

The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



December 31, 2012

Mr. Curtis Spalding
Regional Administrator
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: Certification of Adequacy for 2008 Ozone Standard

Dear Administrator Spalding:

As Governor Lynch's designee, I am enclosing for your review and approval New Hampshire's certification of adequacy for the 2008 National Ambient Air Quality Standard (NAAQS) for ozone, together with a statute, New Hampshire Revised Statutes Annotated (RSA) 21-O:11, I, Air Resources Council, and one exact electronic copy thereof on a disk (enclosed).

Under paragraphs 110(a)(1) and (2) of the Clean Air Act (Act), after promulgation of a new or revised NAAQS, each state is required to submit a plan to provide for the implementation, maintenance, and enforcement of the NAAQS. States are required to address basic state implementation plan (SIP) requirements, including emissions inventories, monitoring, and modeling, to assure attainment and maintenance of the standards. By statute, SIPs required by paragraphs 110(a)(1) and (2) are to be submitted by states within 3 years after promulgation of a new or revised standard. EPA advises that these subsection 110(a) "infrastructure" SIPs are due 3 years from the date of signature of the NAAQS, as this represents widespread dissemination and, therefore, promulgation of the NAAQS under 307(d) of the Act. For the 2008 ozone standard, the due date was March 12, 2011. New Hampshire's certification was delayed as a result of EPA's reconsideration of the 2008 ozone standard and subsequent decision on September 2, 2011, to proceed with the implementation of that standard, and New Hampshire's desire to review EPA's ozone implementation guidance prior to submittal of this certification.

New Hampshire's EPA-approved SIP, which is published in the Code of Federal Regulations at 40 CFR 52 Subpart EE, explicitly fulfills most of the requirements of paragraphs 110(a) (1) and (2). Other 110(a) (1) and (2) requirements are fulfilled in applicable chapters and parts from the New Hampshire statutes pertaining to the duties and powers of the Commissioner of the Department of Environmental Services (DES) and in applicable chapters and parts from the New Hampshire Rules Governing the Control of Air Pollution, NH Administrative Rules Env-A 100 *et seq.* Included with this submittal is the New Hampshire statute that establishes the Air Resources Council and requires that Council members adequately disclose all conflicts – RSA 21-O:11, I. This statute meets the requirements of sections 110(a)(2)(E) and 128 of the Act concerning boards with the authority to approve permits or enforcement orders.

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With respect to other laws cited in the certification of adequacy, they were contained in the original SIP that was submitted in January of 1972. Through the years, these statutes have been amended and recodified. The specific authorizations contained in both the former and current laws cited in this certification of adequacy, however, have remained the same. To avoid any confusion in the future, DES will submit the current, relevant sections of the state's Air Pollution Control Act, RSA 125-C, with a future SIP revision.

There are fourteen elements within paragraphs 110(a) (1) and (2) that New Hampshire is required to meet in the certification of adequacy. The specific statutes and administrative rules of the New Hampshire program that address those elements are identified in the attached SIP revision.

If you have any questions, please contact me at (603) 271-6791 or Charlie Martone of my staff at (603) 271-1089.

Sincerely,



Craig A. Wright
Acting Director
Air Resources Division

Attachment

cc: Dave Conroy, EPA Region I
Anne Arnold, EPA Region I
Richard Burkhart, EPA Region I

EVIDENCE OF THE PLAN'S ADOPTION

40 CFR Part 51, Appendix V, 2.1(b)

EVIDENCE OF THE PLAN'S ADOPTION

The cover letter, signed by the Governor's designee, 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. (See Env-A 204.01) Then if a hearing is held, it must be conducted in accordance with Env-C 205. (See Env-A 204.02) See the Evidence of Public Notice and the Certification of Public Hearing for evidence of the plan's adoption in accordance with Env-A 204.

EVIDENCE OF LEGAL AUTHORITY

40 CFR Part 51, Appendix V, 2.1(c)

Laws of New Hampshire, RSA 125-C:4
Rulemaking Authority; Subpoena Power

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, eff. May 27, 2004. 2005, 173:3, eff. June 29, 2005. 2008, 113:3, eff. Aug. 2, 2008. 2010, 183:6, eff. June 21, 2010.

COPY OF THE ACTUAL PLAN

40 CFR Part 51, Appendix V, 2.1(d)

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 21-O:11 Air Resources Council](#)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: NOx 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: NOx 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: NOx 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

<u>Monitor Location</u>	<u>AQS Number</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
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](#).
- [Env-A 2300: Mitigation of Regional Haze](#) establishes specific emission limitations for certain emission sources for the purposes of compliance with the Regional Haze Rule. (See [40 CFR 51.308](#).)

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.

**EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL
PROCEDURAL REQUIREMENTS**

40 CFR Part 51, Appendix V, 2.1(e)

EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL PROCEDURAL REQUIREMENTS

The only state requirement for SIP submittals that do not involve rulemaking 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. (See Env-A 204.01) Then if a hearing is held, it must be conducted in accordance with Env-C 205. (See Env-A 204.02) See the Evidence of Public Notice and the Certification of Public Hearing for evidence of the plan's adoption in accordance with Env-A 204.

