

Revision to the
New Hampshire
State Implementation Plan

Certification of State Implementation Plan Adequacy
Regarding Clean Air Act Section 110(a)(1) and (2)
for the 2008 8-Hour Ozone Standard

December 31, 2012



Air Resources Division

Certification of State Implementation Plan Adequacy Regarding Clean Air Act Section 110(a)(1) and (2) for the 2008 8-Hour Ozone Standard

Purpose

This document certifies to the U.S. Environmental Protection Agency (EPA) that New Hampshire's State Implementation Plan (SIP) fulfills the "infrastructure" requirements established in paragraphs 110(a)(1) and (2) of the Clean Air Act (CAA) for ozone.

Background

On March 12, 2008, EPA promulgated a new National Ambient Air Quality Standard (NAAQS) for ozone based on 8-hour average concentrations. EPA revised the level of the 8-hour standard to 0.075 parts per million (ppm). (See [73 FR 16436](#).) EPA has designated all areas of New Hampshire as "unclassifiable/attainment" for the 2008 ozone NAAQS. (See [77 FR 30088](#).)

Pursuant to paragraph 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of paragraph 110(a)(2) within three years after promulgation of a new or revised NAAQS. Section 110(a)(2) requires states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2008 8-hour ozone NAAQS to EPA by March 12, 2011.

On September 16, 2009, EPA announced that it would initiate a rulemaking to reconsider the 2008 ozone NAAQS. Among the reasons cited was the fact that the 0.075 ppm standard fell outside the range recommended by the Clean Air Scientific Advisory Committee. After reconsideration, EPA proposed to lower the level of the 8-hour primary standard to within the range of 0.060 to 0.070 ppm, the exact value to be established in a final rulemaking. (See [75 FR 2938](#).) EPA has not taken final action on the proposed reconsideration but has allowed the next statutorily required review of the ozone NAAQS to proceed on schedule, with proposed and final rulemaking expected to occur in 2013-2014. (See [statement by EPA Administrator Lisa P. Jackson](#), September 2, 2011.) Thus, the current 8-hour ozone NAAQS remains unchanged at 0.075 ppm until further notice.

Shortly after the EPA Administrator's decision described above, Midwest Environmental Defense and Sierra Club filed a complaint on November 20, 2011, claiming EPA had failed to issue findings of failure concerning states' infrastructure requirements for the 2008 8-hour ozone NAAQS. The complaint was later amended to remove claims regarding states that had submitted SIPs for this NAAQS.

Subsequently, Plaintiffs WildEarth Guardians, Midwest Environmental Defense Center, and Sierra Club moved for summary judgment on all claims, including those for the 40 states that did not submit the required infrastructure SIPs for the 2008 ozone NAAQS. New Hampshire was one of the 40 named states. In a summary judgment issued on October 17, 2012, the U.S.

District Court Northern District of California ordered EPA to sign a final rule or rules issuing findings of failure to submit the required infrastructure SIP elements for each listed state by January 4, 2013.

New Hampshire's SIP Revision

EPA's reconsideration of the 2008 ozone NAAQS created uncertainty regarding the continued applicability of these standards and the manner in which states should address their SIP obligations. New Hampshire's infrastructure SIP was delayed pending resolution of this uncertainty in accordance with the EPA Administrator's decision to proceed with implementation of the 2008 NAAQS. Also, New Hampshire was waiting to receive EPA's implementation guidance before proceeding with development of the required infrastructure SIP.

The submittal of this document is intended to meet New Hampshire's obligations under the CAA with respect to paragraphs 110(a)(1) and (2) for the 2008 ozone NAAQS and obviate a finding of failure in the case of New Hampshire's infrastructure SIP.

Summary Description of New Hampshire's Compliance with Clean Air Act Section 110(a)(1) and (2) SIP requirements

► Subparagraph 110(a)(2)(A): Emission Limits and Other Control Measures

CAA¹ Citation:

“Each such plan shall...include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act.”

