

facilitated Exchange (FFE) platform. Certain changes that affect FFE processes may make a waiver proposal not feasible to implement at this time. Until further guidance is issued, the Federal platform cannot accommodate different rules for different states. For example, waivers that would require changes to the calculation of Exchange financial assistance, non-standard enrollment period determinations, customized plan management review options, or changes to the design used to display plan options are generally not feasible at this time due to operational limitations. In addition, the Federal platform cannot accommodate changes to its plan management templates in the near term. States contemplating a waiver that requires such changes may consider establishing their own platform administered by the state.

As noted in Section I.D. of this guidance, costs associated with changes to Federal administrative processes are taken into account in determining whether a waiver application satisfies the deficit neutrality requirement. Regulations at 31 CFR part 33 and 45 CFR part 155, subpart N require that such costs be included in the 10-year budget plan submitted by the state.

B. Internal Revenue Service

Certain changes that affect Internal Revenue Service (IRS) administrative processes may make a waiver proposal not feasible to implement. At this time, the IRS is not generally able to administer different sets of rules in different states. As a result, while a state may propose to entirely waive the application of one or more of the tax provisions listed in Section 1332 to taxpayers in the state, it is generally not feasible to design a waiver that would require the IRS to administer an alteration to these provisions for taxpayers in the state. For example, it is generally not feasible to have the IRS administer a different set of eligibility rules for the premium tax credit for residents of a particular state. States contemplating a waiver proposal that includes a modified version of a Federal tax provision may consider waiving the provision entirely and relying on a tax program administered by the state.

In addition, a waiver proposal that completely waives one or more tax provisions in a state may create administrative costs for the IRS. As noted in Section I.D. above, costs associated with changes to Federal administrative processes are taken into account in determining whether a waiver application satisfies the deficit neutrality requirement. Regulations at 31 CFR part 33 and 45 CFR part 155,

subpart N require that such costs be included in the 10-year budget plan submitted by the state.

VI. Public Input on Waiver Proposals

Consistent with the statutory provisions of Section 1332, regulations at 31 CFR 33.112 and 45 CFR 155.1312 require states to provide a public notice and comment period for a waiver application sufficient to ensure a meaningful level of public input prior to submitting an application. As part of the public notice and comment period, a state with one or more Federally-recognized tribes must conduct a separate process for meaningful consultation with such tribes. Because State Innovation Waiver applications may vary significantly in their complexity and breadth, the regulations provide states with flexibility in determining the length of the comment period required to allow for meaningful and robust public engagement. The comment period must be sufficient to ensure a meaningful level of public input and in no case can be less than 30 days.

Consistent with HHS regulations, waiver applications must be posted online in a manner that meets national standards to assure access to individuals with disabilities. Such standards are issued by the Architectural and Transportation Barriers Compliance Board, and are referred to as "section 508" standards. Alternatively, the World Wide Web Consortium's Web Content Accessibility Guidelines (WCAG) 2.0 Level AA standards would also be considered as acceptable national standard for Web site accessibility. For more information, see the WCAG Web site at <http://www.w3.org/TR/WCAG20/>.

Section 1332 and its implementing regulations also require the Federal Government to provide a public notice and comment period, once the Secretaries receive an application. The period must be sufficient to ensure a meaningful level of public input and must not impose requirements that are in addition to, or duplicative of, requirements imposed under the Administrative Procedures Act, or requirements that are unreasonable or unnecessarily burdensome with respect to state compliance. As with the comment period described above, the length of the comment period should reflect the complexity of the proposal and in no case can be less than 30 days.

Dated: December 8, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: December 11, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

Approved: December 10, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015-31563 Filed 12-11-15; 4:15 pm]

BILLING CODE 4150-28-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 January 15, 2016.

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 publicly 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; mccconnell.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 SO₂ 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 NO₂ 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 SO₂ 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 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 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

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

² 134 S. Ct. 1584 (2014).

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, 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

Element	2008 Pb	2008 Ozone	2010 NO ₂
(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)(III): Visibility Protection (prong 4)	A	A	A
(D)(ii): Interstate Pollution Abatement	A*	A*	A*
(D)(iii): 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

³ 696 F.3d 7, 31 (D.C. Cir. 2012).

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.'')

TABLE 1—ACTION TAKEN ON NH INFRASTRUCTURE SIP SUBMITTALS FOR LISTED NAAQS—Continued

Element	2008 Pb	2008 Ozone	2010 NO ₂
(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 February 16, 2016. 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 approved date ¹	Explanations
* Title 1 of the New Hampshire Statutes: The State and Its Government, Chapter 21-O.	* Department of Environmental Services.	* 7/1/86	* 12/16/15 [Insert Federal Register 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	* 12/16/15 [Insert Federal Register citation].	* 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	* 12/16/15 [Insert Federal Register citation].	* 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.

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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	* 12/16/15 [Insert Federal Register 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	* 12/16/15 [Insert Federal Register 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	* 12/16/15 [Insert Federal Register citation].	* Approved submittal, except for certain aspects relating to PSD which were conditionally approved. See 52.1519.
* Infrastructure SIP for the 1997 PM _{2.5} NAAQS.	* Statewide	* 7/3/2012	* 12/16/15 [Insert Federal Register citation].	* Items that were previously conditionally approved on 10/16/12 now fully approved.
* Infrastructure SIP for 2006 PM _{2.5} NAAQS.	* Statewide	* 9/18/2009	* 12/16/15 [Insert Federal Register 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	* 12/16/15 [Insert Federal Register 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 12–15–15; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2008–0762; FRL–9939–54]

Bacillus Amyloliquefaciens MBI600 (Antecedent Bacillus Subtilis MBI600); Amendment to an Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the existing exemption from the requirement of a tolerance for residues of the microbial pesticide *Bacillus subtilis* strain MBI600 to change the name to *Bacillus amyloliquefaciens* strain MBI600 (antecedent *Bacillus subtilis* strain MBI600) in or on all food commodities, including residues resulting from post-harvest uses, when applied or used in accordance with good agricultural practices. BASF Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an amendment to the existing exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus amyloliquefaciens* strain MBI600.

DATES: This regulation is effective December 16, 2015. Objections and requests for hearings must be received on or before February 16, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2008–0762, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William

Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office’s e-CFR site at http://www.ecfr.gov/cgi-bin/text-id?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2008–0762 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 16, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2008–0762, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.