



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

November 17, 2015

David Conroy, Chief,
Air Programs Branch
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: Revision to New Hampshire State Implementation Plan to Meet the Requirements of the Clean Air Act, Section 110(a)(2)(D)(i)

Dear Mr. Conroy:

The New Hampshire Department of Environmental Services (NHDES) requests approval of this State Implementation Plan (SIP) prepared in accordance with CAA Section 110(a)(2), the general SIP submittal requirements of 40 CFR Part 51 Appendix V, and guidance provided by United States Environmental Protection Agency (EPA). This amendment addresses CAA Section 110(a)(2)(D) relative to interstate transport, contributing to nonattainment or interfering with the maintenance of a NAAQS in another state, which was not included as part of NHDES' Infrastructure SIPs for the 2008 Ozone NAAQS and the 2010 Nitrogen Dioxide NAAQS that were submitted November 2012 and January 2013, respectively. Both were conditionally approved by the USEPA on July 17, 2015 [[80 FR 42446](#)], with the aforementioned section given a finding of "no submittal." The section addressing interstate pollution abatement (110(a)(2)(D)(ii)) was conditionally approved [[80 FR 57722](#)] contingent NHDES submitting to EPA by September 26, 2016 specified revisions to NNSR and PSD regulations to address the following provisions of the federal Non-attainment New Source Review (NNSR) and Prevention of Significant Deterioration (PSD) program regulations.

This submission meets the completeness criteria of Appendix V to 40 CFR 51 Section 2.1 by including:

- Enclosure A: Revision to New Hampshire State Implementation Plan to Meet the Requirements of the Clean Air Act, Section 110(a)(2)(D)(i)
- Enclosure B: New Hampshire Statute Title X, Chapter 125-C:4 that provides authority for Air Pollution Control
- Enclosure C: Public Participation Documentation
 - Notice of Public Hearing and Comment Period
 - Certification of Public Hearing
 - Hearing report and responses to all comments received.

As the Governor's designee, my signature on this letter is evidence that the State of New Hampshire has adopted this Certification of Adequacy and revision to the State Implementation Plan (SIP). The only state requirement for SIP submittals is that at least 30 days before the date of any

public hearing related to SIP revisions, public notice shall be published in a newspaper of general daily statewide circulation.

If you have any questions regarding this submittal, please contact Felice Janelle at (603) 271-4848.

Sincerely,

A handwritten signature in black ink that reads "Craig Wright". The signature is written in a cursive style with a large, stylized "C" and "W".

Craig Wright
Director, Air Resources Division

Enclosures

cc: Anne Arnold, USEPA, Region 1

TITLE X

PUBLIC HEALTH

CHAPTER 125-C

AIR POLLUTION CONTROL

Section 125-C:4

125-C:4 Rulemaking Authority; Subpoena Power. –

I. The commissioner shall adopt rules under RSA 541-A, relative to:

(a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.

(b) Primary and secondary ambient air quality standards.

(c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.

(d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.

(e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.

(f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.

(g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.

(h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.

(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.

(j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.

(k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.

(l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.

(m) Procedures for granting variances, as authorized by RSA 125-C:16.

(n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.

(o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).

(p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.

(q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

Source. 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2. 2005, 173:3. 2008, 113:3. 2010, 183:6, eff. June 21, 2010.

Revision to the
**New Hampshire
State Implementation Plan**

**Amendment to New Hampshire 2008 Ozone 8-hour and 2010
Nitrogen Dioxide 1-hour NAAQS Infrastructure SIPs to Address
the Good Neighbor Requirements of
Clean Air Act Section 110(a)(2)(D)(i)(I)**

November 10, 2015

Prepared by
Air Resources Division
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Thomas Burack, Commissioner
Clark Freise, Assistant Commissioner
Craig Wright, Director, Air Resources Division



2008 OZONE NAAQS INFRASTRUCTURE SIP

INTRODUCTION

Sections 110(a)(1) and (2) of the Clean Air Act (CAA) require states to submit a State Implementation Plan (SIP) amendment that addresses the procedural, timing and infrastructure elements identified in those sections within three years of promulgation of a new National Ambient Air Quality Standard (NAAQS). On March 12, 2008, the United States Environmental Protection Agency (EPA) promulgated a new NAAQS for ozone, 75 parts per billion (ppb) as an 8-hour average. Implementation of that NAAQS was suspended by the EPA on January 6, 2010 pending further review and was reinitiated on September 2, 2011.

BACKGROUND

Following EPA designation in July 2012, the New Hampshire Department of Environmental Services (NHDES) submitted its “Certification of State Implementation Plan Adequacy Regarding Clean Air Act Section 110(a)(1) and (2) for the 2008 8-Hour Ozone Standard” (also referred to as an infrastructure SIP) to the EPA as a SIP amendment in November 2012.

