

## **New Hampshire; Nashua Area, Carbon Monoxide Attainment and Maintenance**

### **Federal Register Dates:**

November 29, 2000 Notice of Proposed Rulemaking, 65 FR 71078

November 29, 2000 Direct Final Rulemaking, 65 FR 71060

**EPA Approval Date:** The direct final rule approving the redesignation of the Nashua “not classified” carbon monoxide nonattainment area from nonattainment to attainment, was effective on January 29, 2001.

**State Submittal:** On February 2, 1999, the New Hampshire Department of Environmental Services submitted a request to redesignate the City of Nashua carbon monoxide nonattainment area to attainment for carbon monoxide. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year (1990 attainment year) emission inventory for carbon monoxide, a demonstration of maintenance of the carbon monoxide national ambient air quality standard (NAAQS) with projected emission inventories to the year 2010 for carbon monoxide, a year 2010 carbon monoxide transportation conformity budget for the City of Nashua, a plan to verify continued attainment, a contingency plan, and an obligation to submit additional information in eight years acknowledging that the maintenance plan will remain in effect through the year 2020, as required by the Clean Air Act. The New Hampshire Department of Environmental Services also submitted a revision to the motor vehicle inspection and maintenance (I/M) SIP approved for the Nashua area on February 2, 1999.

**Background/Prior Action:** The City of Nashua was designated nonattainment on March 31, 1978. Pursuant to Section 107(d)(1)(C) of the Clean Air Act Amendments of 1990, the City of Nashua retained its designation of nonattainment for carbon monoxide by operation of law. At the same time, the area was classified as “not classified” since ambient monitoring data for the Nashua area was showing attainment of the carbon monoxide national ambient air quality standard (NAAQS). Because the Nashua area was not classified under the 1990 Clean Air Act Amendments, it is section 172 of the Clean Air Act that sets forth the applicable requirements for this nonattainment area. The 1990 Clean Air Act required such an area to achieve the standard by November 15, 1995, and Nashua has fulfilled this requirement.

In 1985, the State of New Hampshire initiated a basic carbon monoxide motor vehicle inspection and maintenance program in the Nashua area. This basic carbon monoxide I/M program was implemented in Nashua and eleven surrounding towns, (Nashua, Hollis, Merrimack, Litchfield, Hudson, Milford, Amherst, Pelham, Londonderry, Derry, Windham, and Salem), starting in 1987. The program was designed to cease operating on January 1, 1995 and the State legislature allowed it to cease at that time. The Nashua area came into attainment with the carbon monoxide NAAQS in 1987, and has continued to maintain attainment with the carbon monoxide standard since then.

Prior to redesignation, New Hampshire cannot remove the Nashua carbon monoxide I/M program from its SIP unless it makes a demonstration under CAA section 193, the so-called savings clause, that the State is replacing that program with another that achieves equivalent or greater emissions reductions in the nonattainment area. Therefore, in addition to requesting that

EPA redesignate the Nashua area to attainment, the State also submitted a request to replace the Nashua carbon monoxide I/M program with controls consisting of the Tier 1 emission standards and the reformulated gasoline program. These programs became effective in New Hampshire in 1994 and 1995, respectively.

**Summary:** EPA approved by direct final rule, the State of New Hampshire's request to redesignate the Nashua area to attainment for carbon monoxide, along with a maintenance plans which will insure that the Nashua area will remain in attainment of the carbon monoxide national ambient air quality standards (NAAQS). In this action, EPA is also approved the New Hampshire 1990 baseline emission inventories for the Nashua area as well as a transportation conformity budgets for the Nashua area. The redesignation request establishes a year 2010 motor vehicle emissions budget of 60.13 tons per day for carbon monoxide for the City of Nashua which is to be used in determining transportation conformity for the Nashua area.

If the area records a violation of the carbon monoxide NAAQS (which must be confirmed by the State), New Hampshire will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measures includes the enhanced safety inspection program and New Hampshire's low emission vehicle program (NLEV) as contingency measures. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

The New Hampshire Department of Environmental Services conducted an analysis that provides evidence that the Tier 1 emission standards and the reformulated gasoline program are providing equal or more emission reductions than the Nashua carbon monoxide I/M program. Based on this conclusion, EPA is approving New Hampshire's request to replace the I/M program with the aforementioned replacement controls as a prerequisite for redesignating Nashua to attainment for carbon monoxide.

**Contingency Measures:** Section 175A(d) of the Clean Air Act requires that the contingency provisions include a requirement that the State implement all measures contained in the SIP prior to redesignation, and New Hampshire has fulfilled this requirement.

New Hampshire has developed a contingency plan consisting of the New Hampshire's low emission vehicle program (NLEV), which was implemented for model year 1999, and the New Hampshire Enhanced Safety Inspection Program, which was implemented in 1999. Although New Hampshire is implementing these programs as measures to achieve the NAAQS for ground level ozone, they are not required in nonclassified carbon monoxide nonattainment areas under the Clean Air Act and can therefore be used as contingency measures. In order to be adequate, the maintenance plan should include at least one contingency measure that will go into effect with a triggering event. New Hampshire is relying largely on these two contingency measures that will go into effect regardless of any triggering event, thereby fulfilling this requirement. EPA accepts this approach.

#### **Transportation Conformity Budgets:**

On March 2, 1999, the D.C. Circuit Court ruled that submitted emission budgets cannot be used for transportation conformity determinations until EPA has affirmatively found them adequate. EPA published an adequacy notice in the Federal Register on February 29, 2000 (65

FR 10785) notifying the public that we found the year 2010 carbon monoxide motor vehicle emissions budget for the City of Nashua, (which was submitted as part of the carbon monoxide redesignation request), adequate for conformity purposes. The February 29, 2000, Federal Register notice was simply an announcement of a finding that EPA had already made in a letter to the New Hampshire Department of Environmental Services on November 2, 1999.

The Nashua carbon monoxide maintenance plan establishes a year 2010 carbon monoxide motor vehicle emission budget of 60.13 tons of carbon monoxide per winter day for the City of Nashua, New Hampshire.

**Identification by rule name and/or number/citation of the regulations that have been approved by EPA as part of the SIP Plan:**

No new state regulations were approved into the New Hampshire State Implementation Plan in association with the redesignation of the Nashua area to attainment.

The Nashua Inspection/Maintenance program for carbon monoxide, (originally approved at 40 CFR 52.1520(c)(39) and which ceased operating on January 1, 1995), was replaced with on-going controls consisting of the existing federal Tier 1 emission standards for new vehicles and the federal reformulated gasoline program.

**Other Commitments:**

In accordance with section 175A(b) of the Clean Air Act, the State of New Hampshire must implement two ten year maintenance plans. New Hampshire must submit a subsequent maintenance plan eight years from the approval of the redesignation to cover the second ten year period.

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