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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2012-0950; A-1-FRL-9940-15-Region 1]

Air Plan Approval; NH; Infrastructure State Implementation Plan Requirements for Ozone, Lead, and Nitrogen Dioxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) submissions from New Hampshire regarding the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2008 lead, 2008 ozone, and 2010 nitrogen dioxide National Ambient Air Quality Standards (NAAQS). EPA is also converting conditional approvals for several infrastructure requirements for the 1997 and 2006 fine particle ($PM_{2.5}$) NAAQS to full approval under the CAA. Furthermore, we are updating the classification for one of New Hampshire's air quality control regions for ozone based on recent air quality monitoring data collected by the state, and are granting the state's request for an exemption from the infrastructure SIP contingency plan obligation for ozone. Last, we are conditionally approving certain elements of New Hampshire's submittal relating to prevention of significant deterioration requirements.

The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This rule is effective on [Insert date 30 days from date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2012-0950. All documents in the docket are listed on the <http://www.regulations.gov> web site, although some information, such as confidential business information or other information whose disclosure is restricted by statute is not publically available. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at: Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1046; mcconnell.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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

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

I. Background and Purpose.

This rulemaking addresses infrastructure SIP submissions from the New Hampshire Department of Environmental Services (NH-DES) for the 2008 ozone, 2008 lead (Pb), and 2010 nitrogen dioxide (NO₂) national ambient air quality standards (NAAQS). The state submitted these infrastructure SIPs on the following dates: 2008 lead NAAQS – November 7, 2011; 2008 ozone NAAQS – December 31, 2012; and 2010 NO₂ NAAQS – January 28, 2013.

This rulemaking also addresses certain infrastructure SIP elements for the 1997 and 2006 fine particle ($PM_{2.5}$)¹ NAAQS for which EPA previously issued a conditional approval. See 77 FR 63228, October 16, 2012. The state submitted these infrastructure SIPs on April 3, 2008, and September 18, 2009, respectively. Additionally, in this final rulemaking we are updating the classification for one of New Hampshire's air quality control regions for ozone based on recent air quality monitoring data collected by the state, and are granting the state's request for an exemption from the infrastructure SIP contingency plan obligation for ozone. Last, we are conditionally approving certain elements of New Hampshire's submittal relating to prevention of significant deterioration (PSD) requirements.

II. Public Comments

EPA received just one set of comments in response to the NPR. Those comments—the full set of which are included in the docket for this final rulemaking—were submitted by the Sierra Club and focused overwhelmingly on our proposed approval of New Hampshire's infrastructure SIP for the 2010 SO_2 NAAQS, which is not addressed in this final rulemaking. Relevant to this action, one aspect of the comments touched glancingly on the infrastructure submittals for the 2008 ozone and 2010 NO_2 NAAQS. EPA received no public comments on our proposed approval of New Hampshire's infrastructure submittals for the 2008 lead NAAQS.

Comment: The commenter argued, among other things, that EPA must disapprove the SIP submittal for the 2010 SO_2 NAAQS, because New Hampshire did not include a submittal to satisfy section 110(D)(i)(I) (the so-called “Good Neighbor” provision). In a footnote, the

¹ $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, oftentimes referred to as “fine” particles.

commenter contended that New Hampshire had similarly not included a submittal to satisfy the same provision for the 2008 ozone or 2010 NO₂ NAAQS. The commenter argued that these omissions, coming as they did more than three years after EPA's promulgation of a new or revised NAAQS, are in violation of the Act and the Supreme Court's ruling in *EPA v. EME Homer City Generation, LP.*² Accordingly, the commenter contended that "EPA must take immediate action here to disapprove the SO₂ I-SIP Certification (as well as the 2008 ozone and 2010 NO₂ I-SIPs, for that matter) and initiate the FIP [Federal Implementation Plan] process with regard to the I-SIP's 'Good Neighbor' provisions."

Response: To be clear, EPA reiterates that this final rulemaking does not address New Hampshire's infrastructure SIP submittal for the 2010 SO₂ NAAQS. EPA will take final action on that submittal in a future final action, which will include a response to the Sierra Club's comments as to that submittal.

Section 110(a)(2)(D)(i)(I) addresses emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state. However, although EPA is acting on New Hampshire's submittals for the 2008 ozone and 2010 NO₂ NAAQS in this rulemaking, EPA is not taking any action with respect to section 110(D)(i)(I). As the commenter notes, New Hampshire did not include any provisions to address the requirements of section 110(a)(2)(D)(i)(I) in its December 31, 2012 and January 28, 2013 infrastructure SIP submittals for the 2008 ozone and 2010 NO₂ NAAQS, respectively. In the NPR, EPA did not propose to take any action with respect to New Hampshire's obligations pursuant to section 110(a)(2)(D)(i)(I) for the December 31, 2012 and January 28, 2013 infrastructure SIP submittals.

