



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2024-0018; FRL- 11714-02-R1]

Air Plan Approval; New Hampshire; Amendments to Motor Vehicle Inspection and Maintenance Program Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision includes an amended regulation for the Enhanced Motor Vehicle Inspection and Maintenance (I/M) program in New Hampshire. Overall, the submittal updates and clarifies the implementation of the New Hampshire I/M program. The intended effect of this action is to approve the updated I/M program regulation into the New Hampshire SIP. This action is being taken in accordance with the Clean Air Act.

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

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2024-0018. 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 and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Ayla Martinelli, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square – Suite 100, (Mail code 5-MI), Boston, MA 02109 – 3912, tel. (617) 918- 1057, email: martinelli.ayla@epa.gov.

SUPPLEMENTARY INFORMATION:

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

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I. Background and Purpose

On January 31, 2024 (89 FR 6082), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Hampshire. The NPRM proposed approval of New Hampshire’s amended regulation for the state’s Enhanced Motor Vehicle Inspection and Maintenance (I/M) program. The formal SIP revision was submitted by New Hampshire on September 22, 2022. The rationale for EPA’s proposed action is explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

EPA is approving New Hampshire’s amended I/M regulation as a revision to the New Hampshire SIP.

EPA is incorporating New Hampshire’s I/M program regulation, [Saf-C 3200 “Official Motor Vehicle Inspection Requirements,”](#) by reference into the New Hampshire SIP. New Hampshire’s I/M program regulation contains enforcement provisions that detail state enforcement procedures, including administrative, civil, and criminal penalties, and administrative and judicial procedures. Such enforcement-related provisions are required elements of an I/M SIP

under 40 CFR 61.364, and EPA is finalizing the approval of the provisions as meeting those requirements. However, EPA is not finalizing the incorporation of those provisions by reference into the EPA-approved federal regulations at 40 CFR part 52. In any federal action to enforce violations of the substantive requirements of the New Hampshire I/M program, the relevant provisions of Section 113 or 304 of the CAA, rather than state enforcement provisions would govern. Similarly, the applicable procedures in any federal action would be the applicable federal court rules or EPA's rules for administrative proceedings at 40 CFR part 22, rather than state administrative procedures. Since the state enforcement provisions would not be applicable in a federal action, incorporating these state-only enforcement provisions into the federal regulations would have no effect. To avoid confusion to the public and regulated parties, EPA is not incorporating these provisions by reference into the EPA-approved federal regulations in the New Hampshire plan identification in 40 CFR part 52. Specifically, EPA is not incorporating New Hampshire's regulations Saf-C 3222.04(d) and Saf-C 3248 into the federal regulations at 40 CFR 52.1520(c).

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the New Hampshire Department of Safety Regulation Saf-C 3200 "Official Motor Vehicle Inspection Requirements," which updates and clarifies the implementation of the New Hampshire I/M program, with exceptions as described in section II of this final rule. The EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final

rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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);

¹ 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

New Hampshire did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this

action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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 in 40 CFR Part 52

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: April 22, 2024.

David Cash,
Regional Administrator,
EPA Region 1.

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. In § 52.1520(c), the table in paragraph (c) is amended by revising the entry for “Saf- C 3200” to 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
**	*	*	*	**
Saf-C 3200	Official Motor Vehicle Inspection Requirements.	November 26, 2019	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Replaces the SIP-approved version of Saf-C 3200 in its entirety. Specifically, amends Saf-C 3202, Saf-C 3203, Saf-C 3204, Saf-C 3205, Saf-C 3206.04, Saf-C 3207.01, Saf-C 3209, Saf-C 3210.02, and Saf-C 3222. Saf-C 3222.04(d) and section Saf-C 3248 are not being incorporated into the New Hampshire SIP.
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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.