

on State, local, and tribal governments, or on the private sector.

### Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program number and title for this rule is 64.109, Veterans Compensation for Service-Connected Disability.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, approved this document on October 4, 2012, for publication.

### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: October 10, 2012.

#### Robert C. McFetridge,

Director of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 3 that was published at 76 FR 81834 on December 29, 2011, is adopted as a final rule with the following change:

### PART 3—ADJUDICATION

- 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

- 2. In § 3.317, revise the section heading to read as follows:

#### § 3.317 Compensation for certain disabilities occurring in Persian Gulf veterans.

\* \* \* \* \*

[FR Doc. 2012-25353 Filed 10-15-12; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2011-0317 and EPA-R01-OAR-2011-0321 (CT); EPA-R01-OAR-2011-0318 and EPA-R01-OAR-2011-0322 (ME); EPA-R01-OAR-2009-0459 and EPA-R01-OAR-2011-0323 (MA); EPA-R01-OAR-2009-0460 and EPA-R01-OAR-2011-0324 (NH); A-1-FRL-9740-1]

### Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Maine, Massachusetts, New Hampshire; Infrastructure SIPs for the 1997 and 2006 Fine Particulate Matter Standards

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving most elements of submittals from the States of Connecticut, Maine, Massachusetts, and New Hampshire. We are also conditionally approving certain elements of these submittals, as well as disapproving a few elements of Massachusetts' submittals. The submittals outline how each state's State Implementation Plan (SIP) meets the requirements of section 110(a) of the Clean Air Act (CAA) for both the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). These actions are being taken under the Clean Air Act.

**DATES:** This rule is effective on November 15, 2012.

**ADDRESSES:** EPA has established dockets for these actions under Docket Identification No. EPA-R01-OAR-2011-0317 and EPA-R01-OAR-2011-0321 for Connecticut,<sup>1</sup> EPA-R01-OAR-2011-0318 and EPA-R01-OAR-2011-0322 for Maine, EPA-R01-OAR-2009-0459 and EPA-R01-OAR-2011-0323 for Massachusetts, and EPA-R01-OAR-2009-0460 and EPA-R01-OAR-2011-0324 for New Hampshire. All documents in the dockets are listed on the [www.regulations.gov](http://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 either electronically through

<sup>1</sup> For each State, the first docket number refers to the docket for the 1997 PM<sub>2.5</sub> infrastructure submittal and the second docket number refers to the docket for the 2006 PM<sub>2.5</sub> infrastructure submittal.

[www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, 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 to 4:30, excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the respective State Air Agency: The Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630; the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108; and Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1684, fax number (617) 918-0684, email [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

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

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

#### I. Background and Purpose

Under CAA section 110(a)(1), states are required to submit plans called state implementation plans (SIPs) that provide for the implementation, maintenance and enforcement of each NAAQS. 42 U.S.C. 7410(a)(1). Section 110(a)(2)(D)(i)(I) of the CAA, in turn, specifically requires SIPs to contain provisions adequate to prohibit emissions activity within the state that

contributes significantly to nonattainment or interferes with maintenance in another state. 42 U.S.C. 7410(a)(2)(D)(i)(I).

On July 23, 2012, EPA published a Notice of Proposed Rulemaking (NPR) for the States of Connecticut, Maine, Massachusetts, and New Hampshire. See 77 FR 43023. The NPR proposed action on submittals from these four states that outlined how each state's SIP meets the requirements of section 110(a) of the Clean Air Act (CAA) for the 1997 and 2006 PM<sub>2.5</sub> standards.

The States of Connecticut, Maine, Massachusetts and New Hampshire submitted SIPs to meet infrastructure requirements under section 110(a)(2) for the 1997 and 2006 PM<sub>2.5</sub> NAAQS. The SIPs addressed the following section 110(a)(2) components:

(A) Emission limits and other control measures.

(B) Ambient air quality monitoring/data system.

(C) Program for enforcement of control measures.

(D) Interstate transport.

(E) Adequate resources.

(F) Stationary source monitoring system.

(G) Emergency power.

(H) Future SIP revisions.

(J) Consultation with government officials, Public notification, Prevention of significant deterioration (PSD) and Visibility protection.