EVIDENCE OF PUBLIC NOTICE

40 CFR Part 51, Appendix V, 2.1(f)

NEW HAMPSHIRE
UNION LEADER

000059625

State of NH Air Resources
Attn Valerie David
PO Box 95
Concord NH 03302-0095

RECEIVED
NEW HAMPSHIRE

DEC 12 2012

AIR RESOURCES DIVISION

I hereby certify that the legal notice: (336980) **State Implementation** was published in the New Hampshire Union leader and printed at Manchester, NH by the Union Leader Corp.
On:

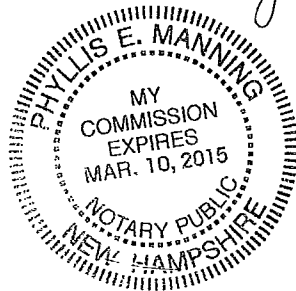
11/29/2012

State of New Hampshire
Hillsborough County

Subscribed and sworn to before me on this

10 day of December, 2012.

Phyllis E Manning
Notary Public



Legal Notice ✓

**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, a certification of the adequacy of 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 and Secondary Air Quality Standards for Ozone.

This SIP certification is submitted in response to the revised National Ambient Air Quality Standards (NAAQS) for Ozone as promulgated by EPA on March 27, 2008. For states such as New Hampshire that are already meeting these air quality standards, EPA expects states to make certification of SIP adequacy within three years after the date of promulgation of the standards.

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 Charles Martone, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095; email Charles.Martone@des.nh.gov; fax (603)271-1381.

A public hearing at the Department ofices has been scheduled for 11:00 a.m., Monday, December 31, 2012, in Room 214 at 29 Hazen Drive, Concord, NH 03301.

All comments on the proposed SIP certification must be received by 4:00 p.m. on Monday, December 31, 2012, to be entered into the record.

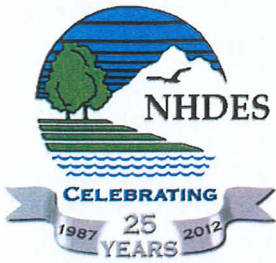
A copy of the SIP certification of adequacy is available for public inspection at

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 certification 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 Charles Martone at (603)271-1089.

Craig A. Wright
Acting Director, Air Resources Division
NH Department of Environmental Services
Dated: November 29, 2012
(UL - Nov. 29)

CERTIFICATION OF PUBLIC HEARING

40 CFR Part 51, Appendix V, 2.1(g)



The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 years of protecting
New Hampshire's environment.*



CERTIFICATION OF PUBLIC PROCESS:
Certification of State Implementation Plan Adequacy
Regarding Clean Air Act Section 110(a)(1) and (2)
for the 2008 8-Hour Ozone NAAQS

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, December 31, 2012, at the Department's offices in Room 214 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 Monday, November 29, 2012, 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.

Barbara L. Hoffman
SIP Planning Manager, Air Resources Division

Date

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

**COMPILATION OF PUBLIC COMMENTS AND NEW
HAMPSHIRE'S RESPONSE THERETO**

40 CFR Part 51, Appendix V, 2.1(h)

COMPILATION OF PUBLIC COMMENTS AND NEW HAMPSHIRE'S RESPONSE THERETO

Comments on the proposed SIP revision and certification of adequacy were received by NHDES from the U.S. Environmental Protection Agency (EPA) in a letter dated December 20, 2012. A summary of the comments received and the agency's responses thereto follows.

Comment: EPA suggests that NHDES not address section 110(a)(2)(D)(I), prongs 1 and 2, concerning interstate transport, since EPA will not make findings on that issue while litigation ensues on the Cross-State Air Pollution Rule.

Response: NHDES has revised this section to note that it will await further guidance from EPA before making a submission to address this SIP element.

Comment: Regarding contingency plan requirements under section 110(a)(2)(G), EPA suggests that NHDES discuss how current ozone levels in New Hampshire compare to the definition of a Priority I area and to the provisions of 40 CFR 51.152(d)(1).

Response: NHDES revised the section on subparagraph G to add the following information:

“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 5 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

<u>Monitor Location</u>	<u>AQS Number</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
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 2002 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.”

Comment: New Hampshire should insure that any law on which the state must rely to meet a specified element is incorporated into the SIP.

Response: The state’s Air Pollution Control Act was submitted with the original SIP in 1972. This law has been recodified (as RSA 125-C) and amended through the years, but the sections cited in this proposed SIP revision remain very similar, word-for-word in several instances, to the current act. Only those sections that have the same meaning and provisions as the 1972 version have been relied on in this proposed SIP revision. Both the original law and the current law are cited, and the original law is either quoted or summarized in the text. Another statute, RSA 125-O, was cited in the proposed SIP revision but has been deleted from the final version.

Comment: NHDES should consider citing Env-A 609.06(b)(8) as another reference for meeting section 110(a)(2)(F)(i) regarding compliance assurance monitoring.

Response: NHDES agrees and has added Env-A 609.06(b)(8) as support for compliance with section 110(a)(2)(F)(i).