NHDES’ 2008 ozone infrastructure SIP did not include section 110(a)(2)(D)(i)(I) Good Neighbor requirements to address interstate transport. In responding to the submission, EPA indicated that, based on the D.C. Circuit Court’s opinion in *EME Homer City v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012), they were “... neither finding that New Hampshire submitted a complete SIP with respect to 110(a)(2)(D)(i)(I), nor finding that New Hampshire failed to submit a complete SIP to comply with that section.”

Subsequent reversal of the D.C. Circuit Court’s *EME Homer City v. EPA* decision by the Supreme Court resulted in a July 13, 2015¹ finding of failure to submit a section 110 SIP for interstate transport against 24 states, including New Hampshire. On July 17, 2015², EPA proposed to approve elements of NHDES’ 2008 8-hr ozone infrastructure SIP with the exception of section (D)(i)(I) which EPA described as “No Submittal” and proposed conditional approval of certain elements related to prevention of significant deterioration requirements. This submission addresses the “No Submittal” finding.

EPA issued a memo³ and preliminary air quality modeling data⁴ to assist states in developing SIPs to fulfill the interstate transport requirements for the 2008 ozone NAAQS. In that memo, the EPA identified a methodology, similar to that used in the development of the Cross State Air Pollution Rule (CSAPR) rule, to identify states that may significantly impact downwind nonattainment or maintenance areas. Specifically, the memo states:

¹ Federal Register Vol. 80 No. 133, July 13, 2015, 39961-39966.

² Federal Register Vol. 80 No. 137, July 17, 2015, 42446-42459.

³ Memo from Stephen D. Page, Director, EPA Office of Air Quality of Planning and Standards (AQPS), to Regional Air Division Directors, “Information on the Interstate Transport ‘Good Neighbor’ Provision for the 2008 Ozone National Ambient Air Quality Standard (NAAQS) under the Clean Air Act (CAA), January 22, 2015, <http://www.epa.gov/airtransport/GoodNeighborProvision2008NAAQS.pdf>

⁴ EPA OAQPS, “Air Quality Modeling Technical Support Document for the 2008 Ozone NAAQS Transport Assessment,” January 2015. <http://www.epa.gov/airtransport/O3TransportAQModelingTSD.pdf>

CSAPR used a screening threshold (1 percent of the NAAQS) to identify contributing upwind states warranting further review and analysis. States whose air quality impacts at least one downwind problem receptor with contributions greater than or equal to the threshold were identified as needing further evaluation for actions to address transport. States whose air quality impacts to all downwind problem receptors were below this threshold were identified as states not requiring further evaluation for actions to address transport – that is, those states had no emissions reduction obligation under the “Good Neighbor” Provision.

EPA air quality data was updated and made available August 4, 2015.⁵

METHODOLOGY

EPA’s modeling used the CSAPR modeling approach to assess the effects of interstate transport on attainment and maintenance of the 2008 ozone NAAQS. In that analysis, 2011 base year and 2017 projected emissions were modeled with the Comprehensive Air Quality Model with Extensions (CAMx) version 6.11, and a relative response factor (RRF), the fractional change in the modeled 8-hour daily maximum ozone levels between 2011 and 2017, was calculated for each ozone monitoring site from the results.

EPA then used a methodology described in its draft guidance for attainment demonstration modeling⁶ to identify ozone monitoring sites that it projected would be in nonattainment or would have maintenance issues with the 2008 ozone NAAQS in 2017. That approach entails calculating the maximum and average of the monitored ozone design values for the five years centered on the 2011 base year (2009 – 2013) for each ozone monitor. Those values were multiplied by the corresponding RRFs to project average and maximum 2017 ozone design values. Sites with average projected 2017 design value that exceeded 75 ppb⁷ were identified as projected 2017 nonattainment monitors. Monitoring sites with 2017 average projected design values below the NAAQS but with 2017 maximum projected design values that exceed the NAAQS were identified as projected 2017 maintenance areas.