Because New Hampshire did not make a submission in its December 31, 2012 and January 28, 2013 SIP submittals to address the requirements of section 110(a)(2)(D)(i)(I), EPA is

² 134 S. Ct. 1584 (2014).

not required to have proposed or to take final SIP approval or disapproval action on this element under section 110(k) of the CAA. In this case, there has been no substantive submission for EPA to evaluate under section 110(k). Nor does the lack of a submission addressing section 110(a)(2)(D)(i)(I) require EPA to disapprove New Hampshire’s December 31, 2012 and January 28, 2013 SIP submittals as to the other elements of section 110(a)(2). EPA interprets its authority under section 110(k)(3) of the CAA as affording EPA the discretion to approve, or conditionally approve, individual elements of New Hampshire’s infrastructure SIP submissions, separate and apart from any action with respect to the requirements of section 110(a)(2)(D)(i)(I). EPA views discrete infrastructure SIP requirements in section 110(a)(2), such as the requirements of 110(a)(2)(D)(i)(I), as severable from the other infrastructure elements and interprets section 110(k)(3) as allowing it to act on individual severable measures in a plan submission.

On August 21, 2012, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA* holding, among other things, that states had no obligation to submit good neighbor SIPs until the EPA had first quantified each state’s good neighbor obligation.³ Accordingly, under that decision the submission deadline for good neighbor SIPs under the CAA would not necessarily be tied to the promulgation of a new or revised NAAQS. While the EPA sought review first with the D.C. Circuit *en banc* and then with the United States Supreme Court, the EPA complied with the D.C. Circuit’s ruling during the pendency of its appeal. The D.C. Circuit declined to consider EPA’s appeal *en banc*, but, on April 29, 2014, the Supreme Court reversed the D.C. Circuit’s *EME Homer City* opinion and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing the good neighbor requirement in CAA section 110(a)(2)(D)(i)(I) within three years of promulgation of a new or revised NAAQS,

³ 696 F.3d 7, 31 (D.C. Cir. 2012).

regardless of whether the EPA first provides guidance, technical data or rulemaking to quantify the state's obligation.

With respect to the 2008 ozone NAAQS, on November 18, 2014, the Sierra Club and WildEarth Guardians filed a complaint in U.S. District Court for the Northern District of California seeking an order to compel the EPA to make findings of failure to submit good neighbor SIPs for over twenty states, including New Hampshire. On May 15, 2015, the court entered judgment ordering the EPA to sign a notice issuing its findings of failure to submit with respect to the 2008 ozone NAAQS interstate transport SIPs for states addressed in the case. Effective August 12, 2015, EPA found that 24 states, including New Hampshire, had not made a complete good neighbor SIP submittal for the 2008 ozone NAAQS to meet the requirements of section 110(a)(2)(D)(i)(I). See 80 FR 39961 (July 13, 2015). Pursuant to CAA section 110(c)(1), EPA is authorized and obligated to promulgate a FIP, if EPA takes any of the following actions: (1) finds that a state has failed to make a required SIP submission; (2) finds that a required submission was incomplete; or (3) disapproves a required SIP submission in whole or in part. Accordingly, EPA must issue a relevant FIP with respect to the 2008 ozone NAAQS within two years, if New Hampshire has not submitted, and EPA has not approved, a plan revision appropriately addressing the good neighbor provision requirements. Thus, EPA is not required to issue a FIP at this time but will take appropriate action at a future date.

With respect to the 2010 NO₂ NAAQS, EPA has not issued a similar finding of failure to submit and, consequently, the two-year FIP clock has not yet begun to run. EPA agrees in general that sections 110(a)(1) and (a)(2) of the CAA require states to submit, within three years of promulgation of a new or revised NAAQS, a plan that addresses cross-state air pollution under section 110(a)(2)(D)(i)(I). In this rulemaking, however, EPA is only approving portions of New

Hampshire's infrastructure SIP submissions for the 2010 NO₂ NAAQS, which did not include provisions for interstate transport under section 110(a)(2)(D)(i)(I). A finding of failure to submit a SIP submission for the 2010 NO₂ NAAQS addressing section 110(a)(2)(D)(i)(I) could occur in a separate rulemaking. As that issue was not addressed in the July 17, 2015 NPR,⁴ and is thus not pertinent to this rulemaking, EPA provides no further response. In sum, New Hampshire's obligations regarding interstate transport of pollution for the 2008 ozone and 2010 NO₂ NAAQS will be addressed in later rulemakings.