(K) Air quality modeling/Data

(L) Permitting fees.

(M) Consultation/participation by affected local entities.

EPA proposed to approve the submittals from all four states as fully meeting the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> standards for the following section 110(a)(2) elements and sub-elements: (B), (C) (enforcement program only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation), (J) (public notification), (K), (L), and (M). EPA also proposed to approve the submittals from Maine and New Hampshire as fully meeting the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> standards for the two prongs of section 110(a)(2)(D)(i)(I).

These two prongs are (1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (2) interfere with maintenance by any other state with respect to the same NAAQS. EPA proposed to determine that their existing SIPs satisfy these prongs because emissions from these states do not contribute significantly to nonattainment or interfere with maintenance of the 1997 annual or the 2006 24-hour PM<sub>2.5</sub> NAAQS in any

other state. See 77 FR 43207. In addition, EPA proposed to approve the submittals from Maine for the prong of section 110(a)(2)(D)(i)(II) related to interference with visibility protection, and the submittals from New Hampshire for section 110(a)(2)(D)(ii) related to interstate and international pollution abatement.

EPA proposed to conditionally approve the submittals from all four states for the following section 110(a)(2) elements and sub-elements: (A) and (E)(ii) (state boards and conflict of interest provisions). We proposed to conditionally approve the submittals from three states (Connecticut, Maine, and New Hampshire) for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the states' PSD programs. We also proposed to conditionally approve the submittals from Connecticut and Maine for section 110(a)(2)(D)(ii).

For Massachusetts, EPA proposed to disapprove the state's submittals for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the state's PSD program, as well as (D)(ii), which relates to interstate and international pollution abatement. Notwithstanding our conclusion that Massachusetts' section 110(a) submittals do not meet these PSD requirements, the state is already subject to a Federal Implementation Plan (FIP) for PSD, and so EPA has no additional FIP obligations under section 110(c). Furthermore, the state will not be subject to mandatory sanctions as a result of this disapproval.

A detailed explanation of the requirements for PM<sub>2.5</sub> infrastructure SIPs, as well as EPA's analysis of the submittals from Connecticut, Maine, Massachusetts, and New Hampshire, was provided in the NPR and is not restated here.

## II. Response to Comments

EPA received comments on our proposed action from an anonymous commenter and from the Sierra Club. The anonymous commenter noted that EPA's action on the four states' infrastructure SIPs for the 1997 and 2006 PM<sub>2.5</sub> NAAQS is a good move to alleviate air pollution, thus reducing poor air quality days. EPA agrees with this commenter. The Sierra Club's comments focused on the states' air-quality standards and PSD programs, and a recent judicial decision vacating the Cross State Air Pollution Rule (CSAPR). The comments are provided in the dockets for today's final actions. A summary of the comments and EPA's responses are provided below.

*Comment 1:* The Sierra Club noted that section 110(a)(2)(A) requires SIPs to include enforceable emission limits. The Sierra Club argued that any infrastructure SIP submissions ultimately approved by EPA must include emissions limitations on direct PM<sub>2.5</sub> emissions, PM precursors, and condensable PM. It also asserted that the state infrastructure SIP submissions needed to impose specific PM<sub>2.5</sub> emissions limitations on major sources such as the Schiller and Merrimack coal-fired power plants in New Hampshire, the Mount Tom and Brayton Point plants in Massachusetts, and the Bridgeport plant in Connecticut.

*Response 1:* In this action, EPA is conditionally approving the states' PM<sub>2.5</sub> infrastructure SIPs with respect to section 110(a)(2)(A) pending each state's timely submission (i.e., within one year of conditional approval) of specific enforceable measures to fulfill specific requirements of section 110(a)(2)(A) as explained in the proposal. We will review each state's submission as it is received, and will propose to approve or disapprove that submission based on our evaluation of whether the submission meets the applicable requirements of section 110(a)(2)(A) relevant to infrastructure SIP requirements. At that time, it will be appropriate for commenters to raise any questions regarding whether the submission has met applicable requirements.

*Comment 2:* The Sierra Club noted that sections 110(a)(2)(C), (D), and (J) require infrastructure submittals to include, among other things, a SIP-approved PSD program that meets all federal requirements. The Sierra Club argued that any infrastructure SIP submission approved by EPA must include PM<sub>2.5</sub> increments under the PSD Program.