Applicable NH Laws and Regulations:

The following regulations have high relevance to, but are not inclusive of all regulations for, the control of ozone and ozone precursors:

- [Env-A 300: Ambient Air Quality Standards](#)²
 - Env-A 307.02: Measurement of Ozone in Ambient Air to Determine of Attainment of Ozone Standards
 - Env-A 307.03: Measurement for Ozone Attainment Determination
- [Env-A 600: Statewide Permit System](#)
 - Env-A 618: Nonattainment New Source Review
 - Env-A 619: Prevention of Significant Deterioration³
- [Env-A 700: Permit Fee System](#)
- [Env-A 1200: Volatile Organic Compounds \(VOCs\) Reasonably Available Control Technology \(RACT\)](#)
- [Env-A 1300: Nitrogen Oxides \(NOx\) Reasonably Available Control Technology \(RACT\)](#)⁴
- [Env-A 1500: Conformity](#)
- [Env-A 2300: Mitigation of Regional Haze](#)
- [Env-A 3200 NOx Budget Trading Program](#)
- Env-A 1205: VOC: Gasoline Dispensing Facilities and Gasoline Tank Trucks (recently readopted and renumbered as [Env-Or 500: Recovery of Gasoline Vapors](#))⁵
- [Saf-C 3200: Official Motor Vehicle Inspection Requirements](#)
 - Saf-C 3220: Emissions Requirements
 - Saf-C 3222: On-Board Diagnostic System⁶

¹ CAA refers to the Clean Air Act.

CFR refers to the U.S. Code of Federal Regulations.

EPA refers to the U.S. Environmental Protection Agency.

NHDES refers to the New Hampshire Department of Environmental Services.

RSA refers to the New Hampshire Revised Statutes Annotated.

Env-A refers to the New Hampshire Code of Administrative Rules for the Control of Air Pollution.

Env-Or and Env-Wm refer to the New Hampshire Code of Administrative Rules for the Oil & Remediation Program.

Saf-C refers to the New Hampshire Code of Administrative Rules for the Department of Safety, Commissioner's Office.

² NH amended Env-A 300: Ambient Air Quality Standards, effective September 1, 2012. NHDES submitted the amended rule as a SIP revision for EPA's approval on November 8, 2012.

³ NH amended Env-A 619: Prevention of Significant Deterioration, effective September 1, 2012. NHDES submitted the amended rule as a SIP revision for EPA's approval on November 15, 2012.

⁴ NH adopted Env-A 1300: Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT), effective October 31, 2010, as a replacement for Env-A 1211: Nitrogen Oxides (NOx). NHDES submitted this rule as a SIP revision for EPA's approval on March 31, 2011.

⁵ NH adopted Env-Or 500: Recovery of Gasoline Vapors (formerly Env-A 1205 and Env-Wm 1404), effective November 17, 2012. NHDES intends to submit the amended rule as a SIP revision for EPA's approval in January of 2013.

⁶ NH amended Saf-C 3222: On-Board Diagnostic System, effective June 22, 2007. NHDES submitted the amended rule as a SIP revision for EPA's approval on November 17, 2011.

► Subparagraph 110(a)(2)(B): Ambient Air Quality Monitoring/Data System

CAA Citation:

“Each such plan shall...provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.”

Applicable NH Laws and Regulations:

- RSA 125:81 Powers and Duties of the Agency (recodified as [RSA 125-C:6 Powers and Duties of the Commissioner](#))
 - RSA 125:81, IV (recodified as RSA 125-C:6, IV), authorizes the agency to collect and disseminate the results of studies relating to air quality.
 - RSA 125:81, V (recodified as RSA 125-C:6, V), authorizes the agency to consult and cooperate with agencies of the federal government.

Additional Information:

NHDES routinely collects and reports ambient air quality data for ozone and other pollutants in accordance with EPA-approved methods. These data are reviewed and validated before being sent to EPA’s Air Quality System (AQS) no later than 90 days after the end of a calendar quarter. In accordance with [40 CFR part 58](#), NHDES submitted a 2012 air quality monitoring network plan on July 20, 2012. EPA Region I approved this plan on August 29, 2012, with the exception of elements related to NCore, PAMS, and NO₂ monitoring, which require approval of the EPA Administrator.