III. Final action.

EPA is approving SIP submissions from New Hampshire certifying that the state's current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2008 Pb, 2008 ozone, and 2010 NO₂ NAAQS, with the exception of certain aspects relating to the state's PSD program which we are conditionally approving. On September 25, 2015, we conditionally approved the portion of New Hampshire's PSD program that pertains to providing notification to neighboring states of certain permitting actions in New Hampshire. See 80 FR 57722. Therefore, we are conditionally approving herein the related portions of New Hampshire's infrastructure SIP submittals affected by our September 25, 2015 conditional approval. A summary of EPA's actions regarding these infrastructure SIP requirements are contained in Table 1 below.

Table 1: Action taken on NH infrastructure SIP submittals for listed NAAQS

⁴ See 80 FR 42446, 42452 (July 17, 2015) ("In today's rulemaking, EPA is not proposing to approve or disapprove New Hampshire's compliance with section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone, 2010 NO₂ and 2010 SO₂ NAAQS, since New Hampshire's infrastructure SIPs for these NAAQS do not include a submittal with respect to transport for sub-element 1, prongs 1 and 2.").

Element	2008 Pb	2008 Ozone	2010 NO₂
(A): Emission limits and other control measures	A	A	A
(B): Ambient air quality monitoring and data system	A	A	A
(C)(i): Enforcement of SIP measures	A	A	A
(C)(ii): PSD program for major sources and major modifications	A*	A*	A*
(C)(iii): Permitting program for minor sources and minor modifications	A	A	A
(D)(i)(I): Contribute to nonattainment/interfere with maintenance of NAAQS (prongs 1 and 2)	A	NS	NS
(D)(i)(II): PSD (prong 3)	A*	A*	A*
(D)(i)(II): Visibility Protection (prong 4)	A	A	A
(D)(ii): Interstate Pollution Abatement	A*	A*	A*
(D)(ii): International Pollution Abatement	A	A	A
(E)(i): Adequate resources	A	A	A
(E)(ii): State boards	A	A	A
(E)(iii): Necessary assurances with respect to local agencies	NA	NA	NA
(F): Stationary source monitoring system	A	A	A
(G): Emergency power	A	A	A
(H): Future SIP revisions	A	A	A
(I): Nonattainment area plan or plan revisions under part D	+	+	+
(J)(i): Consultation with government officials	A	A	A
(J)(ii): Public notification	A	A	A
(J)(iii): PSD	A*	A*	A*
(J)(iv): Visibility protection	+	+	+
(K): Air quality modeling and data	A	A	A
(L): Permitting fees	A	A	A
(M): Consultation and participation by affected local entities	A	A	A

In the above table, the key is as follows:

A	Approve
A*	Approve, but conditionally approve aspect of PSD program relating to notification to neighboring states
+	Not germane to infrastructure SIPs
NS	No Submittal
NA	Not applicable

Also, with respect to the 1997 and 2006 PM_{2.5} NAAQS, EPA is approving New Hampshire's infrastructure SIP submittals requirements pertaining to elements (A) and (E)(ii), and the PSD elements (C)(ii), (D)(i)(II)(prong 3), and (J)(iii) for which a conditional approval was previously issued. See 77 FR 63228, October 16, 2012. As discussed in our July 17, 2015 notice of proposed rulemaking ("NPR") (see 80 FR 42446), New Hampshire has since met the conditions outlined in our October 16, 2012 action. However, in keeping with the conditional approval we are issuing today for the 2008 lead, 2008 ozone, and 2010 NO₂ NAAQS with respect to the notification to neighboring states aspect of the state's PSD program, we are also newly conditionally approving New Hampshire's infrastructure SIP submittals for elements (C)(ii), (D)(i)(II)(prong 3), (D)(ii), and (J)(iii) for the 1997 and 2006 PM_{2.5} NAAQS.

In addition, we are incorporating into the New Hampshire SIP the following New Hampshire statutes which were included for approval in New Hampshire's infrastructure SIP submittals:

Title I, The State and Its Government, Chapter 21-O: Department of Environmental Services, Section 21-O:11, Air Resources Council.

