four
5 times to the EPA Administrator over the last decade, 2006,
6 2007, 2008, 2010.

7 The body of science shows that the current ozone
8 standard is not protecting children, senior citizens,
9 people with respiratory ailments, such as asthma; this is
10 particularly relevant for Maine, which has some of the
11 highest asthma rates in the country, as has been pointed
12 out, and as is experienced by people in this room, and we
13 have the highest average age of residents in any state.
14 These two factors, Maine's high asthma rates and our aging
15 population, should make Maine, DEP, and lawmakers extra
16 cautious about proposing a weakening of air pollution
17 control requirements on facilities based on an ozone
18 standard that is currently not protecting these population
19 subgroups.

20 By every indication, EPA is moving forward with
21 a rulemaking to change the 8-hour ozone standard to 70
22 ppb, or possibly lower, and as has been pointed out, data
23 suggests an shows that at least two monitoring sites in
24 Maine would have exceeded the 70 ppb in York County,

25

1 Hancock County, so it's clear that if that standard is
2 adopted we would not be in attainment.

3 With this in mind, NRCM believes it's not sound
4 policy, not based on the science, to opt out of NOx and
5 VOC controls that could be important elements of Maine's
6 strategy to regulate ozone precursors under a stronger
7 federal ozone standard. Any permits granted during a
8 period of waivers would result in increased in-state
9 emissions without the benefit of offsets making it more
10 difficult to secure emission reductions in the future.

11 We believe that Maine has much more to lose than
12 to gain through this action. The OTR is partly
13 responsible for the clean air benefits that we have
14 achieved over the last 20 years. Since 1990, Maine has
15 adopted a clean hands strategy when it comes to the OTR.
16 We've abided by these OTR requirements while also
17 insisting that upwind states reduce pollution that ends up
18 jeopardizing the health of Maine people. Because Maine is
19 at the pipeline, the tailpipe, if you will, we have the
20 most to gain, and we have gained a lot, through this
21 multi-state approach. We also have the most to lose if it
22 were to unravel.

23 Over the past 20 years air quality has improved
24 across the OTR states, including in Maine. We still
25 experience too many high ozone days, notices were issued

1 by DEP this summer, as everybody is aware, and as
2 mentioned earlier, a number of Maine counties would not be
3 in attainment of a new standard. But Maine's air quality
4 has improved in no small part because of the OTR. More
5 importantly, other states have done much more to reduce
6 their emission over the past 20 years than has Maine.

7 If you look at figures 1 and 2 of my testimony,
8 it shows that nearly every state in the 13-state OTR has
9 reduced its NOx and VOCs by a higher rate relative to its
10 1990 baseline than has Maine. These data covering the
11 periods 1990 to 2008, show that upwind states have
12 shouldered a much more significant burden to reduce air
13 pollution from their regulated entities that meet the
14 requirements of the OTR than Maine has, and this has been
15 all to the benefit of Maine, because we depend on those
16 states reducing their pollution that comes to Maine.

17 If the ozone standard is changed to 70 ppb, we
18 will depend on the actions of those upwind states even
19 more than we do today. If a warming climate increases the
20 formation of ozone, creating more high ozone days, then we
21 will depend on the actions of those upwind states more
22 than we do today. We have received very significant
23 benefits through the OTR without much burden, but now we
24 seem to be saying through DEP's proposal that we don't
25 care about regional air pollution control strategies any

1 longer, we essentially want out. This is a mistake, we
2 believe it's short-sited, and it could come back to bite
3 us if it leads to an unraveling of the OTR.

4 One final point, and it's really a question, the
5 DEP proposal to EPA states that this is a proposal to
6 "temporarily remove the regulatory provision" for VOCs,
7 but there's no definition of what is meant by
8 "temporarily". As a result, it is totally unclear what
9 DEP is asking for; is this offset intended to be basically
10 permanent, but you just haven't said so? Is it just for a
11 period of time to allow a few permits to go through? What
12 does DEP envision would be the mechanism for reverting
13 back to the OTR requirements? And how would this offset,
14 if granted, be superceded by an EPA ozone standard, if
15 and/or when, such a standard were imposed?