Using that analysis, the EPA projected that a total of 26 monitors in the eastern half of the United States would be in nonattainment of the 2008 ozone NAAQS in 2017, defined as having a projected average design value above 75 ppb. Twelve of those areas are in Texas, four in Connecticut, three in New York, two in Pennsylvania, and one each in Maryland, Michigan, Kentucky, New Jersey, Ohio and Wisconsin. Twenty-six eastern monitors were identified as projected 2017 maintenance areas: twelve in Texas, four in New Jersey, three in Ohio, two each in Maryland and Michigan, and one each in Kentucky and New York. Maintenance areas were

⁵ EPA, Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard, 2017 Ozone Contributions, EPA-HQ-OAR-2015-0500-0007, Posted 08/04/2015

⁶ EPA, “Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze”, December 2014 DRAFT. http://www.epa.gov/ttn/scram/guidance/guide/Draft_O3-PM-RH_Modeling_Guidance-2014.pdf

⁷ In determining compliance with the NAAQS, EPA truncated to integer values. For example, a design value of 75.9 ppb is truncated to 75 ppb which is attainment. In this manner, average design values at or above 76.0 ppb are considered nonattainment.

those having a projected maximum design value above the 2017 NAAQS and a projected average design value below the 2017 NAAQS.

The EPA then performed nationwide state-level ozone source apportionment modeling using CAMx with the Anthropogenic Precursor Culpability Analysis (APCA) version of the Ozone Source Apportionment Technology (OSAT) apportioning schemes to quantify the contribution of 2018 emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOC) from all sources in each state to projected 2018 ozone concentrations at the identified nonattainment and maintenance monitoring sites. A state's interstate transport impact was classified as significant if the emissions from that state were associated with ozone levels of at least 1% of the NAAQS (0.75 ppb) at a nonattainment or maintenance site in another state.

Table 1 summarizes EPA's 2017 modeling results, showing New Hampshire's impacts at projected out-of-state nonattainment and maintenance areas⁸. Emissions from New Hampshire are projected to have a minimal impact at nonattainment areas in Connecticut and maintenance areas in Connecticut, New Jersey, and New York. These impacts are well below the 1% threshold of 0.75 ppb for the 2008 NAAQS indicating that New Hampshire complies with section 110(a)(2)(D)(i)(I) good neighbor provisions as defined by EPA.

Table 1. New Hampshire Contributions to Monitors Projected by EPA Modeling to Have 2017 Nonattainment or Maintenance Areas^{9,10}

State	Monitor ID	2017 Projected Average Design Value	2017 Projected Maximum Design Value	NH Maintenance Area Contribution (ppb)	NH Nonattainment Area Contribution (ppb)	Contribution as a Percent of Average Daily Value
Connecticut	90010017	75.8	78.4		0.01	0.01%
Connecticut	90013007	77.1	81.4	0.01		0.01%
Connecticut	90019003	78.0	81.1	-		-
Connecticut	90099002	77.2	80.2	0.02		0.03%
New Jersey	340071001	74.2	78.1		0.04	0.05%
New Jersey	340150002	75.1	77.5		0.01	0.01%
New Jersey	340230011	73.0	76.3		0.07	0.09%
New Jersey	340290006	73.9	76.6		0.07	0.09%
New York	360810124	75.7	77.6		0.01	0.01%
New York	360850067	76.3	77.8	-		-
New York	361030002	79.2	80.8	-		-

⁸ In its original analysis, EPA included the 37 states and the District of Columbia in the region from Texas northward to North Dakota and eastward to the East Coast as comprising the Eastern U.S. Only East Coast receptors are shown.

⁹ Nonattainment receptors have a 2017 average design value of ≥ 76.0 ppb. Maintenance receptors have a 2017 average design values < 76.0 ppb, but 2018 maximum design value of ≥ 76.0 ppb.

¹⁰ EPA, Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard, 2017 Ozone Contributions, EPA-HQ-OAR-2015-0500-0007, Posted 08/04/2015

2010 NITROGEN DIOXIDE (NO₂) NAAQS INFRASTRUCTURE SIP

On January 22, 2010, EPA strengthened the health-based NAAQS for nitrogen dioxide (NO₂) by setting a new 1-hour NO₂ standard at the level of 100 parts per billion (ppb). The EPA also changed the form used to determine if an area meets the standard, to the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour average concentrations. The existing annual average NO₂ standard of 0.5 parts per million (53 ppb) was retained. This document addresses the 1-hour standard.

In January 2013, NHDES submitted to the EPA a “Certification of State Implementation Plan Adequacy Regarding Clean Air Act Section 110(a)(1) and (2) for the 2010 1-Hour Nitrogen Dioxide NAAQS” (also referred to as an infrastructure SIP). Similar to NHDES’ 2008 ozone NAAQS infrastructure SIP, EPA on July 17, 2015 proposed to approve NHDES’ 2010 1-hour NO₂ infrastructure SIP with the exception of section (D)(i)(I) which EPA described as “No Submittal” and proposed conditional approval of certain elements related to prevention of significant deterioration requirements. This section addresses the “No Submittal” designation.