Title X Public Health, Chapter 125-C Air Pollution Control, Section 125-C:1 - Declaration of Policy and Purpose; Section 125-C:2 - Definitions; Section 125-C:4 - Rulemaking Authority; Subpoena Power; Section 125-C:6 - Powers and Duties of the Commissioner; Section 125-C:8 -

Administration of Chapter; Delegation of Duties; Section 125-C:9 - Authority of the Commissioner in Cases of Emergency; Section 125-C:10 - Devices Contributing to Air Pollution; Section 125-C:10a - Municipal Waste Combustion Units; Section 125-C:11 - Permit Required; Section 125-C:12 - Administrative Requirements; Section 125-C:13 - Criteria for Denial; Suspension or Revocation; Modification; Section 125-C:14 - Rehearings and Appeals; Section 125-C:18 - Existing Remedies Unimpaired; Section 125-C:19 - Protection of Powers; and Section 125-C:21 – Severability.

Title X Public Health, Chapter 125-O: Multiple Pollutant Reduction Program, Section 125-O:1 - Findings and Purpose; and Section 125-O:3 - Integrated Power Plant Strategy.

Additionally, we are updating the classification at 40 CFR 52.1521 for the Merrimack Valley – Southern New Hampshire air quality control region for ozone based on recent air quality monitoring data collected by the state, and are granting, pursuant to 40 CFR 51.152(d)(1), the state’s request for an exemption from the infrastructure SIP contingency plan obligation for ozone.

EPA is conditionally approving an aspect of New Hampshire’s SIP revision submittals pertaining to the state’s PSD program. The outstanding issue with the PSD program concerns the lack of a requirement that neighboring states be notified of the issuance of a PSD permit by the New Hampshire Department of Environmental Services. On September 25, 2015, we conditionally approved New Hampshire’s PSD program for this reason. See 80 FR 57722. Accordingly, we are also conditionally approving this aspect of New Hampshire’s infrastructure SIP revisions for the 2008 lead, 2008 ozone, 2010 NO₂, 1997 PM_{2.5}, and 2006 PM_{2.5} NAAQS. New Hampshire must submit to EPA a SIP submittal addressing the above mentioned deficiency in the state’s PSD program within the timeframe provided by our September 25, 2015 action. If

the State fails to do so, the elements we are conditionally approving in this rulemaking will be disapproved on that date. EPA will notify the State by letter that this action has occurred. At that time, this commitment will no longer be a part of the approved New Hampshire SIP. EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval automatically converted to a disapproval. If the State meets its commitment within the applicable timeframe, the conditionally approved submission will remain a part of the SIP until EPA takes final action approving or disapproving the new submittal. If EPA disapproves the new submittal, the conditionally approved aspect of New Hampshire's PSD program will also be disapproved at that time. If EPA approves the revised PSD program submittal, then the portions of New Hampshire's infrastructure SIP submittals that were conditionally approved will be fully approved in their entirety and replace the conditional approval in the SIP. In addition, final disapproval of an infrastructure SIP submittal triggers the Federal implementation plan (FIP) requirement under section 110(c).

Other specific requirements of infrastructure SIPs and the rationale for EPA's final action on New Hampshire's submittals are explained in the NPR and will not be restated here.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 2, 2015.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EE – New Hampshire

2. Section 52.1519 is amended by removing and reserving paragraphs (a)(3) and (4) and adding paragraphs (a)(6) through (10) to read as follows:

§ 52.1519 Identification of plan—conditional approval.

(a) * * *

(6) 2008 Ozone NAAQS: The 110(a)(2) infrastructure SIP submitted on December 31, 2012, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(C)(ii), (D)(i)(II), D(ii), and (J)(iii) only as it relates to the aspect of the PSD program pertaining to providing notification to neighboring states of certain permitting activity being considered by New Hampshire. This conditional approval is contingent upon New Hampshire taking actions to address these requirements as detailed within a final conditional approval dated September 25, 2015.

(7) 2008 Lead NAAQ: The 110(a)(2) infrastructure SIP submitted on November 7, 2011, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(C)(ii), (D)(i)(II), D(ii), and (J)(iii) only as it relates to the aspect of the PSD program pertaining to providing notification to neighboring states of certain permitting activity being considered by New Hampshire. This

conditional approval is contingent upon New Hampshire taking actions to address these requirements as detailed within a final conditional approval dated September 25, 2015.

(8) 2010 Nitrogen Dioxide NAAQS: The 110(a)(2) infrastructure SIP submitted on January 28, 2013, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(C)(ii), (D)(i)(II), D(ii), and (J)(iii) only as it relates to the aspect of the PSD program pertaining to providing notification to neighboring states of certain permitting activity being considered by New Hampshire. This conditional approval is contingent upon New Hampshire taking actions to address these requirements as detailed within a final conditional approval dated September 25, 2015.