*Response 2:* In this action, EPA is conditionally approving the infrastructure SIPs submitted by Connecticut, Maine, and New Hampshire with respect to sections 110(a)(2)(C), (D), and (J) pending each state's timely submission (i.e., within one year of conditional approval) of specific enforceable measures to fulfill requirements of sections 110(a)(2)(C), (D), and (J) as explained in the proposal. EPA proposed conditional approval consistent with EPA's authority under section 110(k)(4), and based upon a commitment by each State to address these deficiencies within one year. We will review each state's submission as it is received, and will propose to approve or disapprove that submission based on our evaluation of whether the submission meets the applicable

requirements of section 110(a)(2)(C), D(i)(II), and (J), relevant to infrastructure SIP requirements. At that time, it will be appropriate for commenters to raise any questions regarding whether the submission has met applicable requirements. As described in section 110(k)(4), should the States fail to meet their commitments to address these deficiencies, a final conditional approval for these elements would become a disapproval. The Commenter does not argue that this proposed action is inconsistent with the requirements of the CAA.

However, EPA disagrees with Commenter's suggestion that EPA must generally approve the PM<sub>2.5</sub> increments prior to fully approving sections 110(a)(2)(C), (D), and (J). Pursuant to the 2010 PSD for PM<sub>2.5</sub> Rule (75 FR 64864, October 20, 2010) and CAA section 166(b), States were not required to submit a revised SIP addressing the PM<sub>2.5</sub> increments until July 20, 2012. The Agency proposed action on Connecticut, Maine, and New Hampshire's infrastructure SIPs in a notice signed on July 16, 2012.<sup>2</sup> Therefore, on the date that the proposed rule was signed by the Agency, the PM<sub>2.5</sub> increments were not required to be included in the States' SIPs in order for the States to meet the PSD requirements of sections 110(a)(2)(C), (D), and (J) of the Act. However, Connecticut, Maine, and New Hampshire each submitted to EPA a request for a conditional approval of these infrastructure elements based, in part, on its commitment to adopt the PM<sub>2.5</sub> increments into the State rules and submit revisions including the PM<sub>2.5</sub> increments to EPA within one year of EPA's conditional approval. Accordingly, although EPA would not generally have been required to address the PM<sub>2.5</sub> increments prior to the deadline for submission of such revisions on July 20, 2012, because the States requested conditional approval contingent on their commitments to address the increments, EPA's proposed conditional approval was also made contingent on those commitments. EPA will review the sufficiency of any future submissions made by the States in order to satisfy the conditional approvals consistent with its commitments and in accordance with the CAA.

Furthermore, we are disapproving the Massachusetts submittals with respect to sections 110(a)(2)(C), (D), and (J). Massachusetts does not have an

approved PSD SIP, and has long been subject to a FIP. Because the state is subject to a PSD FIP, PM<sub>2.5</sub> increments are applied consistent with the federal program. Although Massachusetts' infrastructure submissions are not approvable with respect to sections 110(a)(2)(C), (D), and (J), the state is not subject to mandatory sanctions because the SIP deficiencies are not associated with a submittal required under part D or in response to a SIP call. In addition, because state requirements are satisfied by the FIP, this disapproval action will not trigger additional FIP obligations.

*Comment 3:* The Sierra Club noted that on August 21, 2012, the D.C. Circuit Court issued an opinion vacating the Cross State Air Pollution Rule (CSAPR), which is also known as the Transport Rule and was promulgated by EPA in 2011 to address interstate pollution issues. See *EME Homer City Generation, L.P. v. EPA*, No. 11–1302 (D.C. Cir. August 21, 2012). The Sierra Club asserted that EPA can no longer approve any submission in which compliance with interstate transport (section 110(a)(2)(D)(i)(I)) or visibility (section 110(a)(2)(D)(i)(II)) requirements are based on the CSAPR.

*Response 3:* We discuss sections 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II) separately.

