



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

May 6, 2024

The Honorable Denise Ricciardi
Chair, Senate Transportation Committee
Legislative Office Building
Concord, NH 03301

Re: HB 1391-FN, An Act allowing new vehicles purchased in the model year or before to be inspected in the second year after purchase.

Dear Chair Ricciardi and Members of the Committee:

Thank you for the opportunity to comment on behalf of the New Hampshire Department of Environmental Services (NHDES) regarding HB 1391-FN which seeks to allow new motor vehicles purchased in the model year or before to be inspected in the second year after purchase. NHDES takes no position on this bill but provides information for consideration by the General Court relative to the emissions portion of the annual inspection. While our comments below address the bill as passed by the House, NHDES understands stakeholders have drafted a suggested amendment, and we have participated in discussions relative to the amendment. NHDES does not address safety related issues in our comments.

HB 1391-FN as passed by the House proposes to revise RSA 266:1, paragraphs II and IV, which collectively require all vehicles, including new vehicles, to undergo an annual inspection, including the On-Board Diagnostics (OBD) inspection as applicable, by exempting new vehicles from inspection until the second year after purchase.

Vehicle inspection programs, including New Hampshire's OBD inspection pursuant to RSA 266:59b, paragraph III, are a proven way to reduce emissions from motor vehicles. While newer vehicles are less likely to malfunction than older vehicles, they do still have malfunctions that may result in excess pollution. NHDES does not have modeling or data to suggest how much excess pollution would be created if this bill were to pass.

Motor vehicles in New Hampshire account for half of the air pollution that causes the formation of ground level ozone. New Hampshire is required to have a vehicle emissions inspection and maintenance (I/M) program, including OBD, because portions of the state have exceeded federal air quality standards for ozone and because we are in the federally designated Ozone Transport Region.

The federal Clean Air Act (CAA) requires states to submit a State Implementation Plan (SIP) to the Environmental Protection Agency (EPA) outlining programs that will be implemented to bring states in line with air quality standards. New Hampshire's I/M SIP submittal includes authorizing statutes and state administrative rules implementing the I/M program. Upon approval of the SIP by EPA, the

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statutes and state rules become federally enforceable. EPA recently approved a revision to New Hampshire's I/M SIP that incorporates recent changes to Department of Safety rules. The timeline to obtain such approval from EPA is generally 18 to 24 months from the date of submittal. Any revisions to New Hampshire's regulations and rules that change a requirement of the current program that will impact the air quality benefits of the rule will require submittal of a revised SIP, which must be approved by EPA before New Hampshire may implement such changes. Should New Hampshire change the program requirements prior to EPA approval of a revised SIP it could, if not rectified, subject the state to federal sanctions, up to and including loss of highway funds as provided under the CAA¹.

Air quality modeling would need to be developed to support EPA approval of a SIP revision. Because of anti-backsliding provisions of the CAA any increase in emissions due to exemption of certain vehicles from inspection may need to be offset by corresponding reductions from other sectors. If new vehicles are exempted from inspection for one to two years the burden of offsetting the additional emissions, if necessary, would most likely fall on other sectors. At a minimum NHDES requests that the effective date of the bill or any amendment reflect the timeline referenced above and should not take effect, at least for the OBD related provisions, until EPA approves a related SIP revision.

Thank you again for the opportunity to comment on HB 1391-FN. Should you have questions or need additional information please feel free to contact Jessica Wilcox, Mobile Sources Supervisor (271-5552, jessica.wilcox@des.nh.gov) or Michael Fitzgerald, Asst. Director (271-6390, william.m.fitzgerald@des.nh.gov) with NHDES' Air Resources Division.

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1391-FN: Representatives Coker, Bogert, St. Clair, Gorski, Veilleux, Rombeau, Spillane; Senators Lang, Ward, Watters and Ricciardi; Robert L. Quinn, Commissioner, DOS, and John Marasco, Director, DMV

¹ See [EPA About Air Quality Implementation Plans](#)