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 2010 1-Hour Nitrogen Dioxide NAAQS

January 28, 2013

NEW HAMPSHIRE DEPARTMENT OF
Environmental Services

Air Resources Division

Certification of State Implementation Plan Adequacy Regarding Clean Air Act Section 110(a)(1) and (2) for the 2010 1-Hour Nitrogen Dioxide NAAQS

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 sections 110(a)(1) and (2) of the Clean Air Act (CAA) for nitrogen dioxide (NO_2).[1]

Background

The CAA requires EPA to set National Ambient Air Quality Standards (NAAQS) for pollutants considered harmful to public health and the environment. National standards exist for six criteria pollutants: nitrogen dioxide, ozone, particulate matter, carbon monoxide, sulfur dioxide, and lead. For each of these pollutants, section 109 of the CAA requires EPA to set the health-based, or *primary*, standards at levels judged to be "requisite to protect the public health with an adequate margin of safety." The CAA also requires EPA to establish *secondary* standards that are "requisite" to protect public welfare from "any known or anticipated adverse effects associated with the pollutant in the ambient air," including effects on vegetation, soils, water, wildlife, buildings and national monuments, and visibility.

On January 22, 2010, EPA strengthened the primary NAAQS for nitrogen dioxide by promulgating a revised standard based on *1-hour average* concentrations. EPA set the new 1-hour NO_2 NAAQS at the level of 100 parts per billion (ppb). EPA also retained, with no change, the *annual average* NO_2 standard of 53 ppb. (See 75 FR 6474.) These changes did not affect the secondary NO_2 standard, which was revised under a separate rulemaking. (See 77 FR 20218.)

Section 107(d) of the CAA requires that, after receipt of recommendations from the states and within two years after promulgation of a NAAQS, EPA must designate all areas of the country as *attainment* (meeting the standard), *nonattainment* (not meeting the standard), or *unclassifiable* on the basis of available information. On January 20, 2012, EPA designated all of New Hampshire as unclassifiable/attainment for the 2010 1-hour NO_2 NAAQS. (See 77 FR 9532.)

Pursuant to section 110(a)(1) of the CAA, states are required to submit State Implementation Plans meeting the requirements of section 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 are required to submit such SIPs for the 2010 1-hour NO_2 NAAQS to EPA by January 22, 2013.

New Hampshire's SIP Revision

The submittal of this document is intended to meet New Hampshire's obligations under the CAA with respect to section 110(a)(1) and (2) for the 2010 1-hour NO_2 primary National Ambient Air Quality Standards. The following describes in summary form how New Hampshire's SIP meets these requirements with specific reference to subsections 110(a)(2)(A) through (M).

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[1] Nitrogen dioxide (NO_2) is one of a group of highly reactive gasses known as oxides of nitrogen, or nitrogen oxides (NOx). Other members of this group include nitrous acid and nitric acid. While EPA's National Ambient Air Quality Standards cover all NOx, nitrogen dioxide is the component of greatest interest and the indicator for the larger group of nitrogen oxides. NO_2 forms quickly from emissions from cars, trucks and buses, off-road equipment, power plants, and agricultural sources. NO_2 contributes to the formation of ground-level ozone and fine-particle pollution.

Summary Description of New Hampshire's Compliance with Clean Air Act Section 110(a)(1) and (2) SIP Requirements for NO_2

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

CAA[2] 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 NO_2 and NOx:

- Env-A 300: Ambient Air Quality Standards[3]
  - Env-A 306.01: Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide
  - Env-A 306.02: Determination of Attainment of NO_2 Standard
  - Env-A 306.03: Measurement for NO_2 Attainment Determination
- Env-A 500: Standards Applicable to Certain New or Modified Facilities...
  - Env-A 503: New Source Performance Standards
- Env-A 600: Statewide Permit System
  - Env-A 618: Nonattainment New Source Review
  - Env-A 619: Prevention of Significant Deterioration[4]
- Env-A 700: Permit Fee System
- Env-A 1300: Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT)[5]
- Env-A 2300: Mitigation of Regional Haze
- Env-A 3200: NOx Budget Trading Program
- Saf-C 3200: Official Motor Vehicle Inspection Requirements
  - Saf-C 3220: Emissions Requirements
  - Saf-C 3222: On-Board Diagnostic System[6]

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[2] **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.

[3] 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.

[4] 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.

[5] 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.

[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.

►Subsection 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 NO_2 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 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 NO_2 monitoring, which require approval of the EPA Administrator.

The rulemaking that established the NO_2 NAAQS also established new ambient air monitoring and reporting requirements for NO_2, with new monitors to begin operating no later than January 1, 2013. (See 75 FR 6474.) Subsequently, on October 5, 2012, EPA issued a proposed rule to revise the deadlines for the near-road component of the NO_2 monitoring network and to implement a phased deployment approach. (See 77 FR 64244.) The revised schedule would make the near-road NO_2 network operational between January 1, 2014, and January 1, 2017, but would not change the total number of monitors already required nationally. In the same rulemaking, EPA also proposed to revise the approval authority for annual monitoring network plans for NO_2 monitoring.