The following information can be found on the EPA website¹¹:

On January 20, 2012 EPA designated all areas of the country as ‘unclassifiable/attainment’ for the 2010 NO₂ NAAQS. The available air quality data show that all monitored areas in the country meet the 2010 NO₂ NAAQS for 2008-2010. No state or tribe recommended an area be designated “nonattainment.”

New Hampshire has no valid, complete design values for the most recent period 2012-14. For reference, the 2012-2014 design value for the Nashua monitoring site (33-011-1011) is 9 ppb, noting that this value is incomplete due to low data capture in 2013. The monitoring station located in Londonderry (33-015-0018) has only one year of data, so calculation of a design value is not possible. The daily maximum at this station in 2014 was 25 ppb.

Historical data indicates that the average annual NO₂ concentration has been well below the annual average NAAQS of 53 ppb (Figure 1). In addition, overall emissions of NO_x have decreased in New Hampshire by 47% since 2002.

Table 2. New Hampshire National Emissions Inventory for NO_x (tons)¹²

2002	2005	2008	2011
69,836	62,323	50,735	37,292

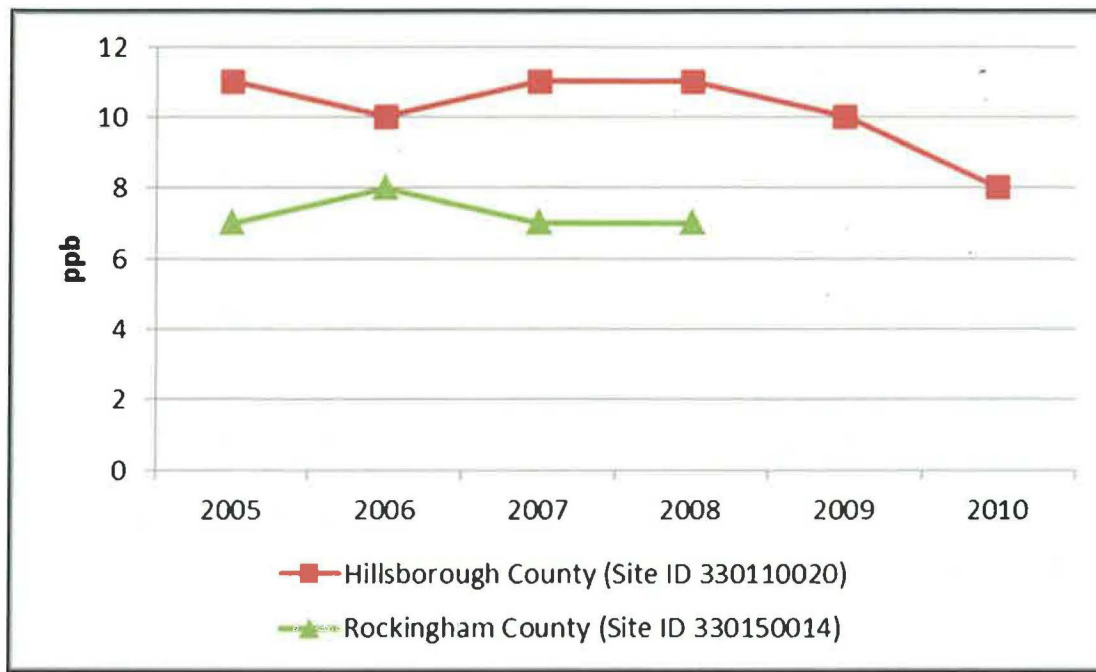
States contiguous to New Hampshire have recent design values well below the 2010 annual NO₂ NAAQS as shown on Figure 2. Neighboring state Massachusetts has several NO₂ monitors. The

¹¹ State Designations – Recommendations | Area Designations for 2010 Nitrogen Dioxide Standards | US EPA, <http://www.epa.gov/airquality/nitrogenoxides/designations/state.html>, retrieved on July 22, 2015.

¹² Emission Inventories | Clearinghouse for Emission Inventories and Emissions Factors | Technology Transfer Network | US EPA, <http://www3.epa.gov/ttn/chief/eiinformation.html>, retrieved Nov. 11, 2015

maximum design value among these monitoring sites is 17 ppb. Design for the annual nitrogen NAAQS for neighboring states Maine and Vermont are 2 ppb and 7 ppb, respectively.¹³

Figure 1. NH 2006-2010 Site Level Annual Design Value History for NO₂^{14,15}



NEW HAMPSHIRE NO_x CONTROL PROGRAMS

The following New Hampshire Certified Administrative Rules (CAR) established by NHDES have high relevance to but are not inclusive of all regulations for the control of NO₂ and NO_x:

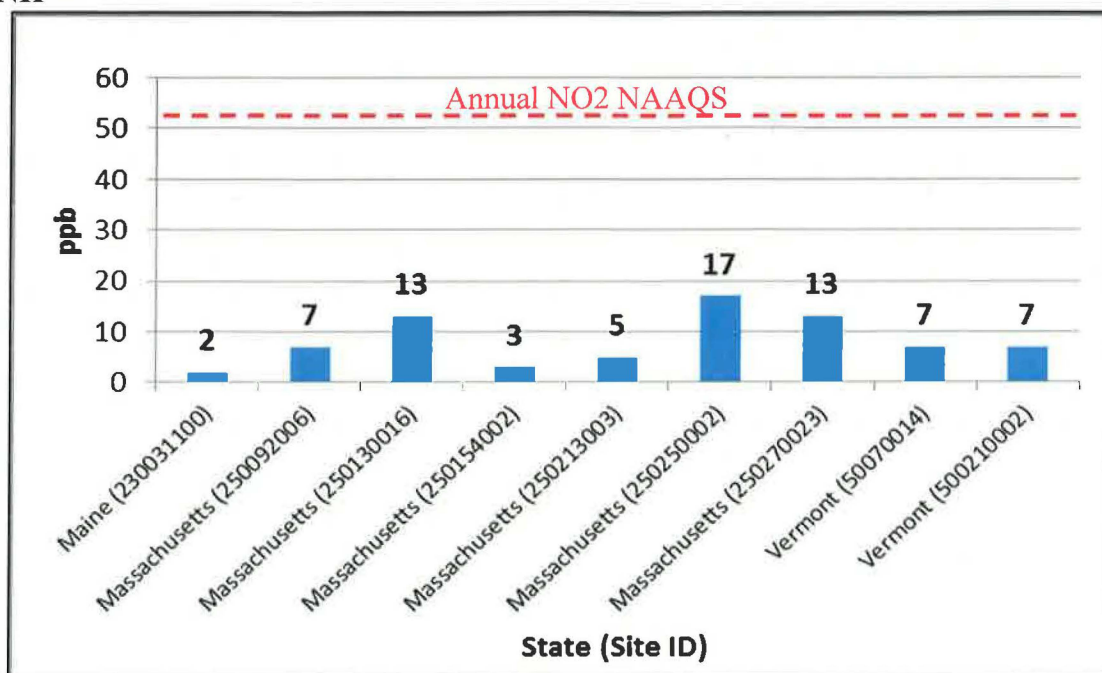
- Env-A 300: Ambient Air Quality Standards, approved into the SIP at [\[79 FR 35695\]](#)
 - Env-A 306.01: Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide
 - Env-A 306.02: Determination of Attainment of NO₂ Standard
 - Env-A 306.03: Measurement for NO₂ Attainment Determination
- Env-A 500: Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants
- Env-A 600: Statewide Permit System [\[77 FR 5700\]](#)
 - Env-A 618: Nonattainment New Source Review
 - Env-A 619: Prevention of Significant Deterioration
- Env-A 700: Permit Fee System [\[57 FR 36603\]](#)
- Env-A 1300: Nitrogen Oxides (NO_x) Reasonably Available Control Technology (RACT) [\[79 FR 49458\]](#)

¹³ US EPA Design Values, www.epa.gov/airtrends/values.html, retrieved on August 26, 2015.

¹⁴ The level of the annual NAAQS for nitrogen dioxide is 53 parts per billion (ppb). The design value is the annual average of the hourly concentration values. Only valid design values are shown.

¹⁵ The design values are computed using Federal Reference Method or equivalent data reported by State, Tribal, and Local monitoring agencies to EPA's Air Quality System (AQS) as of July 6, 2015.

Figure 2. 2014 Design Values for the Annual NO₂ NAAQS for States Contiguous to NH^{16,17}



- Env-A 2300: Mitigation of Regional Haze [\[77 FR 50602\]](#)
- Env-A 3200: NO_x Budget Trading Program [\[65 FR 68078\]](#)
- Saf-C 3200: Official Motor Vehicle Inspection Requirements [\[78 FR 5292\]](#)

Considering this information, New Hampshire certifies that it does not contribute to nonattainment, nor interfere with maintenance of the 1-hr NO₂ NAAQS in neighboring states and therefor meets the “Good Neighbor” provision of section (D)(i)(I).

