

**Certification of State Implementation Plan Adequacy
Regarding Clean Air Act Section 110(a)(1) and (2)
for Fine Particulate Matter (PM_{2.5})**

April 2008

Prepared by

**The New Hampshire
Department of Environmental Services**



Certification of New Hampshire's State Implementation Plan Adequacy Regarding Clean Air Act Sections 110(a)(1) and (2) for Fine Particulate Matter (PM_{2.5})

The purpose of this document is to provide the U.S. Environmental Protection Agency (EPA) with certification that New Hampshire's State Implementation Plan (SIP) for air quality meets "infrastructure" requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA) for fine particulate matter (PM_{2.5}). As stated in a December 20, 2007, letter to Thomas Burack, Commissioner, New Hampshire Department of Environmental (NHDES), from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, EPA expects states to make SIP submissions for PM_{2.5} by April 4, 2008.

This certification is submitted in response to new and revised National Ambient Air Quality Standards (NAAQS) for 8-hour ozone and fine particulate matter promulgated by EPA on July 18, 1997. With respect to the revised 8-hour ozone standard, New Hampshire's certification of SIP adequacy was contained in a previous submittal to EPA on December 14, 2007. **The present certification of SIP adequacy is for the 1997 standard for fine particulate matter, (PM_{2.5}).**

Background

EPA established primary (health-based) standards for annual and 24-hour PM_{2.5} on the referenced promulgation date. PM_{2.5} is defined as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers. The annual standard was set at a level of 15 micrograms per cubic meter, as determined by the 3-year average of annual mean PM_{2.5}. The 24-hour standard was set at a level of 65 micrograms per cubic meter, as determined by the 3-year average of the 98th percentile of the 24-hour concentrations. (Note: EPA subsequently revised both the 8-hour ozone and particulate matter standards to make them more stringent than the 1997 standards. The present submittal relates to the 1997 PM_{2.5} standards only. SIP submittals addressing the more recent revisions to the 8-hour ozone and particulate matter standards will be due at a later date.)

In an October 2, 2007, memorandum from William Harnett, Director of EPA's Air Quality Policy Division, EPA provided guidance on SIP elements required under section 110(a)(1) and (2). As described in that memo, states are required to address basic SIP elements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within 3 years after promulgation of a new or revised standard. This being the case, states were required to submit such SIPs for the 1997 revised 8-hour ozone and PM_{2.5} NAAQS to EPA no later than July 2000. However, intervening litigation over the 1997 revised 8-hour ozone and PM_{2.5} NAAQS created uncertainty among states about how to proceed, with the result that many states did not submit SIPs to meet the infrastructure requirements enumerated in sections 110(a)(1) and (2).

In March of 2004, Earth Justice initiated a lawsuit against EPA for failure to take action against states that had not made SIP submissions to meet the requirements of sections 110(a)(1) and (2). On March 10, 2005, EPA entered into a Consent Decree with Earth Justice that obligated EPA to determine by no later than March 15, 2005, whether states had made SIP submissions meeting CAA section 110(a)(2)(D)(i) relating to interstate transport. Subsequently,

on April 25, 2005, EPA published in the Federal Register¹ a finding that all states had failed to submit new SIPs addressing interstate transport for the 1997 revised 8-hour ozone and PM_{2.5} NAAQS.

The Consent Decree also obligated EPA to make a determination as to whether states had made submissions meeting the remaining requirements of sections 110(a)(1) and (2) by December 15, 2007, for the 8-hour ozone NAAQS, and by October 5, 2008, for the PM_{2.5} NAAQS. As indicated in the Harnett memorandum of October 2, 2007, to the extent that existing SIPs for ozone and particulate matter already satisfy these requirements, states need only to certify that fact to EPA.

Previous Submittals

NHDES has previously made the following submittals to EPA to demonstrate compliance with CAA sections 110(a)(1) and (2) and corresponding EPA guidance:

- On December 14, 2007, NHDES submitted a certification of SIP adequacy addressing the requirements of sections 110(a)(1) and (2) for the 1997 revised 8-hour ozone standard.
- On March 11, 2008, NHDES submitted a SIP revision to EPA to fulfill the requirements of the Finding of Failure and section 110(a)(2)(D)(i) relating to interstate transport.

Current Submittal

As described in the accompanying table, the present submittal outlines how New Hampshire's program fulfills the requirements of CAA sections 110(a)(1) and (2) for fine particulate matter (PM_{2.5}). NHDES certifies that its State Implementation Plan already meets most of these requirements. The New Hampshire SIP was originally submitted to EPA on January 27, 1972, and has had numerous revisions since that date. New Hampshire's EPA-approved SIP, which is published in the Federal Register at 40 CFR 52 Subpart EE, explicitly fulfills most of the requirements of sections 110(a)(1) and (2). Other requirements of sections 110(a)(1) and (2) are fulfilled in applicable chapters and parts from the New Hampshire Revised Statutes Annotated (RSA) pertaining to the duties and powers of the Commissioner of the Department of Environmental Services (NHDES) as well as applicable chapters and parts from the New Hampshire Rules Governing the Control of Air Pollution, NH Admin. Rules Env-A 100 *et seq.*

¹ *Finding of Failure to Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and PM_{2.5}*, 70 FR 21147 (April 25, 2005).