►Subsection 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.)

►Subsection 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 protects air quality in downwind NO_2 attainment areas.
- Env-A 2300: Mitigation of Regional Haze includes NOx emission limits for certain fossil-fuel-fired steam generating units.

Additional Information:

As described in a recent memorandum[7] 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.

►Subsection 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

[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.

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 21-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.

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 subsection 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.

►Subsection 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

[8] NHDES submitted this law as a SIP revision for EPA's approval on December 31, 2012.

following relevant parts:

- Env-A 802: Compliance Stack Testing for Stationary Sources
- Env-A 803: NOx RACT Testing Procedures
- Env-A 808: Continuous Emission Monitoring
- Env-A 809: Approval of Alternate Methods
- Env-A 810: Air Pollution Control Equipment Monitoring Plan; Additional Testing and Monitoring

- 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 relevant parts:
  - Env-A 902: Availability of Records (See note below.)
  - Env-A 903: General Recordkeeping Requirements
  - Env-A 905: NOx Emission Statements Recordkeeping Requirements
  - Env-A 906: Additional Recordkeeping Requirements
  - Env-A 907: General Reporting Requirements
  - Env-A 909: NOx Emission Statements Reporting Requirements
  - Env-A 910: Additional Reporting Requirements
  - Env-A 911: Recordkeeping and Reporting Requirements for Permit Deviations
  - Env-A 912: Alternative Time Periods

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, to the extent permitted under RSA 125-C:6, VII, which establishes that emission data are not considered confidential information.

►Subsection 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. Under extreme circumstances, emissions of NO_2 and other oxides of nitrogen (NOx) might present an imminent concern for public health because they are chemical precursors to ground-level ozone and presumed precursors to fine particle

formation. New Hampshire is classified as Priority I for ozone and Priority III for nitrogen dioxide and fine particulate matter. On this basis, an emergency episode plan is required for ozone, but none is required for NO_2 or $PM_{2.5}$. (See 40 CFR 51.150-51.153.)

More specifically, 40 CFR 51.152(c) exempts Priority III areas from the need to develop episode plans. A Priority III region for nitrogen dioxide is defined in 40 CFR 51.150 as any area in which ambient concentrations are no greater than 100 $\mu g/m^3$ (0.06 ppm), annual arithmetic mean. The following table displays average NO_2 values for four monitoring sites in New Hampshire over the last decade. As the data show, annual NO_2 levels resided well below the threshold throughout this period.

Average Annual NO_2 Concentrations (ppm) in New Hampshire, 2003-2012

Monitor Location	AQS Number	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Manchester	330110020	0.012	0.012	0.011	0.010	0.011	0.011	0.010	0.008	**	**
Peterborough*	330115001	**	**	**	0.001	0.001	0.001	0.001	0.001	**	**
Nashua*	330111011	**	0.003	0.002	0.002	0.003	0.003	**	0.001	0.002	0.002
Portsmouth	330150014	0.009	0.007	0.007	0.008	0.007	0.007	**	**	**	**

* Value is average NO_2 concentration for ozone season only. ** NO_2 was not monitored at this location in this year.

NHDES procedures in response to elevated ozone levels are discussed in the ozone infrastructure SIP submitted to EPA on December 31, 2012.

►Subsection 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 fulfilling the requirements of this subsection, it is noted that NHDES has made numerous SIP revisions in the past for the purpose of meeting the National Ambient Air Quality Standards. (See EPA's Summaries and Rulemakings for past documentation.)

►Subsection 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 subsection 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] Note that New Hampshire does not have areas designated as nonattainment for the NO_2 NAAQS.

►Subsection 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 600: Statewide Permit System – 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.

[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.

►Subsection 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:

NO_2 and other oxides of nitrogen (NOx) are chemical precursors to ground-level ozone and presumed precursors to fine particle formation. On days when ambient ozone or $PM_{2.5}$ concentrations are predicted to be high, NHDES exercises the authority granted under RSA 125:81 (recodified as RSA 125-C:6) to issue public alerts. NHDES makes press releases and posts website notices advising people on how to help prevent air pollution and minimize the worst health effects of poor air quality. NHDES is one of the state partners in EPA's AIRNOW and Enviroflash Air Quality Alert programs. (See www.airnow.gov.)

►Subsection 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, 40 CFR 52.21 and RSA 125-C.

►Subsection 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 600: Statewide Permit System
  - 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:

NO_2 and other oxides of nitrogen (NOx) are chemical precursors to ground-level ozone and presumed precursors to fine particle formation. In exercising the authority granted in RSA 125:81 (recodified as RSA 125-C:6), NHDES regularly performs trend analysis for ozone, NO_2, and $PM_{2.5}$, as well as predictive air quality modeling for ozone and $PM_{2.5}$. New Hampshire is a member of the Ozone Transport Commission and the Mid-Atlantic/Northeast Visibility Union (MANE-VU) and participates in the air quality modeling efforts conducted by these organizations.

►Subsection 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 Laws and 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).

►Subsection 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 204: Public Hearings on the State Implementation Plan sets forth the procedure for SIP hearings.