CONCLUSION

New Hampshire’s highest ozone contribution to a nonattainment site was 0.07 ppb (0.09% of the NAAQS) and 0.02 ppb (0.03% of the NAAQS) to a maintenance site. These values are substantially below the 1% significance levels established by the EPA and, therefore, according to the January EPA guidance memo discussed above, no further evaluation or emission reductions are required for New Hampshire to satisfy its interstate transport obligations under the “Good Neighbor” Provision for the 2008 ozone NAAQS. Regarding linkages to upwind states contributing at or above the 1 percent threshold to 2018 nonattainment or maintenance receptors, New Hampshire is not identified.

¹⁶ The level of the annual NAAQS for nitrogen dioxide is 53 parts per billion (ppb). The design value is the annual average of the hourly concentration values. The design value listed for each county is the highest among monitors with valid design values.

¹⁷ The design values shown here are computed using Federal Reference Method or equivalent data reported by State, Tribal, and Local monitoring agencies to EPA’s Air Quality System (AQS) as of July 6, 2015.

SUMMARY

Based on the methodology specified in EPA's January 2015 memorandum and the results of the updated modeling that was posted in August 2015, NHDES certifies that air emissions from sources in New Hampshire do not contribute significantly to nonattainment or maintenance of the 2008 ozone NAAQS in other states.

In addition, the absence of NO₂ nonattainment or maintenance areas in contiguous states and the relatively low design values in New Hampshire and neighboring states when compared with the standard, NHDES certifies that air emissions from sources in New Hampshire do not contribute significantly to nonattainment or maintenance of the 2010 1-hr NO₂ NAAQS in other states.

The submittal of this document to the EPA as an amendment to the New Hampshire SIP fulfills the "Good Neighbor" Provision requirements in Section 110(a)(2)(D)(i)(I) of the CAA and completes New Hampshire's fulfillment of the elements specified in Sections 110(a)(1) and (2) of the CAA for the 2008 8-hr ozone NAAQS and the 2010 1-hr NO₂ NAAQS. In accordance with New Hampshire CAR Env-A 204.01(b) and Title 40 of the Code of Federal Regulations (CFR) Section 51.102, public notice was given that NHDES prepared and intended to submit to the EPA a revision to the state's SIP to meet the requirements of CAA section 110(a)(2)(D)(i)(I). The notice solicited comments and offered the public the opportunity to participate in a public hearing on the SIP revision. The public hearing was held on November 9, 2015 and written comments were accepted until 4 PM on the same day. No public comments, written or verbal, were received.

The EPA offered comments to a draft submittal in a letter dated August 27, 2015 and to a proposed submittal in a letter dated October 29, 2015. NHDES has addressed all of the EPA recommendations in this submittal.

TITLE X

PUBLIC HEALTH

CHAPTER 125-C

AIR POLLUTION CONTROL

Section 125-C:4

125-C:4 Rulemaking Authority; Subpoena Power. –

I. The commissioner shall adopt rules under RSA 541-A, relative to:

- (a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.
- (b) Primary and secondary ambient air quality standards.
- (c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.
- (d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.
- (e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.
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- (o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).
- (p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.
- (q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.
- (r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

Enclosure C – Public Participation Documentation

Attachment 1 – Notice of Public Hearing and Comment Period

Attachment 2 – Hearing Certification

Attachment 3 – Hearing Report and Response to Comments

Attachment 4 – Hearing Memo to File

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
AIR RESOURCES DIVISION
CONCORD, NEW HAMPSHIRE**

NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

In accordance with New Hampshire Administrative Rule Env-A 204.01(b) and Title 40 of the Code of Federal Regulations (CFR) Section 51.102, notice is hereby given that the New Hampshire Department of Environmental Services, Air Resources Division (the Department) has prepared, and intends to submit to the U.S. Environmental Protection Agency, amendments to New Hampshire's State Implementation Plan (SIP) to meet the requirements of the federal Clean Air Act, section 110 (a) (1) and (2), pertaining to infrastructure elements for implementation of the federal air quality standards for ozone. **These standards that New Hampshire and other states must meet are contained in Title 40: Protection of Environment, section 50.15, National Primary Air Quality Standards for Ozone and Nitrogen Dioxide.**

This submission amends two New Hampshire Clean Air Act Section 110(a)(1) and (2) filings: one for the 2008 8-Hour Ozone Standard submitted in December 2012 (delayed due to EPA's reconsideration of the standard) and one for the 2010 1-Hour Nitrogen Dioxide Standard submitted January 2013. Both were filed within the requisite three years but neither included provisions for element 110(a)(2)(D)(i)(I) relating to interstate transport, because the EPA did not intend to make findings with respect to this provision while awaiting resolution of legal matters related to the Cross-State Air Pollution Rule (CSPAR). In response to the United States District Court (Northern District of California) decision issued on May 7, 2015, EPA on July 13, 2015 issued *Findings of Failure to Submit a Section 110 State Implementation Plan for Interstate Transport for the 2008 National Ambient Air Quality Standards for Ozone* (80 FR 39961). New Hampshire was one of 24 states named in the finding. This filing addresses both the ozone finding of failure and completes the nitrogen dioxide submission.