16 In conclusion, this DEP proposal violates the
17 concept of a level playing field that has been the
18 cornerstone of clean air policy throughout the region.
19 Maine has benefited from that level playing field. We
20 have a very high incidence of asthma, we have a very
21 significant elderly population, this does not seem to be
22 the time to be implementing the proposals that you're
23 suggesting that clearly would result in more emissions
24 from these regulated facilities both in-state and possibly
25 upwind from us if the OTR unravels than otherwise would be

1 the case. And we do urge you to withdraw this proposal
2 and to stick with the OTR requirements as they are today.
3 Thank you.

4 PRESIDING OFFICER: Thank you. Next is Suzanna
5 Lasker.

6 UNIDENTIFIED FEMALE SPEAKER: She just got here
7 just in time. Hold on.

8 MS. LASKER: Hi. My name is Suzanna Lasker. I
9 moved here to Jefferson, Maine, 16 years ago, and I moved
10 from Los Angeles, which has, you know, terrible, terrible
11 smog problems. And I said to someone, I said, oh, boy,
12 the air here is so great, and they went, no it isn't.
13 They said, we get all this crap from Ohio. I don't know
14 why they chose Ohio, but your air is a lot better. And
15 thank you for your report. I understand a lot of it, but
16 not all of it, I'm not an engineer.

17 I have asthma. I've had it for about 20 years.
18 I have had some attacks where I end up in a hospital, and
19 they nebulizer me, and then I have to do a little rehab,
20 and they pound on your chest or your back. There are
21 certain things that affect my breathing, one is, if I have
22 a bronchial infection, you know, I have a real problem.
23 So I do get my flu shot to make sure I'm going to have the
24 flu. Aerosol cleaners, perfumes, that kind of thing, you
25 know, I can feel it. What it feels like is there's a

1 tightening right here (indicating), and it feels like I
2 can only draw air just from about here (indicating).
3 That's what it feels like, right here (indicating). I
4 can't go on mountain tops was there's very thin layer --
5 you know, oxygen. That I've learned. I was in Aspen when
6 I got my first asthma attack, and when I came down, I went
7 zoop in the airplane right to the hospital. And ozone --
8 oh, I stay away from cleaners, I stay away from mountain
9 tops -- I have exercise induced asthma also, which means
10 that I am limited in my activities. I really can't jog,
11 it would be pathetic.

12 And I can describe -- I remember one time, it
13 was a gorgeous Maine day, and I was picking blueberries,
14 and the blueberries were going up a hill, and I picked,
15 and I picked, and -- but it was very hot. And I said, oh,
16 I'm going to go pick some up there, so I started going up,
17 and I start getting really breathy, and I get out of
18 breath, and I get out of breath, and I thought, oh, I'm --
19 I'll just go to the top. Well, about -- the thing that my
20 body needed was oxygen. We all need that, just the other
21 "O" word, ozone/oxygen. And what happens to me is that, I
22 lost a lot of muscle control, and I got like a gray-out,
23 and I did have to lay down, and spend some time regaining
24 my breath, and getting the oxygen. The oxygen is so

25

1 important for all of us. We all know we have to have to
2 water, we have to have food, we have to have oxygen.

3 I pretty much control my asthma, I might go down
4 to Damariscotta, and some you say, how are you, I say, oh,
5 it's a bad air day. And other people say, oh, yeah, I
6 know. 'Cause they have the same problem. I just take it
7 easier, I walk slower, I just -- I'm slower. And that's
8 pretty good. I'm grateful that my condition is the way it
9 is right now.

10 But I have a brother, he moved to Maine here, 30
11 years ago. He fell in love with Maine for -- he became an
12 arc welder, and he worked in paper mills, he worked in saw
13 mills, and he did help put together Maine Yankee.
14 Unfortunately, he got asthma, emphysema, and then it
15 progressed to COPD, which is the worst. Now all these
16 conditions are not healable. You may be able to stabilize
17 some of them, but they're eventually going to get worse,
18 and he got worse. What he did here, he had an organic
19 farm, he got some horses, some Belgians, and plowed the
20 fields with the Belgians. And one day he said, I have to
21 get rid of the horses, and I said why? He said, I can't
22 control them anymore. I can't breath. I don't get enough
23 oxygen. So he had to get rid of the horses. And
24 eventually he decided to -- he was an artist, and decided
25 to devote the rest of his life to art. And he built -- he

1 had his sons build a little studio above -- on a second
2 story, and he'd climb up and paint, and climb up and
3 paint. This went on for a few years, and then one day he
4 said, I can't do the stairs anymore. So he had his sons
5 build an elevator where he could go get in the elevator
6 and ride up and paint. And he was walking to the studio,
7 and then he couldn't walk anymore, so he drove his
8 tractor. And then one day he just said, that's it. Last
9 year he's in his house, there are chairs set around so
10 that if he got up he could walk to a chair, gain his
11 breath, walk to another chair, gain his breath. He was
12 always on oxygen. You could hear this machine go umpf,
13 umpf all the time. He died this October, and I'm getting
14 emotional. But I saw the worst of what happens when
15 somebody has this disease, and what air pollution does
16 contribute to it, and that's why I'm here speaking.