► Subparagraph 110(a)(2)(C): Program for Enforcement Of Control Measures

CAA Citation:

“Each such plan shall...include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.”

Applicable NH Laws and Regulations:

- RSA 125:90-93 (recodified as [RSA 125-C:11](#)), provide for a statewide permit program.
- RSA 125:82 (recodified as [RSA 125-C:15](#), I) authorizes the agency to issue orders to correct violations.
- RSA 125:85 (recodified as RSA 125-C:15, II) authorizes the agency to obtain injunctive relief to prevent violations.
- RSA 125:86 (recodified as RSA 125-C:15, I-b) authorizes the agency to impose fines for violations of statutes and rules.

Additional Information:

The above-listed statutes provide legal authority for the enforcement of [Env-A 618: Nonattainment New Source Review](#) and [Env-A 619: Prevention of Significant Deterioration](#). Revisions to Env-A 619 (and [Env-A 100: Organizational Rules](#)) pertaining to the regulation of greenhouse gases were approved by EPA in a final rule published on February 6, 2012. (See [77 FR 5700](#).)

► Subparagraph 110(a)(2)(D): Interstate Transport

CAA Citation:

“Each such plan shall...contain adequate provisions – (i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will – (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, (ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).”

Applicable NH Laws and Regulations:

- [Env-A 619: Prevention of Significant Deterioration](#)
- [Env-A 2300: Mitigation of Regional Haze](#)

Additional Information:

As described in a recent memorandum⁷ to the states, EPA does not intend to make findings with respect to section 110(a)(2)(D)(i)(I) while the agency awaits resolution of legal matters related to the Cross-State Air Pollution Rule (CSAPR). Accordingly, New Hampshire will await further guidance from EPA before making a submission to address this SIP element. Note that New Hampshire has no pending obligations under sections 115 or 126.

► Subparagraph 110(a)(2)(E): Adequate Resources:

CAA Citation:

“Each such plan shall...provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.”

Applicable NH Laws and Regulations:

- RSA 125:81 (recodified as RSA 125-C:6) authorizes the NHDES Commissioner to enforce the state’s air laws, establish a permit program, accept and administer grants, and exercise all incidental powers necessary to carry out the law.
- [RSA 125-O:11, I Statement of Purpose and Findings](#)⁸ establishes the NH Air Resources Council, a state board that has the authority to hear enforcement and permit appeals. The Council consists of 11 members, 6 of whom must represent the public interest. Those representing the public interest may not derive any significant portion of their income from persons subject to permits or enforcement orders, and may not serve as attorney for, act as consultant for, serve as officer or director of, or hold any other official or contractual relationship with any person subject to permits or enforcement orders.

⁷ EPA memorandum, Gina McCarthy to Regional Air Division Directors, “Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,” November 19, 2012.

⁸ Attached hereto and submitted as a SIP revision for EPA’s approval.

Additional Information:

New Hampshire's SIP, originally submitted on January 27, 1972, and subsequently revised, describes the (a) existing organizations, (b) manpower, (c) funding, (d) physical resources, and (e) local agencies as required under subparagraph 110(a)(2)(E). Note, however, that New Hampshire does not rely on any local or regional government, agency, or instrumentality for the implementation of any SIP provision.

► Subparagraph 110(a)(2)(F): Stationary Source Emissions Monitoring and Reporting**CAA Citation:**

“Each such plan shall...require, as may be prescribed by the Administrator - (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection.”