The Department hereby solicits comments and has scheduled a public hearing on this SIP certification. Comments must be submitted *in writing* or *by email or fax* to Felice Janelle, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095; email Felice.Janelle@des.nh.gov; fax (603)271-1381.

A public hearing at the Department offices has been scheduled for 11:00 a.m., Monday, November 9, 2015, in Room 114 at 29 Hazen Drive, Concord, NH 03301.

All comments on the proposed SIP submission must be received by 4:00 p.m. on Monday, November 9, 2015, to be entered into the record.

A copy of the SIP submission is available for public inspection at the Department's offices at 29 Hazen Drive, Concord, NH, during regular working hours from 8:00 a.m. to 4:00 p.m., Monday through Friday. The main text of the SIP submission may be downloaded at <http://des.nh.gov/organization/divisions/air/do/sip/index.htm> under "Ozone." For more information or to make arrangements for anyone wishing to attend the hearing who may need special assistance, please call Felice Janelle (603)271-4848.

Craig A. Wright
Director, Air Resources Division
NH Department of Environmental Services

Dated: October 5, 2015



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

CERTIFICATION OF PUBLIC PROCESS:

Amendment to New Hampshire 2008 Ozone and 2010 Nitrogen Dioxide NAAQS to Address the Good Neighbor Requirements of Clean Air Act Section 110(a) (2)(D)(i)(I)

I hereby certify that:

In accordance with New Hampshire Administrative Rule Env-A 204.01(b) and Federal regulations at 40 CFR § 51.102, public notice was given that the New Hampshire Department of Environmental Services (the Department) intended to submit for the approval of the U.S. Environmental Protection Agency (EPA) a certification 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 ozone.

A public hearing on the SIP submittal was held at 11:00 a.m., Monday, November 9, 2015, at the Department's offices in Room 114 at 29 Hazen Drive, Concord, NH 03301. Opportunity was provided for members of the public to submit oral comments during the hearing or written comments at any time up to 4:00 p.m. on the hearing date, for consideration by the Department in preparing the final SIP submittal.

A copy of the draft SIP submittal was available for public inspection at the Department's offices at 29 Hazen Drive, Concord, NH, during regular working hours from 8:00 a.m. to 4:00 p.m., Monday through Friday, throughout the comment period. The draft SIP revision was also available for downloading from the Department's website at <http://des.nh.gov>.

The notice was published in the *Union Leader*, a newspaper of general, statewide circulation, on Thursday, October 8, 2015, more than 30 days prior to the date of the hearing.

Since no members of the public attended the hearing, the presentation of the draft SIP revision and recordation of the presentation were determined to be unnecessary. Therefore, the hearing was closed at 11:10 a.m., and a memo stating the circumstances was added to the file.

The above statements are true to the best of my knowledge and belief.



Michele Roberge
SIP Planning Manager, Air Resources Division

11-17-2015

Date



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

November 9, 2015, 11 AM, DES Room 113
Hearing Officer: Karla McManus
DES Personnel: Felice Janelle, Michele Roberge

**Comments to Open Ozone/Nitrogen Dioxide
Infrastructure SIP Amendment Public Hearing**

The Clean Air Act (CAA) section 110(a)(1) and (2) requires states to submit a State Implementation Plan (SIP) within three years of the promulgation of a new or revised National Ambient Air Quality Standard (NAAQS). The purpose of this submission is to demonstrate that the state has the authority, regulations and personnel in place to provide for the implementation, maintenance and enforcement of the standard.

On March 2008, the United States Environmental Protection Agency (EPA) promulgated a new NAAQS for ozone, 75 ppb as an 8-hour average. Implementation of that NAAQS was suspended by the EPA on January 6, 2010 pending further review and was reinitiated September 2011. New Hampshire Department of Environmental Services (NHDES) submitted its infrastructure SIP for the 2008 8-Hour Ozone Standard in November 2012. Similarly, in response to the revised 1-hr Nitrogen Dioxide (NO₂) NAAQS promulgated in 2010, NHDES submitted its infrastructure SIP to the EPA in 2013.

The EPA combined their response to both of these submittals in the Federal Register of July 17, 2015, indicating that neither included the section 110(a)(2)(D)(i)(I) requirement to address interstate transport. The omission of this section was intentional - EPA had stated that they did not intend to make findings with respect to this provision while awaiting resolution of legal matters related to the Cross-State Air Pollution Rule (CSPAR). The matter having been resolved, New Hampshire must address interstate transport for both the 2008 ozone and 2010 nitrogen dioxide NAAQS.