(9) 1997 PM_{2.5} NAAQS: The 110(a)(2) infrastructure SIP submitted on April 3, 2008, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(C)(ii), (D)(i)(II), D(ii), and (J)(iii) only as it relates to the aspect of the PSD program pertaining to providing notification to neighboring states of certain permitting activity being considered by New Hampshire. This conditional approval is contingent upon New Hampshire taking actions to address these requirements as detailed within a final conditional approval dated September 25, 2015.

(10) 2006 PM_{2.5} NAAQS: The 110(a)(2) infrastructure SIP submitted on September 18, 2009, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(C)(ii), (D)(i)(II), D(ii), and (J)(iii) only as it relates to the aspect of the PSD program pertaining to providing notification to neighboring states of certain permitting activity being considered by New Hampshire. This conditional approval is contingent upon New Hampshire taking actions to address these requirements as detailed within a final conditional approval dated September 25, 2015.

3. Section 52.1520 is amended by:

a. In the table in paragraph (c), adding three entries at the end of the table; and

- b. In the table in paragraph (e), adding six entries at the end of the table.

The additions read as follows:

§ 52.1520 Identification of plan.

* * * *

(c) * * *

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date ¹	Explanations
**	*	*	*	**
Title I of the New Hampshire Statutes: The State and Its Government, Chapter 21-O	Department of Environmental Services	7/1/86.	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Section 21-O:11, Air Resources Council.

Title X of the New Hampshire Statutes: Public Health, Chapter 125-C	Air Pollution Control	7/1/79.	<p>[Insert <u>Federal Register</u> date of publication date]</p> <p>[Insert <u>Federal Register</u> citation]</p>	Section 125-C:1 - Declaration of Policy and Purpose; Section 125-C:2 - Definitions; Section 125-C:4 - Rulemaking Authority; Subpoena Power; Section 125-C:6 - Powers and Duties of the Commissioner; Section 125-C:8 - Administration of Chapter; Delegation of Duties; Section 125-C:9 - Authority of the Commissioner in Cases of Emergency; Section 125-C:10 - Devices Contributing to Air Pollution; Section 125-C:10a - Municipal Waste Combustion Units; Section 125-C:11 - Permit Required; Section 125-C:12 - Administrative Requirements; Section 125-C:13 - Criteria for Denial; Suspension or Revocation; Modification; Section 125-C:14 - Rehearings and Appeals; Section 125-C:18 - Existing Remedies Unimpaired; Section 125-C:19 - Protection of Powers; and Section 125-C:21 – Severability.
Title X of the New Hampshire Statutes: Public Health, Chapter 125-O	Multiple Pollutant Reduction Program	7/1/2002.	<p>[Insert <u>Federal Register</u> date of publication date]</p> <p>[Insert <u>Federal Register</u> citation]</p>	Section 125-O:1 – Findings and Purpose; Section 125 – O:3 – Integrated Power Plant Strategy.

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * *

(e) * * *

NEW HAMPSHIRE NONREGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
**	*	*	*	**
Infrastructure SIP for 2008 ozone NAAQS	Statewide	12/31/2012	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Approved submittal, except for certain aspects relating to PSD which were conditionally approved. See 52.1519.
Infrastructure SIP for the 2008 Lead NAAQS	Statewide	11/7/2011	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Approved submittal, except for certain aspects relating to PSD which were conditionally approved. See 52.1519.
Infrastructure SIP for the 2010 NO ₂ NAAQS	Statewide	1/28/2013	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Approved submittal, except for certain aspects relating to PSD which were conditionally approved. See 52.1519.
Infrastructure SIP for the 1997 PM2.5 NAAQS	Statewide	7/3/2012	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Items that were previously conditionally approved on 10/16/12 now fully approved.
Infrastructure SIP for 2006 PM2.5 NAAQS	Statewide	9/18/2009	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	Items that were previously conditionally approved on 10/16/12 now fully approved.
Request for exemption from contingency plan obligation	Merrimack Valley – Southern New Hampshire AQCR	12/31/2012	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	State's request for exemption from contingency plan obligation, made pursuant to 40 CFR 51.122(d), is granted in light of the area's designation as unclassifiable/attainment for the 2008 ozone NAAQS.

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

4. In § 52.1521, revise the table to read as follows:

§ 52.1521 Classification of regions.

* * * *

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Ozone
Androscoggin Valley Interstate	IA	IA	III	III	III
Central New Hampshire Intrastate	III	III	III	III	III
Merrimack Valley – Southern New Hampshire Interstate	I	I	III	III	I

[FR Doc. 2015-31525 Filed: 12/15/2015 8:45 am; Publication Date: 12/16/2015]