Applicable NH Laws and Regulations:

- RSA 125:81, XI (recodified as [RSA 125-C:6](#), XI) authorizes the agency to require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the agency on the nature and amounts of emissions from such stationary sources. The agency shall have the authority to make such data available to the public and as correlated with any applicable emission standards.
- [Env-A 600: Statewide Permit System](#), paragraph 609.06(b)(8), requires a compliance assurance monitoring (CAM) plan, if required by 40 CFR 64.
- [Env-A 800: Testing and Monitoring Procedures](#) establishes minimum testing and monitoring procedures, calculation procedures, standards, and requirements in order to determine compliance with applicable state and federal statutes and rules. This chapter includes the following parts:
 - Env-A 802: Compliance Stack Testing for Stationary Sources
 - Env-A 803: NO_x RACT Testing Procedures
 - Env-A 804: Volatile Organic Compound Testing
 - Env-A 805: Capture Efficiency (CE)
 - Env-A 806: Sulfur Content Testing of Fuels
 - Env-A 808: Continuous Emission Monitoring
 - Env-A 809: Approval of Alternate Methods
- [Env-A 900: Owner or Operator Recordkeeping and Reporting Obligations](#) establishes the requirement that records be kept at sources which discharge air pollutants so that the emissions of such pollutants may be readily calculated or estimated and reported to NHDES for the purposes of demonstrating compliance, compiling emission inventories, and developing air related strategic plans. This chapter includes the following parts:
 - Env-A 902: Availability of Records (See note below.)
 - Env-A 903: General Recordkeeping Requirements
 - Env-A 904: VOC Emission Statements Recordkeeping Requirements
 - Env-A 905: NO_x Emission Statements Recordkeeping Requirements
 - Env-A 906: Additional Recordkeeping Requirements
 - Env-A 907: General Reporting Requirements
 - Env-A 908: VOC Emission Statements Reporting Requirements
 - Env-A 909: NO_x Emission Statements Reporting Requirements
 - Env-A 910: Additional Reporting Requirements
 - Env-A 911: Recordkeeping and Reporting Requirements for Permit Deviations

Note: Env-A 902.01(d) reads: “Subject to [Env-A 103](#), all data submitted to the division, including emission data and applicable emission limitations, shall be made available to the public.” Env-A 103 provides a mechanism by which a person who submits information to the director can protect confidential information, but not emission data.

► Subparagraph 110(a)(2)(G): Emergency Power

CAA Citation:

“Each such plan shall...provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.”

Applicable NH Laws and Regulations:

- RSA 125:84 (recodified as [RSA 125-C:9](#)) states: “Whenever the director finds that an air pollution emergency exists requiring immediate action to protect the public health, welfare, or safety, he may with consent of the governor and council issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith. The director shall rescind or abate such order as soon as the emergency ceases to exist.”

Additional Information:

The cited law grants NHDES broad statutory authority to address activities causing imminent and substantial endangerment to public health. NHDES procedures in response to elevated ozone levels are similar to the notification and communication requirements of [40 CFR part 51.152](#). NHDES performs as follows: Through the EPA AIRNOW and ENVIROFLASH systems, NHDES posts forecasted ozone levels statewide for each day during the ozone season from April 1 through September 30. Notices are sent out to ENVIROFLASH participants whenever levels in New Hampshire are forecasted to exceed the current 8-hour ozone standard. In addition, the media are alerted to these high-ozone forecasts through a press release, and the National Weather Service is notified to issue an Air Quality Advisory through the normal National Weather Service weather alert system.

New Hampshire is a Priority I region for ozone. 40 CFR 51.150(b)(5) defines a Priority I region as any area with an ambient ozone concentration greater than 195 $\mu\text{g}/\text{m}^3$ (0.10 ppm), 1-hour maximum. While some areas in New Hampshire have experienced ozone levels that marginally exceeded this threshold, those incidents are infrequent, and their magnitude remains consistent with a general downtrend in ambient ozone concentrations across the region. The table below shows maximum 1-hour values and the number of times the 100 part per billion (ppb) threshold was exceeded at each of five monitoring stations with a history of highest ozone levels in the state.