*Section 110(a)(2)(D)(i)(I):* In this action, EPA is approving infrastructure SIP submissions for Maine and New Hampshire with respect to both prongs of section 110(a)(2)(D)(i)(I): (1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS; and (2) interfere with maintenance by any other state with respect to that NAAQS. The CSAPR also addressed and quantified certain states' requirements under section 110(a)(2)(D)(i)(I). See 76 FR 48208. Neither Maine nor New Hampshire were subject to any requirements under the CSAPR, see 76 FR 48208, 48236–45 (Aug. 8, 2011), and neither state's compliance with the requirements of section 110(a)(2)(D)(i)(I) is based on CSAPR. As such, this action does not rely on any requirements of the CSAPR or emission reductions associated with that rule to support its conclusion that these two states have met their 110(a)(2)(D)(i)(I) obligations with respect to the 1997 and 2006 PM<sub>2.5</sub> NAAQS.

EPA's decision to approve the infrastructure SIPs for Maine and New Hampshire for this element is based on our conclusion that the existing SIPs for both states have adequate provisions to satisfy the obligation under section 110(a)(2)(D)(i)(I) of the CAA to address

these requirements with respect to the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. As explained in section III of this notice, this conclusion is based on air quality modeling originally conducted to quantify each individual state's contributions to downwind nonattainment and maintenance areas during the rulemaking process for the CSAPR.

The recent D.C. Circuit opinion in the CSAPR litigation, *EME Homer City Generation v. EPA*, No. 11–1302 (D.C. Cir., August 21, 2012), does not alter our conclusion that the existing SIPs for Maine and New Hampshire adequately address this requirement. Nothing in the *Homer City* opinion disturbs or calls into question that conclusion or the validity of the air quality modeling on which the conclusion is based. In addition, nothing in that opinion undermines our conclusion that Maine and New Hampshire do not contribute significantly to nonattainment or interfere with maintenance in another state because emissions from neither state contributes more than one percent of the 1997 or 2006 PM<sub>2.5</sub> NAAQS to any downwind area with nonattainment or maintenance problems.<sup>3</sup>

*Section 110(a)(2)(D)(i)(II):* For New Hampshire, we will take separate action on PM<sub>2.5</sub> infrastructure SIP visibility requirements. Notably, we recently approved the New Hampshire Regional Haze SIP. See 77 FR 50602, August 22, 2012. However, we are not taking action on section 110(a)(2)(D)(i)(II) visibility requirements for New Hampshire today.

For Maine, in this action, we are approving Maine's PM<sub>2.5</sub> infrastructure SIP as meeting the visibility requirements of section 110(a)(2)(D)(i)(II). This approval is based on the fact that EPA has approved Maine's Regional Haze SIP for the first planning period from 2008 through 2018 (77 FR 24385).

### III. Final Action

EPA is approving PM<sub>2.5</sub> infrastructure SIP submittals from Connecticut, Maine, Massachusetts, and New Hampshire as fully meeting the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> standards for the following 110(a)(2) elements and sub-elements: (B), (C) (enforcement program), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation), (J) (public notification), (K), (L), and (M). EPA is also approving the submittals from Maine and New Hampshire as

<sup>2</sup> Although the notice was published by the **Federal Register** on July 23, 2012, the notice was signed by the Regional Administrator on July 16, 2012, before the statutory deadline for submission of the SIP revision addressing the PM<sub>2.5</sub> increments.

<sup>3</sup> To the contrary, the Court looked favorably upon EPA's determination to exclude certain states from the CSAPR based on the amount of the upwind State's contribution to nonattainment and maintenance areas in downwind states. See *EME Homer City*, slip op. at 34.

fully meeting the infrastructure requirements for the 1997 and 2006 PM<sub>2.5</sub> standards for the two prongs of section 110(a)(2)(D)(i)(I). These two prongs are (1) contribute significantly to nonattainment in any other state with respect to any such national primary or secondary NAAQS, and (2) interfere with maintenance by any other state with respect to the same NAAQS. EPA's decision to approve the infrastructure SIPs for Maine and New Hampshire for this element is based on our conclusion that the existing SIPs for both states have adequate provisions to satisfy the obligation under section 110(a)(2)(D)(i)(I) of the CAA to address these requirements with respect to the 1997 and 2006 PM<sub>2.5</sub> NAAQS. This conclusion is based on air quality modeling originally conducted to quantify each individual state's contributions to downwind nonattainment and maintenance areas during the rulemaking process for the CSAPR. A technical support document describing that modeling is available in the dockets for the Maine and New Hampshire portions of this rulemaking. This air quality modeling demonstrates that emissions from the states of Maine and New Hampshire do not contribute more than one percent of the NAAQS to any downwind areas with nonattainment and maintenance problems with respect to the 1997 and the 2006 PM<sub>2.5</sub> NAAQS. For this reason, EPA concludes that these states do not contribute significantly to nonattainment or interfere with maintenance of the 1997 or 2006 PM<sub>2.5</sub> NAAQS in another state.

