

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R01-OAR-2010-0380; A-1-FRL-9195-2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Determination of Attainment of the 1997 Ozone Standard for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is determining that the Greater Connecticut moderate 1997 8-hour ozone nonattainment area has attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality-assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007–2009 monitoring period. Under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS. In addition, EPA is determining that this area has attained the 1997 ozone NAAQS as of June 15, 2010, its applicable attainment date.

DATES: *Effective Date:* This rule is effective on September 30, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2010-0380. All documents in the docket are listed on the <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 <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.

FOR FURTHER INFORMATION CONTACT:

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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. What actions is EPA taking?
- II. What is the effect of these actions?
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. What actions is EPA taking?

EPA is determining that the Greater Connecticut area moderate 8-hour ozone nonattainment area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based upon complete, quality-assured and certified ambient air monitoring data that show the area has monitored attainment of the 1997 ozone NAAQS for the 2007–2009 monitoring period. In addition, preliminary data through June 15, 2010 continues to show this area meets the 1997 ozone NAAQS. EPA is also determining, under section 181(b)(2)(A) of the Clean Air Act (CAA), that this area has attained the 1997 ozone NAAQS by its applicable attainment date (June 15, 2010).

Other specific details related to the determination and the rationale for EPA's action are explained in the Notice of Proposed Rulemaking (NPR) published on June 1, 2010 (75 FR 30310) and will not be restated here. No comments were received on the NPR.

II. What is the effect of these actions?

Under the provisions of EPA's ozone implementation rule (*see* 40 CFR Section 51.918), the determination that the area is attaining the standard suspends the requirements for the Greater Connecticut moderate ozone nonattainment area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS for so long as the area continues to attain the 1997 ozone

NAAQS. As we stated in EPA's proposed rulemaking, the Connecticut Department of Environmental Protection previously submitted an ozone attainment demonstration, Reasonable Further Progress plan, and contingency measures SIP, but EPA has not acted on these SIPs.

This action does not constitute a redesignation to attainment under CAA section 107(d)(3), because the area does not have an approved maintenance plan as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area remains moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that it meets the CAA requirements for redesignation to attainment. If EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent requirements.

In addition, in accordance with CAA section 181(b)(2)(A), EPA is determining that the Greater Connecticut 1997 8-hour ozone nonattainment area has attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010. Preliminary monitoring data that became available subsequent to EPA's proposal are consistent with continued attainment as of June 15, 2010. The effect of this determination of attainment by the area's attainment date is to discharge EPA's obligation under section 181(b)(2)(A), and to establish that, in accordance with that section, the area will not be reclassified for failure to attain by its applicable attainment date.

III. Final Action

EPA is determining that the Greater Connecticut 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard based on three years of complete, quality-assured and certified ozone monitoring data from 2007–2009. Preliminary data available through June 15, 2010 are consistent with continued attainment. As provided in 40 CFR 51.918, this determination suspends the requirements for Connecticut to submit an attainment demonstration, a reasonable further progress plan, contingency measures under section 172(c)(9), and any other planning SIP related to attainment of the 1997 8-hour ozone NAAQS for this area, for so long as the area continues to attain the 1997

ozone standard. In addition, pursuant to CAA section 181(b)(2)(A) EPA is determining that the Greater Connecticut 8-hour ozone nonattainment area has attained the 1997 8-hour ozone NAAQS by its applicable attainment date (June 15, 2010).

IV. Statutory and Executive Order Reviews

These actions make a determination of attainment based on air quality, and result in the suspension of certain Federal requirements, and would not impose additional requirements beyond those imposed by State law. For that reason, these actions:

- Are not “significant regulatory actions” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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, these actions do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that

it 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 these actions 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 November 1, 2010. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 19, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

■ 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 52.377 is amended by adding paragraph (f) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(f) Determination of Attainment. Effective September 30, 2010, EPA is determining that the Greater Connecticut 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard. Under the provisions of EPA’s ozone implementation rule (see 40 CFR 51.918), this determination suspends the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act for as long as the area does not monitor any violations of the 1997 8-hour ozone standard. If a violation of the 1997 ozone NAAQS is monitored in the Greater Connecticut 8-hour ozone nonattainment area, this determination shall no longer apply.

In addition, this area met its June 15, 2010 attainment deadline for the 1997 ozone standard.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 239 and 258

[EPA–R01–RCRA–2010–0676; FRL–9193–1]

Adequacy of New Hampshire Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a modification to New Hampshire’s approved municipal solid waste landfill (MSWLF) program. The approved modification allows the State to issue Research, Development, and Demonstration (RD&D) Permits to owners and operators of MSWLF in accordance with its State law. On March 22, 2004, EPA issued final regulations allowing research, development, and demonstration (RD&D) permits to be issued to certain municipal solid waste landfills by approved states. On June 28, 2010 New Hampshire submitted an application to EPA Region 1 seeking Federal approval of its RD&D requirements. After thorough review EPA Region 1 is determining that New Hampshire’s RD&D permit requirements are adequate through this direct final action.

DATES: This determination of RD&D program adequacy for New Hampshire will become effective November 29, 2010 without further notice unless EPA