Maximum 1-Hour Values (ppm) for Ozone and Number of Times 100 ppb Threshold Was Exceeded Each Year, 2005-2012

Monitor Location	AQS Number	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Mt. Washington Summit	330074001	0.122 (1)	0.093 (0)	0.102 (1)	0.091 (0)	0.099 (0)	0.101 (1)	0.093 (0)	0.076 (0)	0.101 (1)	0.080 (0)	0.078 (0)
Peterborough	330115001	0.139 (6)	0.089 (0)	0.098 (0)	0.110 (2)	0.112 (1)	0.108 (2)	0.109 (1)	0.089 (0)	0.102 (1)	0.096 (0)	0.091 (0)
Nashua	330111011	0.135 (5)	0.101 (1)	0.110 (1)	0.105 (4)	0.091 (0)	0.104 (1)	0.080 (0)	0.082 (0)	0.088 (0)	0.108 (1)	0.112 (2)
Portsmouth	330150014	0.145 (5)	0.097 (0)	0.116 (2)	0.097 (0)	0.092 (0)	0.096 (0)	0.102 (1)	0.107 (1)	0.104 (1)	0.098 (0)	0.101 (1)
Rye	330150016	0.137 (8)	0.105 (1)	0.114 (1)	0.106 (1)	0.100 (1)	0.115 (4)	0.103 (1)	0.105 (1)	0.098 (0)	0.094 (0)	0.087 (0)

First value is maximum recorded 1-hour concentration. Value in () is number of exceedances.

As the data show, maximum ozone levels since 2005 have not come close to the significant harm level of 1,200 $\mu\text{g}/\text{m}^3$ (0.6 ppm), 2-hour average, identified at 40 CFR 51.151. NHDES does not envision any

circumstances that would produce ambient ozone concentrations approaching such an extreme level in the future.

40 CFR 51.152 establishes contingency planning requirements for certain priority regions. As provided in 51.152(d)(1), the EPA administrator may exempt Priority I regions from contingency planning requirements if those regions have been designated as attainment or unclassifiable for the NAAQS. As previously stated, EPA has designated all areas of New Hampshire as “unclassifiable/attainment” for the 2008 ozone NAAQS. On this basis, New Hampshire appears to qualify for and requests the exemption from contingency planning.

► Subparagraph 110(a)(2)(H): Future SIP revisions

CAA Citation:

“Each such plan shall...provide for revision of such plan - (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act.”

Applicable NH Laws and Regulations:

- RSA 125:81 (recodified as [RSA 125-C:6](#)) provides as follows: “In addition to the other powers and duties granted herein, the agency shall have and may exercise the following powers and duties:...II. To develop a comprehensive program and provide services for the study, prevention and abatement of air pollution;...”
- [Env-A 204: Public Hearings on the State Implementation Plan](#) sets forth the procedure for SIP hearings.

Additional Information:

As evidence of New Hampshire’s commitment to meeting the requirements of this subparagraph, it is noted that NHDES has made numerous SIP revisions for both the former 1-hour ozone NAAQS and the 1997 8-hour ozone NAAQS. (See [EPA’s Summaries and Rulemakings](#) for past documentation.)

► Subparagraph 110(a)(2)(I): Areas Designated Nonattainment

CAA Citation:

“Each such plan shall...in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas).”

Applicable NH Laws and Regulations: See below.

Additional Information:

In accordance with a recent memorandum, EPA does not expect infrastructure SIP submissions to address subparagraph 110(a)(2)(I); nonattainment area plans required under part D follow a different schedule from the section 110 infrastructure elements and are reviewed and acted upon through a separate process.⁹

⁹ EPA memorandum, Stephen D. Page to Regional Air Division Directors, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS),” October 14, 2011.

► Subparagraph 110(a)(2)(J): Consultation with Government Officials

CAA Citation:

“Each such plan shall...meet the applicable requirements of section 121 (relating to consultation),...”

Applicable NH Laws and Regulations:

- RSA 125:81 (recodified as [RSA 125-C:6](#)) provides as follows: “In addition to the other powers and duties granted herein, the agency shall have and may exercise the following powers and duties:...
V. To advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, interstate agencies, and other affected agencies or groups in matters relating to air pollution;
VI. To encourage local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state; XIII. The agency shall have the authority to coordinate and regulate the air pollution control programs of civil subdivisions of the state and to enter agreements with said subdivisions to plan or implement programs for the control and abatement of air pollution.”
- [Env-A 621: Permit Notice and Hearing Procedures: Temporary Permits and Permits to Operate](#) specifies the public notice and hearing procedures that apply to all applications for the issuance of, amendment to, or denial of temporary permits and permits to operate.
- [Env-A 622: Permit Notice and Hearing Procedures: Title V Operating Permits](#) specifies the public notice and hearing procedures that apply to all applications for the issuance, significant modification to or renewal of Title V operating permits files with the department and all requests for Title V operating permit re-openings.
- [Env-A 1500: Conformity](#) provides for consultation with local agencies and planning commissions with respect to transportation conformity and the conformity of federal actions related to transportation projects.

