UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

January 9, 2017

Marc Cone
Director, Bureau of Air Quality
17 State House Station
Augusta, Maine 04333-0017

Dear Mr. Cone:

On December 22, 2016, we received an email from the Maine Department of Environmental Protection (Maine DEP) notifying us that a pre-rulemaking draft of Maine's Chapter 101: Visible Emissions Regulation was available for public review. Maine DEP developed draft revisions to its existing Chapter 101 in response to EPA's June 12, 2015 State Implementation Plan (SIP) Call (www.gpo.gov/fdsys/pkg/FR-2015-06-12/pdf/2015-12905.pdf), which required some states to revise certain regulations, including Maine's Chapter 101, to conform with EPA's startup, shutdown, and malfunction (SSM) policy.

On December 30, 2015, we provided comments to Maine DEP on the state's existing Chapter 101, which was submitted to EPA in May 2003 for incorporation into the Maine SIP. In this comment letter, we outlined potential approvability issues related to the SSM SIP Call, especially inclusion in Chapter 101 of exemptions from continuous emissions limits.

We have reviewed the December 2016 draft revision of Chapter 101. In the Enclosure, we note that, although exemptions from continuous emissions limits have been removed, the draft regulation contains alternative emissions limits that need to be justified. EPA will work with Maine DEP to address this issue so that Maine can successfully meet the SSM SIP call.

If you have any questions, please contact Alison Simcox at 617-918-1684.

Sincerely,

Anne Arnold

Anne Arnold, Manager
Air Quality Planning Unit

Enclosure

cc: Jane Gilbert, ME DEP

Enclosure

EPA Comments on Maine's December 2016 Draft Revisions to Chapter 101: Visible Emissions Regulation

1. In its December 2016 draft revisions, Maine DEP has removed the exemptions from continuous emissions limits contained in the state's existing Chapter 101 regulation. However, the draft rule contains numerous alternative emissions limits for which a justification must be included in the Chapter 101 SIP revision that Maine DEP will ultimately submit to EPA for approval. As described in EPA's June 12, 2015 startup, shutdown, and malfunction (SSM) SIP Call (see www.gpo.gov/fdsys/pkg/FR-2015-06-12/pdf/2015-12905.pdf), any alternative emission limit needs to be justified according to the following criteria:

   (1) The revision is limited to specific, narrowly defined source categories using specific control strategies (*e.g.*, cogeneration facilities burning natural gas and using selective catalytic reduction);

   (2) Use of the control strategy for this source category is technically infeasible during startup or shutdown periods;

   (3) The alternative emission limitation requires that the frequency and duration of operation in startup or shutdown mode are minimized to the greatest extent practicable;

   (4) As part of its justification of the SIP revision, the state analyzes the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation;

   (5) The alternative emission limitation requires that all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

   (6) The alternative emission limitation requires that, at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures; and

   (7) The alternative emission limitation requires that the owner or operator's actions during startup and shutdown periods are documented by properly signed, contemporaneous operating logs or other relevant evidence.

   Therefore, Maine's proposed rulemaking of revisions to Chapter 101 should include a narrative or Technical Support Document which justifies the alternative limits contained in the current draft in Sections 2(A)(1)(b), 2(A)(5)(a), 2(A)(5)(b), 2(A)(6), 2(B), 2(C)(1), 2(D), 2(E)(1), 2(E)(2), 2(F)(1) and 2(F)(2). For an example discussion of an alternative limit in relation to the above criteria, see EPA's previous approval of revisions to Connecticut's visible-emissions regulation (www.gpo.gov/fdsys/pkg/FR-2014-07-16/pdf/2014-16469.pdf).

Finally, we note that the alternative limits of up to 80 percent contained in the draft Sections 2(A)(1)(b), 2(A)(5)(b), 2(E)(2) might be challenging for Maine DEP to justify in relation to the above criteria.

2. Section 2(E)(2) of draft Chapter 101 states, "Periods of start-up, shutdown and malfunctions are included for the purpose of calculating block averages under this subsection." We recommend that Maine DEP remove this sentence because it does not appear elsewhere in the regulation, which may imply that SSM periods are not included in block-average calculations in these other subsections.

3. Section 3 of draft Chapter 101 states, "Sources may apply to the Department (Maine DEP) to amend their air emission license to establish alternative emission limits for start-ups and shutdowns of boilers or other emission units." This provision includes "director's discretion" which EPA cannot approve into a state's SIP. Thus, Maine DEP should revise this section to state that such alternative emission limits must also be approved by EPA.

4. Maine's existing Chapter 101 was submitted to EPA as a SIP revision on May 22, 2003. We recommend that Maine DEP withdraw this SIP revision that is currently pending before EPA as the state works to update the rule to comply with the SSM SIP call.

5. As noted above, Maine's existing Chapter 101 is currently pending before EPA. However, an earlier version of the rule was previously approved into the SIP. (See 47 FR 6829; February 17, 1982.) Therefore, Maine's future SIP submittal of its newly adopted Chapter 101 should also include a Clean Air Act Section 110(l) anti-back sliding demonstration that compares the newly adopted rule to the previously SIP-approved version of the rule. Presumably, it should not be too difficult to demonstrate that the new version of Chapter 101 is more stringent, assuming the newly adopted rule no longer includes the exemptions that were the subject of the SSM SIP call.