In addition, EPA is approving the submittals from Maine for the prong of section 110(a)(2)(D)(i)(II) related to interference with visibility protection. EPA is also approving the submittals from New Hampshire for 110(a)(2)(D)(ii) related to interstate and international pollution abatement.

EPA is conditionally approving the submittals from all four states for the following 110(a)(2) elements and sub-elements: (A) and (E)(ii) (state boards and conflict of interest provisions). We are conditionally approving the submittals from three states (Connecticut, Maine, and New Hampshire) for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the states' PSD programs. We are also conditionally approving the submittals from Connecticut and Maine for 110(a)(2)(D)(ii).

For Massachusetts, EPA is disapproving the state's submittals for section 110(a)(2) sub-elements (C), (D)(i)(II), and (J) as they relate to the state's PSD program, as well as (D)(ii),

which relates to interstate and international pollution abatement. Notwithstanding our conclusion that the Massachusetts' 110(a) submissions do not meet these PSD requirements, the state is already subject to a Federal Implementation Plan (FIP) for PSD, and so EPA has no additional FIP obligations under section 110(c). Furthermore, the state will not be subject to mandatory sanctions as a result of this disapproval.

#### 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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 CAA; 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP either is not approved to apply in Indian country located in the state or does not alter the requirements of any state law that may already apply in Indian country. EPA notes that this approval will not impose substantial direct costs on tribal governments or preempt tribal law.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 17, 2012. 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: September 27, 2012.

**H. Curtis Spalding,**  
Regional Administrator, Region 1.

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

**PART 52—[AMENDED]**

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

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

**Subpart H—Connecticut**

■ 2. Section 52.379 is amended by adding paragraphs (c), (d), (e), and (f) to read as follows:

**§ 52.379 Control strategy: PM<sub>2.5</sub>.**

\* \* \* \* \*

(c) Approval—Submittal from the Connecticut Department of Environmental Protection, dated September 4, 2008, to address the Clean Air Act (CAA) infrastructure requirements for the 1997 PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). This submittal is approved as meeting the requirements of sections 110(a)(2)(B), (C) (enforcement program only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

(d) Conditional Approval—Submittal from the Connecticut Department of Environmental Protection, dated September 4, 2008, to address the Clean Air Act (CAA) infrastructure requirements for the 1997 PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). EPA is conditionally approving Connecticut's submittal with respect to CAA sections 110(a)(2)(A), (C) only as it related to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Connecticut taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to

EPA Region 1 dated June 15, 2012, and July 11, 2012.

(e) Approval—Submittal from the Connecticut Department of Environmental Protection, dated September 18, 2009, with supplements submitted on January 7, 2011, and August 19, 2011, to address the Clean Air Act (CAA) infrastructure requirements for the 2006 PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). This submittal is approved as meeting the requirements of sections 110(a)(2)(B), (C) (enforcement program only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

(f) Conditional Approval—Submittal from the Connecticut Department of Environmental Protection, dated September 18, 2009, with supplements submitted on January 7, 2011, and August 19, 2011, to address the Clean Air Act (CAA) infrastructure requirements for the 2006 PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). EPA is conditionally approving Connecticut's submittal with respect to CAA sections 110(a)(2)(A), (C) only as it related to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Connecticut taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 15, 2012, and July 11, 2012.

**Subpart U—Maine**

■ 3. Section 52.1019 is added to read as follows:

**§ 52.1019 Identification of plan—conditional approval.**

(a) 1997 PM<sub>2.5</sub> NAAQS: The SIP submitted September 10, 2008, with a supplement submitted on June 1, 2011, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012.