► Subparagraph 110(a)(2)(J): Public Notification

CAA Citation:

“Each such plan shall...meet the applicable requirements of...section 127 (relating to public notification),...”

Applicable NH Laws and Regulations:

- RSA 125:81 (recodified as [RSA 125-C:6](#)) provides as follows: “In addition to the other powers and duties granted herein, the agency shall have and may exercise the following powers and duties:... IV. To collect and disseminate the results of studies relating to air pollution; V. To advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, interstate agencies, and other affected agencies or groups in matters relating to air pollution; VI. To encourage local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state; . . .”

Additional Information:

In implementing this authority, NHDES issues press releases in advance of high-ozone days and posts warnings on its website, advising people what they can do to help prevent poor air quality and associated health effects. NHDES is one of the state partners participating in EPA’s AIRNOW and Enviroflash Air Quality Alert programs. (See www.airnow.gov.)

► Subparagraph 110(a)(2)(J): PSD and Visibility Protection

CAA Citation:

“Each such plan shall...meet the applicable requirements of...part C (relating to prevention of significant deterioration of air quality and visibility protection);...”

Applicable NH Laws and Regulations:

- RSA 125:81, XIV (recodified as [RSA 125-C:6](#), XIV) authorizes the agency to establish and operate a statewide system under which permits shall be required for the construction and operation of new and modified stationary sources.
- [Env-A 619: Prevention of Significant Deterioration](#) addresses PSD and visibility protection and is essential to meeting the requirements of [40 CFR 51.166](#) and [40 CFR 52.21](#).

Additional Information:

Revisions to Env-A 619 (and [Env-A 100: Organizational Rules](#)) pertaining to the regulation of greenhouse gases were approved by EPA in a final rule published on February 6, 2012. (See [77 FR 5700](#).) Subsequent revisions to Env-A 619 were submitted as a SIP revision for EPA’s approval on November 15, 2012.

► Subparagraph 110(a)(2)(K): Air Quality Modeling/Data

CAA Citation:

“Each such plan shall...“provide for – (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.”

Applicable NH Laws and Regulations:

- RSA 125:81 (recodified as [RSA 125-C:6](#)) authorizes the department to exercise general supervision of the administration and enforcement of the statute and all rules adopted and orders promulgated under it; to develop a comprehensive program and provide services for the study, prevention, and abatement of air pollution; to conduct and encourage studies relating to air quality; to collect and disseminate the results of studies relating to air quality; to advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, interstate agencies, and other affected agencies or groups in matters relating to air quality; and, among other authorities, to exercise all incidental powers necessary to carry out the purposes of the statute.
- [Env-A 613.02: Denial of Permit Issuance](#) authorizes NHDES to deny the issuance of a construction permit if modeling shows that a major source proposing to construct or make modifications in a nonattainment area will cause or contribute to a violation of the NAAQS for a pollutant for which that area is in attainment.
- [Env-A 619.03: PSD Program Requirements](#) incorporates by reference numerous paragraphs of 40 CFR 52.21, including (k)(1), (l), and (m), which require modeling by major sources prior to construction or major modifications.

Additional Information:

In exercise of the authority granted in RSA 125:81 (recodified as [RSA 125-C:6](#)), NHDES regularly performs trend analysis and predictive air quality modeling for ozone and other pollutants. New Hampshire is a member of the Ozone Transport Commission and participates in the ozone modeling efforts conducted by this organization.

► Subparagraph 110(a)(2)(L): Permitting Fees**CAA Citation:**

“Each such plan shall...require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover - (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.”