17 I'm also a member of 350 Maine and 350.org, and
18 I think your jobs would be so much easier when we change
19 over from fossil fuels to clean energy that's removable.
20 You're, you know, you'll have completely different
21 problems.

22 Well, that's about it. Asthma -- oh, oxygen, I
23 hope you're all breathing well. I hope nobody's having
24 any problems. I just want to be healthy, and I want to
25 live in Maine for a long time. Thank you.

1 PRESIDING OFFICER: Thank you. Next is Glen
2 Brand.

3 MR. BRAND: (Indiscernible).

4 PRESIDING OFFICER: Thank you.

5 MR. BRAND: Good afternoon. My name is Glen
6 Brand, and I serve as the Director for the Sierra Club's
7 Maine Chapter.

8 On behalf of the more than 8,000 supporters of
9 the Sierra Club in Maine, I am testifying in opposition to
10 Maine DEP's proposal to allow Maine to opt-out of
11 important pollution health standards for smog, under the
12 Ozone Transport Region agreement.

13 We oppose DEP's request to terminate the
14 application of the New Source Review Requirements for any
15 major, new, or modified stationary sources for NOx and VOC
16 because if improved it would, in our view, have far
17 reaching implications for public health and environmental
18 quality in Maine.

19 It is a troubling fact that Mainers continue to
20 suffer from smog from in-state and cross-border
21 pollutants, especially in our summers. Maine's Department
22 of Health and Human Services reports that Maine has some
23 of the highest rates of asthma in the country, with
24 approximately 10 percent of all Maine adults, and 10.7
25 percent of Maine children suffering from asthma.

1 According to the American Lung Association
2 2013's State of the Air Report, hundreds of thousands of
3 Maine residents suffer from smog pollution, including more
4 than 23,000 children, and 127,000 adults with asthma,
5 nearly 84,000 with COPD, 377,000 with cardio vascular
6 disease, and nearly 103,000 with diabetes. In addition,
7 more than 269,000 young people under the age of 18, and
8 216,000 seniors in Maine, those over age 65, are
9 especially vulnerable to harmful health impacts of smog
10 pollution.

11 Given the ongoing health threat of smog to Maine
12 families, we believe it would be a very serious mistake to
13 weaken the State's ability to control sources of smog and
14 pollutants. By helping to control and minimize in-state
15 and out-of-state air pollution, the current OTR standards
16 have played an important role in helping Maine to meet or
17 barely meet the current 75 ppb, 8-hour National Ambient
18 Air Quality Standard for Ozone.

19 Rather than looking for ways to weaken air
20 quality standards, we strongly believe that Maine DEP
21 should be preparing now to meet the forthcoming stronger
22 federal ozone 8-hour standard likely to be set, as been
23 mentioned many times here, between 60 and 70 ppb.
24 According to 2010 to 2012 EPA data, two monitoring sites
25 in Maine exceeded the 70 ppb standard, which may put

1 Hancock and York counties into attainment -- into
2 nonattainment.

3 The Sierra Club is also concerned that DEP's
4 proposal could undermine the OTR as an effective
5 instrument to control cross-border pollution throughout
6 the Northeast Region. As DHHS points out, "Maine is
7 geographically located in what is commonly called the
8 tailpipe of the U.S., environmental pollutants carried by
9 the Gulf Stream and air patterns lead to high levels of
10 airborne particulate, smog, smoke, and soot. If other
11 states sought and were granted exemptions to the OTR, it
12 would be much more difficult for Maine to meet the
13 anticipated stronger ozone health standards." Some have
14 argued that these exemptions are needed to boost economic
15 development, but there is no evidence, at least that I
16 have seen that, the OTR hinders industry or job creation.
17 There are anecdotes, but no evidence that I've seen, or
18 that the OTR makes it more difficult for Maine's paper
19 mills to convert from oil to natural gas for energy. I
20 understand that Verso's Bucksport Mill was not required to
21 purchase offsets when it converted to natural gas because
22 the change was from a dirtier fuel oil to a cleaner fuel,
23 natural gas.

