



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2025-3027; FRL- 13094-01-R1]

### Air Plan Approval; New Hampshire; Updates to Materials Incorporated by Reference

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the New Hampshire State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the State of New Hampshire and approved by the EPA. In this final rule, the EPA is also notifying the public of corrections and clarifying changes in the Code of Federal Regulations tables that identify the materials incorporated by reference into the New Hampshire SIP. This update affects the materials that are available for public inspection at the National Archives and Records Administration and the EPA Regional Office.

**DATES:** This rule is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The SIP materials for which incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following locations: 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.

**FOR FURTHER INFORMATION CONTACT:** Patrick Lillis, Air and Radiation Division (Mail Code 5-MI), U.S. Environmental Protection Agency - Region 1, 5 Post Office Square,

Suite 100, Boston, Massachusetts, 02109-3912; tel. (617)-918-1067, or by email at

[lillis.patrick@epa.gov](mailto:lillis.patrick@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

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

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### **I. Background**

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to the EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally approved SIP and are identified in part 52, “Approval and Promulgation of Implementation Plans,” of title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by the EPA is not reproduced in its entirety in 40 CFR part 52 but is “incorporated by reference.” This means that the EPA has approved a given State regulation or specified changes to the given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in a given SIP. The information provided allows the

EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action for violations of the SIP.

The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the State. Therefore, the EPA from time to time must take action on proposed revisions containing new or revised State regulations. A submission from a State can revise one or more rules in their entirety, or portions of rules. The State indicates the changes in the submission (such as by using redline/strikethrough text) and the EPA then takes action on the requested changes. The EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on *www.regulations.gov*.

On May 22, 1997 (62 FR 27968), the EPA revised the procedures for incorporating by reference, into the CFR, materials approved by the EPA into each SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing the EPA approval of revisions to a SIP, and streamlined the mechanisms for the EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for the EPA to maintain "SIP Compilations" that contain the federally approved regulations and source specific permits submitted by each State agency.

The EPA generally updates these SIP Compilations every few years. Under the revised procedures, the EPA must periodically publish an informational document in the rules section of the **Federal Register** notifying the public that updates have been made to a SIP Compilation for a particular State. The EPA began applying the 1997 revised procedures to the New Hampshire SIP on September 30, 2009 (74 FR 50118). In this action, Region 1 is updating the SIP Compilation for IBR information since September 30, 2009.

#### *A. Added Regulations*

- Env-A 1300 Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT).
- Env-A 1600 Fuel Specifications.
- Env-A 1900 Emission Standards and Operating Practices for Incinerators.
- Env-A 2100 Particulate Matter and Visible Emissions Standards.

- Env-A 2300 Mitigation of Regional Haze.
- Env-A 2400 Ferrous and Non-Ferrous Foundries, Smelters, and Investment Casting Operations.
- Env-A 2700 Hot Mix Asphalt Plants.
- Env-A 2800 Sand and Gravel Sources; Non-Metallic Mineral Processing Plants; Cement and Concrete Sources.
- Env-Or 500 Recovery of Gasoline Vapors.
- Title I of the New Hampshire Statutes: The State and its Government, Chapter 21-0.
- Title X of the New Hampshire Statutes: Public Health, Chapter 125-C.
- Title X of the New Hampshire Statutes: Public Health, Chapter 125-O.
- Certifications for RACT for the 2008 and 2015 ozone standards.
- Negative Declarations included in New Hampshire's State Implementation Plan for purposes of the 2008 and 2015 ozone standards.
- New Hampshire Regional Haze Plan Periodic Comprehensive Revision for 2nd planning period 2018–2028.
- Certifications for RACT for the 2008 and 2015 ozone standards.
- Certifications for RACT for the 2008 and 2015 ozone standards.

### *B. Revised Regulations*

- Env-A 100 Definitions.
- Env-A 200 Permit Notice and Hearing Procedures.
- Env-A 300 Ambient Air Quality Standards.
- Env-A 600 Statewide Permit System.
- Env-A 800 Testing and Monitoring Procedures.
- Env-A 900 Owner or Operator Obligations.
- Env-A 1000 Prevention, Abatement, and Control of Open Source Air Pollution.
- Env-A 1200 Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT).
- Env-A 1500 Conformity.
- Saf-C 3200 Official Motor Vehicle Inspection Requirements.
- Saf-C 5800 Roadside Diesel Opacity Inspection.