(b) 2006 PM<sub>2.5</sub> NAAQS: The SIP submitted July 27, 2009, with a supplement submitted on June 1, 2011, is conditionally approved for CAA elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012.

■ 4. In § 52.1020, the table in paragraph (e) is amended by adding two entries to the end to read as follows:

**§ 52.1020 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**MAINE NON REGULATORY**

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date <sup>3</sup>	Explanations
Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 1997 PM <sub>2.5</sub> NAAQS.	Statewide .....	9/10/2008; supplement submitted 6/1/2011.	10/16/2012 [Insert <b>Federal Register</b> page number where the document begins].	This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2) (B), (C) (enforcement program only), (D)(i)(I), (D)(i)(II) (visibility only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).
Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 2006 PM <sub>2.5</sub> NAAQS.	Statewide .....	7/27/2009; supplement submitted 6/1/2011.	10/16/2012 [Insert <b>Federal Register</b> page number where the document begins].	This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2) (B), (C) (enforcement program only), (D)(i)(I), (D)(i)(II) (visibility only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

<sup>3</sup>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.

**Subpart W—Massachusetts**

■ 5. Section 52.1131 is amended by adding paragraphs (b), (c), (d), (e), (f) and (g) to read as follows:

**§ 52.1131 Control strategy: Particulate matter.**

\* \* \* \* \*

(b) Approval—Submittal from the Massachusetts Department of Environmental Protection, dated April 4, 2008 to address the Clean Air Act (CAA) infrastructure requirements for the 1997 PM<sub>2.5</sub> NAAQS. This submittal satisfies requirements of CAA sections 110(a)(2)(B), (C) (enforcement program only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

(c) Conditional Approval—Submittal from the Massachusetts Department of Environmental Protection, dated April 4, 2008, to address the Clean Air Act (CAA) infrastructure requirements for the 1997 PM<sub>2.5</sub> NAAQS is conditionally approved for CAA elements 110(a)(2)(A) and (E)(ii). This conditional approval is contingent upon Massachusetts taking actions to meet requirements of these elements within one year of conditional approval, as committed to in a letter from the state to EPA Region 1 dated July 12, 2012.

(d) Disapproval—Submittal from the Massachusetts Department of Environmental Protection, dated April 4, 2008, to address the Clean Air Act (CAA) infrastructure requirements for the 1997 PM<sub>2.5</sub> NAAQS. This submittal does not satisfy requirements of CAA sections 110(a)(2)(C) (PSD program only), (D)(i)(II) (PSD program only), (D)(ii), and (J) (PSD program only).

(e) Approval—Submittal from the Massachusetts Department of Environmental Protection, dated

September 21, 2009, with supplements submitted on January 13, 2011, and August 19, 2011, to address the Clean Air Act (CAA) infrastructure requirements for the 2006 PM<sub>2.5</sub> NAAQS. This submittal satisfies requirements of CAA sections 110(a)(2)(B), (C) (enforcement program only), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

(f) Conditional Approval—Submittal from the Massachusetts Department of Environmental Protection, dated September 21, 2009, with supplements submitted on January 13, 2011, and August 19, 2011, to address the Clean Air Act (CAA) infrastructure requirements for the 2006 PM<sub>2.5</sub> NAAQS is conditionally approved for CAA elements 110(a)(2)(A) and (E)(ii). This conditional approval is contingent upon Massachusetts taking actions to meet requirements of these elements within one year of conditional approval, as committed to in a letter from the state to EPA Region 1 dated July 12, 2012.

(g) Disapproval—Submittal from the Massachusetts Department of Environmental Protection, dated September 21, 2009, with supplements submitted on January 13, 2011, and August 19, 2011, to address the Clean Air Act (CAA) infrastructure requirements for the 2006 PM<sub>2.5</sub> NAAQS. This submittal does not satisfy requirements of CAA sections 110(a)(2)(C) (PSD program only), (D)(i)(II) (PSD program only), (D)(ii), and (J) (PSD program only).

