



JANET T. MILLS
GOVERNOR

005
STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
ACTING COMMISSIONER

Memorandum

To: Board of Environmental Protection

From: Jeff Crawford, Director, Air Bureau

Date: January 7, 2021

Re: Chapter 100: Definitions Regulation

The Department is recommending that the Board adopt amendments to the existing 06-096 C.M.R. Chapter 100: Definitions Regulation. This rule establishes definitions for terms used in other rules administered by the Air Bureau.

On February 6, 2020, the Maine Board of Environmental Protection voted to authorize the submission on behalf of the Governor of a petition to the Environmental Protection Agency (EPA) Administrator, pursuant to Section 176A of the Clean Air Act (CAA), to remove certain portions of Maine from the Ozone Transport Region (OTR).

Section 176A(a)(2) of the CAA provides that the Administrator may remove any state or portion of a state from the OTR whenever the Administrator has reason to believe that control of emissions in that state or portion of a state will “not significantly contribute to the attainment of the standard [the ozone National Ambient Air Quality Standards (NAAQS)] in any area in the region.” The Department’s Section 176A(a)(2) petition is based on a technical demonstration that emissions from northern, western, and far eastern Maine are not significant contributors to nonattainment of the ozone standard in other states, nor do they interfere with maintenance or attainment of the ozone standard in those Maine municipalities that will remain in the OTR. The petition was submitted on February 24, 2020, and is currently being reviewed by EPA.

During its review of the Department’s petition, EPA notified the Department that amending the definition of “Ozone Transport Region” in the Department’s Chapter 100: Definitions Regulation is necessary to facilitate processing of the Department’s petition because the current State Implementation Plan-approved definition includes the entire state of Maine:

111. Ozone Transport Region. "Ozone Transport Region" (OTR) means that part of the State of Maine included in a region of states comprised of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, established by Section 184 of the CAA for the control of interstate ozone air

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

pollution. **For the State of Maine, the Ozone Transport Region includes all of the counties in the State.** (emphasis added)

Because EPA approval of the Department's Section 176A Petition would reduce the geographic extent of the OTR in Maine, the Department proposed to revise the last sentence of this definition to eliminate the potential conflict with the OTR as modified through the petition process.

Public notice of this rulemaking was initially published on October 16, 2020, to comply with CAA notice requirements, and on October 28, 2020, to comply with the Maine Administrative Procedure Act notice requirements. The Board held a public hearing on the proposed rulemaking on November 19, 2020, and the period for submitting public comments closed on November 30, 2020. The Department received one comment from an interested person or organization prior to the close of the comment period. This comment and the Department's response are set forth in the Basis Statement and Response to Comments included in the Board materials. The Department is not proposing any changes to the draft rule.

The following materials are enclosed with this memorandum:

- Clean copy of the rule with all proposed changes incorporated
- Copy of the rule with proposed changes shown in legislative mark-up
- Basis statement and response to comments
- Copy of the comment received during the comment period

Regulatory Framework:

General statutory authority for Chapter 100 is provided by 38 M.R.S. § 585-A.

Requested Action:

The Department recommends that the Board adopt the proposed amendment as originally proposed.

Estimated time of agenda item:

10 minutes