



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R01-OAR-2019-0352; FRL-9999-84-Region 1]

Air Plan Approval and Air Quality Designation; New Hampshire; Redesignation of the Central New Hampshire Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Central New Hampshire nonattainment area from nonattainment to attainment for the 2010 1-hour primary sulfur dioxide (SO₂) national ambient air quality standard (NAAQS). EPA is also approving the maintenance plan submitted by the State of New Hampshire for the area for the SO₂ NAAQS. This nonattainment area consists of portions of Hillsborough County, Merrimack County, and Rockingham County, New Hampshire. The primary emission source in the area is now subject to federally-enforceable emission control standards, and air quality in the area now meets the SO₂ NAAQS. This action is being taken under the Clean Air Act.

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

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2019-0352. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. 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 <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 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.

FOR FURTHER INFORMATION CONTACT: Leiran Biton, Air Permits, Toxics and Indoor Programs Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109-3912, tel. (617) 918-1267, email biton.leiran@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Table of Contents

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

I. Background and Purpose

On July 31, 2019 (84 FR 37187), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Hampshire. In the NPRM, EPA proposed to redesignate the Central New Hampshire nonattainment area from nonattainment to attainment for the 2010 1-hour primary SO₂ NAAQS. EPA also proposed to approve the maintenance plan New Hampshire submitted to ensure the area will continue to maintain the SO₂ NAAQS. New Hampshire submitted the request for redesignation and state implementation plan (SIP) submittal on March 16, 2018.

The NPRM provides the rationale for EPA's proposed approval, which will not be restated here. EPA received no public comments during the public comment period in response to the NPRM.

II. Final Action

EPA is redesignating the Central New Hampshire nonattainment area from nonattainment to attainment for the 2010 1-hour primary SO₂ NAAQS by amending 40 CFR 81.330. EPA is also approving the maintenance plan submitted by the State of New Hampshire for the Central New Hampshire nonattainment area for the 2010 1-hour primary SO₂ NAAQS as an addition to the New Hampshire SIP at 40 CFR 52.1520(e), “Nonregulatory.”

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule “grants or recognizes an exemption or relieves a restriction,” and section 553(d)(3), which allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s rule relieves the State of planning requirements for this SO₂ nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

III. 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);
- Is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 after 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

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

Dated: September 12, 2019.

Dennis Deziel,
Regional Administrator,
EPA Region 1.

Parts 52 and 81 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. In § 52.1520, in paragraph (e), amend the table by adding an entry at the end to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(e) * * *

New Hampshire NonRegulatory

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
**	*	*	*	**
1-Hour Sulfur Dioxide (2010 Standard) Redesignation Request and Maintenance Plan for the Central New Hampshire Nonattainment Area	Central New Hampshire SO ₂ Nonattainment Area	3/16/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	The maintenance plan for the 2010 SO ₂ NAAQS is Section 6 of this submittal.

PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

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

Subpart C – Section 107 Attainment Status Designations

4. Section 81.330 is amended in the table entitled “New Hampshire—2010 Sulfur Dioxide NAAQS (Primary)” by revising the entry for “Central New Hampshire, NH” to read as follows:

§ 81.330 New Hampshire.

* * * * *

New Hampshire—2010 Sulfur Dioxide NAAQS (Primary)

Designated area ¹	Designation	
	Date ²	Type
Central New Hampshire, NH	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment.
Hillsborough County (part)		
Goffstown Town		
Merrimack County (part)		
Allenstown Town, Bow Town, Chichester Town, Dunbarton Town, Epsom Town, Hooksett Town, Loudon Town, Pembroke Town, Pittsfield Town, City of Concord		
Rockingham County (part)		
Candia Town, Deerfield Town, Northwood Town		
* * * * *	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is April 9, 2018, unless otherwise noted.