### *C. Removed Regulations*

- Env-A 400 Sulfur Content Limits in Fuels.
- Env-A 700 Permit Fee System.

### *D. Added Single Source Specific Orders*

- PSNH Merrimack Station (TP-0008)
- Hitchiner Manufacturing (ARD-02-001)
- Hutchinson Sealing Systems (ARD-01-002)
- TFX Medical Incorporated (ARD-07-002)
- Newington Energy, LLC. (ARD-04-001)
- Waste Management (ARD-01-001)
- Gorham Paper and Tissue (Order No. ARD-97-003)
- Parker-Hannifin Corporation (ARD 03-001A)
- Textile Tapes Corporation (ARD-96-001)
- Watts Regulator Company (ARD 07-001)
- Sturm Ruger and Company (ARD-03-001)
- PSNH d/b/a Eversource Energy Merrimack Station (TP-0189)
- Diacom Corporation (RACT Order RO-0002)
- Schiller Station (NOx RACT Order RO-003)
- Anheuser Busch (NOx RACT Order ARD-05-001)
- Metal Works (VOC RACT Order ARD-05-001)

- Polyonics (VOC RACT Order ARD07-004)
- Complete Coverage Woodpriming (VOC RACT Order RO-0004)
- PSI Molded Plastics (RO-0005)
- Fujifilm Dimatix Incorporated (RO-0006)
- PAK Solutions LLC. (RACT Order RO-0007)

#### *E. Removed Single Source Specific Orders*

- Source specific NO<sub>x</sub> RACT order for Groveton Paperboard Corp., Groveton, NH (Order ARD-95-001.)
- Source specific NO<sub>x</sub> RACT order for Plymouth Cogeneration Ltd. Partnership, Plymouth, NH. (Order ARD-95-002.)
- Source specific NO<sub>x</sub> RACT order for Waterville Valley Ski Area Ltd., Waterville Valley, NH (Order ARD-95-003.)
- VOC RACT for L.W. Packard and Company, Inc. Ashland, NH. (Order ARD-94-001.)
- VOC RACT for Kalwall Corporation, Manchester, NH. (Order ARD-95-010.)
- Source specific NO<sub>x</sub> RACT order for Hampshire Chemical Corporation, Nashua, NH. (Order ARD-95-011.)

## **II. EPA Action**

In this action, the EPA is providing notification of an update to the materials incorporated by reference into the New Hampshire SIP as of December 9, 2024 and identified in 40 CFR 52.1520(c) and (d). This update includes SIP materials submitted by New Hampshire and approved by the EPA since the initial IBR update. *See* 74 FR 50118 (September 30, 2009).

## **III. Good Cause Exemption**

The EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs, makes corrections and clarifying changes to the tables in the CFR, and makes ministerial changes to the prefatory heading to the tables in the CFR. Under section 553 of the APA, an agency may find good cause where procedures are “impracticable, unnecessary, or contrary to the public interest.” Public comment for this administrative action is “unnecessary” and “contrary to the public

interest” since the codification (and corrections) only reflect existing law. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notification of the updated New Hampshire SIP Compilation and notification of corrections to the New Hampshire “Identification of Plan” portion of the CFR. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR “Identification of plan” section (which includes table entry corrections).

#### **IV. Incorporation by Reference**

In this document, 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 regulations promulgated by New Hampshire, previously approved by the EPA and federally effective before December 9, 2024, contained in 40 CFR 52.1520(c), *EPA approved regulations*, described in section II. of this preamble. The EPA has made, and will continue to make, these materials 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).

#### **V. 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 Clean Air 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- 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).

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.

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

**Dated:** December 22, 2025.

**Mark Sanborn,**  
*Regional Administrator,*  
*EPA Region 1.*

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations 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 is amended by revising paragraph (b) to read as follows:

#### **§ 52.1520 Identification of plan.**

\* \* \* \* \*

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 9, 2024, was approved for incorporation by reference by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 9, 2024, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 1 EPA Office at 5 Post Office Square—Suite 100, Boston, MA 02109. To obtain the material, please call the EPA Region 1 Office. You may inspect the material with an EPA approval date prior to December 9, 2024, at the National Archives and Records Administration (NARA). For information

on the availability of this material at NARA visit [www.archives.gov/federal-register/cfr/ibr-locations](http://www.archives.gov/federal-register/cfr/ibr-locations) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov).

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