24 In summary, Sierra Club Maine urges DEP and the
25 U.S. EPA to reject the proposed exemptions to the OTR for

1 Maine. We believe that DEP's proposal is short-sited and
2 counter productive, and that it would make it more
3 difficult for Maine to meet current and future air quality
4 standards. We also believe that both agencies have the
5 responsibility to uphold the integrity of the OTR in order
6 to protect public health in Maine and throughout the
7 Northeast. Thank you.

8 PRESIDING OFFICER: Mr. Brand, there have been a
9 number of references from commenters this afternoon
10 regarding a pending EPA proposal regarding a revised ozone
11 standard, what would be your realistic prediction as to
12 when we should expect that such a standard would go into
13 effect?

14 MR. BRAND: Well, on the U.S. EPA website, I
15 know that we're anticipating in 2013 some final
16 recommendation for the U.S. EPA on that timetable. So
17 we'll find that out. But it is reasonable to expect it to
18 be introduced in 2014, 2015.

19 PRESIDING OFFICER: And would that be as a
20 proposal or a final?

21 MR. BRAND: Well, that would be a proposal.
22 That would be a proposal. So as you know, these -- the
23 history of this is that each of these standards is fought
24 bitterly by, unfortunately, by folks who have retarded our
25 progress, has delayed the implementation of stronger

1 standards, and of course, that's probably going to happen.
2 But that's not necessarily going to be the case. It could
3 also be the case that the scientific evidence presented by
4 EPA would -- and strong support from the Obama
5 Administration could make this happen faster. But that's,
6 you know, that's me guessing.

7 PRESIDING OFFICER: Thank you.

8 MR. BRAND: Sure.

9 PRESIDING OFFICER: The last name I have is
10 Jessa Barnard.

11 MS. BARNARD: Good afternoon. I will try not to
12 take too much of your time as the last speaker here.

13 My name is Jessa Barnard. I live in Winthrop,
14 Maine, and I'm the Associate General Counsel for the Maine
15 Medical Association. I'm speaking this afternoon in
16 opposition to the proposal before you today.

17 The Maine Medical Association is a professional
18 association representing more than 3,900 physicians,
19 residents, and medical students in Maine, and our mission
20 is to support Maine physicians, advance the quality of
21 medicine in Maine, and promote the health of all Maine
22 citizens. I'm also here this afternoon on behalf of our
23 Public Health Committee, this is a group of over 30
24 physicians particularly committed to addressing issues of
25 prevention, and promoting the health of Mainers.

1 Two years ago our physicians adopted a policy
2 regarding clean air and in support of the Federal Clean
3 Air Act. That policy was based on the following facts.
4 Numerous studies are finding deleterious health effects
5 from air pollution levels once even deemed safe, those
6 effects include exacerbation of chronic lung disease and
7 asthma, heart disease, strokes, and premature death. And
8 Maine's geographic location makes its citizens susceptible
9 to air pollution generated in other states, in addition to
10 that from within the state, resulting in half of its
11 citizens living in counties with unhealthy air.

12 Those same reasons lead us to be here today to
13 oppose efforts to weaken the State's regulation of ozone.
14 Some areas in Maine are just barely in compliance with the
15 existing ozone standards, yet we've already heard this
16 afternoon, that at the federal level, the Environmental
17 Protection Agency has recommended that current standards
18 be strengthened to more adequately protect public health.
19 The Maine DEP should not be limiting its ability to use
20 all the tools available to ensure Maine's air will get
21 cleaner, not more polluted, or risk being out of
22 compliance with existing or strengthened federal
23 standards. For the above reasons, the Maine DEP should
24 withdraw this proposal until all unintended consequences
25 are considered.

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Thank you for your time in considering the views of Maine physicians.

PRESIDING OFFICER: Thank you. With that, I would like to thank everyone who has attended this afternoon, particularly those who have provided comment, and would reiterate that the public comment period remains open until September 20th. Please do not hesitate, even if you have already supplied comments, if there's additional information you wish to supply, please do so by that deadline.

OFF RECORD

(Whereupon, the above-named hearing was concluded.)

ATTEST:

I hereby certify that the foregoing is a true transcript of a recording of a hearing held in this case.

Tracy E. Blanchette, Transcriber

Tracy E. Blanchette

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