Applicable NH Regulations:

- [Env-A 700: Permit Fee System](#) establishes a fee system requiring the payment of fees to cover the reasonable direct and indirect costs of: reviewing and acting upon applications for the issuance of, amendment to, modification to, renewal of, or any combination of the foregoing actions to a temporary permit, state permit to operate, or Title V operating permit; implementing and enforcing the terms and conditions of any temporary permit, state permit to operate, or Title V operating permit; administering the state permit program; and developing, implementing and administering the Title V operating permit program. In particular, Env-A 705 establishes the emission fee program for Title V and non-Title V sources.

Additional Information:

EPA's full approval of New Hampshire's title V program became effective on November 23, 2001. New Hampshire's title V program documentation included a demonstration that the state will collect fees from title V sources above the presumptive minimum in accordance with [40 CFR 70.9\(b\)\(2\)\(i\)](#).

► Subparagraph 110(a)(2)(M): Consultation/Participation by Affected Local Entities**CAA Citation:**

“Each such plan shall...provide for consultation and participation by local political subdivisions affected by the plan.”

Applicable NH Laws and Regulations:

RSA 125:81 (recodified as [RSA 125-C:6](#)) provides as follows: “In addition to the other powers and duties granted herein, the agency shall have and may exercise the following powers and duties:... V. To advise, consult, and cooperate with the cities and towns and other agencies of the state, federal government, interstate agencies, and other affected agencies or groups in matters relating to air pollution; VI. To encourage local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state; XIII. The agency shall have the authority to coordinate

and regulate the air pollution control programs of civil subdivisions of the state and to enter agreements with said subdivisions to plan or implement programs for the control and abatement of air pollution;...”

- [Env-A 200: Procedural Rules](#)
 - Env-A 204: Public Hearings on the State Implementation Plan sets forth the procedure for SIP hearings.
- [Env-A 600: Statewide Permit System](#)
 - Env-A 621.02 (formerly Env-A 205.02): Public Notice sets forth the procedure for hearings on proposed temporary and operating permits.
 - Env-A 621.03 (formerly Env-A 205.03): Applications Subject to PSD Requirements sets forth additional public notice requirements for proposed PSD permits.
 - Env-A 621.04 (formerly Env-A 205.04): Applications Subject to Nonattainment Requirements sets forth additional public notice requirements for proposed Nonattainment New Source Review permits.

Additional Information:

In accordance with 40 CFR 51.102(d), notice is given in each area that will be affected by the proposed plan or SIP revision. For revisions affecting the entire state, notice is given in the state newspaper, the Union Leader. For revisions affecting only one area, notice is given both in the Union Leader and a newspaper in the affected area.

Attachment:

**TITLE I
THE STATE AND ITS GOVERNMENT
CHAPTER 21-O
DEPARTMENT OF ENVIRONMENTAL SERVICES**

Section 21-O:11

21-O:11 Air Resources Council. –

I. There is hereby established an air resources council which shall be composed of 11 members, including one representing the steam power generating industry; one representing the oil industry; one representing the natural gas industry; one representing the manufacturing component of industry; one representing the field of municipal government; and 6 members appointed at large who shall represent the public interest, one of whom shall be a licensed practicing physician or other health care professional possessing expertise in the field of public health and the health-related impacts of air pollution, one of whom shall represent the field of recreation, and at least one of whom shall represent environmental interests. The council members who shall represent the public interest may not derive any significant portion of their income from persons subject to permits or enforcement orders, and may not serve as attorney for, act as consultant for, serve as officer or director of, or hold any other official or contractual relationship with any person subject to permits or enforcement orders. All potential conflicts of interest shall be adequately disclosed. The members shall be residents of the state and shall be appointed by the governor with the consent of the executive council. Each member shall serve for a term of 4 years.

Source. 1986, 202:1. 1994, 412:10. 1995, 226:12, eff. Aug. 13, 1995; 262:1, eff. Aug. 18, 1995. 2006, 62:1, eff. June 23, 2006. 2010, 354:6, eff. Sept. 18, 2010.