NHDES referenced EPA's nationwide state-level ozone source apportionment modeling data to show that the state does not contribute to violation of the ozone NAAQS in other states¹. This data showed that emissions from New Hampshire are projected to have a minimal impact at nonattainment areas in Connecticut and maintenance areas in Connecticut, New Jersey, and New York, that is, the potential impacts are well below 1% of 0.75 ppb NAAQS, the threshold set by the EPA to define "contributing."

Likewise, EPA² indicates that all areas of the country are designated "unclassifiable/attainment" for the 2010 NO₂ NAAQS. Based on the absence of NO₂ nonattainment or maintenance areas in contiguous states, and the relatively low design values in New Hampshire and neighboring states when compared with the standard of 100 ppb, NHDES is confident to assert that New Hampshire does not contribute to NO₂ nonattainment in other states.

¹ EPA, Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard, 2017 Ozone Contributions, EPA-HQ-OAR-2015-0500-0007, Posted 08/04/2015

² State Designations – Recommendations | Area Designations for 2010 Nitrogen Dioxide Standards | US EPA, <http://www.epa.gov/airquality/nitrogenoxides/designations/state.html>, retrieved on July 22, 2015.

RESPONSE TO COMMENTS

EPA Comments to draft SIP submittal dated August 27, 2015

1. Please list out the two NAAQS for NO₂ as follows: One hour NAAQS at 100 ppb (3-year average of the 98th percentile of the maximum daily 1-hour concentrations, and the annual NO₂ NAAQS at 0.5 ppm (53 ppb). This draft revision is for the 1-hour NAAQS, but it is best to be specific.

NHDES response: The submittal specifies that it is addressing the 1-hour NAAQS for NO₂. (page 4)

2. When listing the Design Values for NO₂, please reference the EPA web site that lists the “final” design values. The 2014 design values for all pollutants have been posted at: <http://www.epa.gov/airtrends/values.html>. Also, the averaging time should be specified if the actual design values are listed (i.e. 1-hour or annual average).

NHDES response: The graphs on page 5 and 6 use information posted at the web page listed above and it is referenced in the footnotes. Averaging time is given.

3. A trend graph or table of the 1-hour NO₂ design values for New Hampshire would be helpful.

NHDES response: Graph provided on page 5.

4. Can anything definitive be said about future NO_x emission levels in New Hampshire? A review of the NO_x emissions trend in New Hampshire should be provided, either from New Hampshire’s emissions inventory or by providing a citation to OTC emissions data or EPA emissions data

NHDES response: New Hampshire National Emission Inventory Data for 2002-2011 is provided on page 4.

5. A summary of New Hampshire’s NO_x controls programs should be included in the submittal, along with an indication of which items are part of the New Hampshire SIP.

NHDES response: A summary of New Hampshire NO_x control programs is provided on pages 5 and 6.

EPA comments to proposed SIP submittal dated October 29, 2015

1. EPA recommends a trend graph or table of the 1-hour NO₂ design values for New Hampshire over the past several years. An additional trend graph or table of the nearby states nitrogen dioxide design values would also be helpful.

NHDES response: New Hampshire only has two valid 1-hour NO₂ design values. They are 45 ppb (2008-2010) and 46 ppb (2007-2009). Design values for the annual NAAQS are provided in Figure 1 on page 5.


2. EPA recommends a graph or table of the NO_x emission trends in New Hampshire should be provided.

NHDES response: National Emission Inventory values for 2002-2011 are provided on page 4.

3. A summary of New Hampshire's NO_x control programs should be included, along with an indication of which items are part of the New Hampshire SIP.

NHDES response: A summary of New Hampshire NO_x control programs is provided on pages 5 and 6. Where the program or portion of the program are part of the New Hampshire SIP, the Federal Register reference is provided.

Memo to File

TO: 2012 Ozone and 2010 NO₂ Standard Infrastructure SIP Files
FROM: Felice Janelle, SIP Planning Analyst 
DATE: November 9, 2015
RE: Public Hearing on 2012 8-hour Ozone and NO₂ One-Hour Standard
Infrastructure SIP Amendment to address the Good Neighbor
Provision

Today at 11:00 a.m., a public hearing was held in Room 114 of 29 Hazen Drive, Department of Environmental Services. This hearing was noticed in the Union Leader on October 8, 2015.

No members of the public attended the hearing, so it was determined that it was not necessary to present the proposed SIP revision and record the hearing. The hearing was closed at 11:10 a.m.

Written comments were received from EPA and were incorporated into the final document.