**Subpart EE—New Hampshire**

■ 6. Section 52.1519 is amended by adding paragraphs (a)(3) and (4) to read as follows:

**§ 52.1519 Identification of plan—conditional approval.**

(a) \* \* \*

(3) 1997 PM<sub>2.5</sub> NAAQS: The 110(a)(2) infrastructure SIP submitted on April 3, 2008, with a supplement submitted on July 3, 2012, is conditionally approved for Clean Air Act (CAA) elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon New Hampshire taking actions to meet requirements of these elements within one year of conditional approval, as committed to in a letter from the state to EPA Region 1 dated June 29, 2012.

(4) 2006 PM<sub>2.5</sub> NAAQS: The 110(a)(2) infrastructure SIP submitted on September 18, 2009, with a supplement submitted on July 3, 2012, is conditionally approved for CAA elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon New Hampshire taking actions to meet requirements of these elements within one year of conditional approval, as committed to in a letter from the state to EPA Region 1 dated June 29, 2012.

\* \* \* \* \*

■ 7. Section 52.1520 is amended to read as follows:

In § 52.1520, the table in paragraph (e) is amended by adding two entries to the end to read as follows:

**§ 52.1520 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**NEW HAMPSHIRE NON REGULATORY**

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date <sup>3</sup>	Explanations
* Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 1997 PM <sub>2.5</sub> NAAQS.	* Statewide .....	* 4/3/2008; supplement submitted 7/3/2012.	* 10/16/2012 [Insert <b>Federal Register</b> page number where the document begins].	* This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(B), (C) (enforcement program only), (D)(i)(I), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).
* Submittal to meet Section 110(a)(2) Infrastructure Requirements for the 2006 PM <sub>2.5</sub> NAAQS.	* Statewide .....	* 9/18/2009; supplement submitted 7/3/2012.	* 10/16/2012 [Insert <b>Federal Register</b> page number where the document begins].	* This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(B), (C) (enforcement program only), (D)(i)(I), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (consultation and public notification only), (K), (L), and (M).

<sup>3</sup>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.

[FR Doc. 2012-25300 Filed 10-15-12; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R04-OAR-2010-1015; FRL-9739-2]****Approval and Promulgation of Implementation Plans; North Carolina 110(a)(1) and (2) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve in part and conditionally approve in part portions of the State Implementation Plan (SIP) submissions, submitted by the State of North Carolina, through the Department of Environment and Natural Resources (NC DENR), Division of Air Quality (DAQ), as demonstrating that the State meets the SIP requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 annual and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. North Carolina certified in two separate submissions that its SIP contains provisions that ensure the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS are implemented, enforced, and maintained in North Carolina (hereafter referred to as “infrastructure submissions”). With the exception of elements 110(a)(2)(C), 110(a)(2)(D)(i), 110(a)(2)(E)(ii) and 110(a)(2)(J), North Carolina’s infrastructure submissions, provided to EPA on April 1, 2008, and September 21, 2009, address all the required infrastructure elements for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. With respect to sections 110(a)(2)(C), 110(a)(2)(E)(ii) and 110(a)(2)(J), EPA is conditionally approving these requirements.

**DATES:** This rule will be effective on November 15, 2012.**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2010-1015. All documents in the docket

are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person 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 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Background
- II. This Action
- III. EPA’s Response to Comments
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. Background**

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. On July 18, 1997 (62 FR 38652), EPA promulgated a new annual PM<sub>2.5</sub> NAAQS and on October 17, 2006 (71 FR 61144), EPA promulgated a new 24-hour PM<sub>2.5</sub> NAAQS. On July 24, 2012, EPA proposed to approve North Carolina’s April 1, 2008, and September 21, 2009, infrastructure submissions for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS. See 77 FR 43196. A summary of the background for today’s final action is provided below. See EPA’s July 24, 2012, proposed rulemaking at 77 FR 43196 for more detail.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. The data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affect the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state’s existing SIP already contains. In the case of the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous PM NAAQS.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for “infrastructure” SIP requirements related to a newly established or revised NAAQS. As already mentioned, these requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this final rulemaking are listed below<sup>1</sup> and in EPA’s October 2, 2007, memorandum entitled “Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards.” and September 25, 2009, memorandum entitled “Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards.”

<sup>1</sup> Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather are due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA, and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. Today’s final rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment plan requirements of section 110(a)(2)(C).