Overview of How New Hampshire's Program Satisfies the CAA Section 110(a)(1) and (2) SIP Requirements for Fine Particulate Matter (PM_{2.5})^{*}

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| 110(a)(2)(A) Emission limits and other control measures | "include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this Act," | <p>RSA 21-O Department of Environmental Services and RSA 125-C Air Pollution Control. Powers of the Commissioner. Regulations. Fees. General Permits.</p> <p>New Hampshire Code of Administrative Rules, Department of Environmental Services (Env-A 100 - 4300): The following chapters and parts have general and specific applicability to sources of particulate matter emissions, including NO_x, SO₂, and VOCs as precursors to particulate matter:</p> <p>CHAPTER Env-A 300 Ambient Air Quality Standards</p> <ul style="list-style-type: none"> - Part Env-A 303 Primary and Secondary Ambient Air Quality Standards for Particulate Matter - Part Env-A 304 Primary and Secondary Ambient Air Quality Standards for Sulfur Dioxide - Part Env-A 306 Primary and Secondary Ambient Air Quality Standards for Nitrogen Dioxide <p>CHAPTER Env-A 400 Acid Deposition Control Program, eff. 12-22-04</p> <p>CHAPTER Env-A 500 Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants, eff. 4-5-02, 12-31-05, and 4-27-07</p> <ul style="list-style-type: none"> - Part Env-A 503 New Source Performance Standards <p>CHAPTER Env-A 600 Statewide Permit System, eff. 4-26-03, 7-28-04, and 6-8-06</p> <ul style="list-style-type: none"> - Part Env-A 606 Air Pollution Dispersion Modeling Impact Analysis Requirements - Part Env-A 618 (formerly Env-A 622) Additional Requirements in Non-Attainment Areas and the New Hampshire Portion of the Northeast Ozone Transport Region - Part Env-A 619 (formerly Env-A 623) Prevention of Significant Deterioration (PSD) of Air Quality Permit Requirements <p>CHAPTER Env-A 700 Permit Fee System, eff. 4-26-03 and 6-26-04</p> <ul style="list-style-type: none"> - Part Env-A 702 Application Review and Modeling Fees - Part Env-A 703 Permit Review Fees - Part Env-A 704 Testing and Monitoring Fees for Temporary Permits - Part Env-A 705 Emission-Based Fee |

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* CAA refers to the Clean Air Act.

RSA refers to the New Hampshire Revised Statutes Annotated.

Env-A refers to New Hampshire Code of Administrative Rules (New Hampshire Rules Governing the Control of Air Pollution)

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

NHDES refers to the New Hampshire Department of Environmental Services.

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| | | <p>CONTINUED –</p> <p>CHAPTER Env-A 800 Testing And Monitoring Procedures, eff. 10-31-02, 12-22-04, and 4-27-07</p> <ul style="list-style-type: none"> - Part Env-A 802 Compliance Stack Testing for Stationary Sources - Part Env-A 803 NOx RACT Testing Requirements - Part Env-A 804 Volatile Organic Compound Testing - Part Env-A 805 Capture Efficiency [for VOCs] - Part Env-A 806 Sulfur Content Testing of Fuels - Part Env-A 807 Testing for Opacity of Emissions - Part Env-A 808 Continuous Emission Monitoring - Part Env-A 809 Approval of Alternate Methods <p>CHAPTER Env-A 1000 Prevention, Abatement, and Control of Open Source Air Pollution, eff. 3-12-03</p> <ul style="list-style-type: none"> - Part Env-A 1001 Open Burning - Part Env-A 1002 Fugitive Dust - Part Env-A 1003 Firefighter Instruction and Training Activities <p>CHAPTER Env-A 1100 Prevention, Abatement, and Control of Mobile Source Air Pollution, eff. 3-26-05</p> <ul style="list-style-type: none"> - Part Env-A 1101 Diesel And Gasoline-Powered Motor Vehicles <p>CHAPTER Env-A 1200 Prevention, Abatement, and Control of Stationary Source Air Pollution</p> <ul style="list-style-type: none"> - Part Env-A 1204 Stationary Sources of Volatile Organic Compounds (VOCs) - Part Env-A 1211 Nitrogen Oxides (NOx) <p>CHAPTER Env-A 1600 Fuel Specifications (formerly incorporated into CHAPTER Env-A 400), eff. 5-29-97, 5-2-02, 4-23-05, and 4-27-07</p> <ul style="list-style-type: none"> - Parts Env-A 1604 thru 1606 Sulfur Content Limitations for Fuels - Part Env-A 1607 Fuel Analysis Requirement for Suppliers of Liquid or Solid Fuel - Part Env-A 1610 Compliance - Part Env-A 1611 Oxygen-Flexible Reformulated Gasoline <p>CHAPTER Env-A 1900 Incinerators and Wood Waste Burners (formerly Part Env-A 1201), eff. 2-26-05</p> <ul style="list-style-type: none"> - Part Env-A 1903 Visible Emission Standard for Incinerators and Wood Waste Burners - Part Env-A 1904 Particulate Matter Emission Standards for Incinerators and Wood Waste Burners <p style="text-align: right;">– CONTINUED</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| | | <p>CONTINUED –</p> <p>CHAPTER Env-A 2000 Fuel Burning Devices (formerly Part Env-A 1202), eff. 4-23-05</p> <ul style="list-style-type: none"> - Subparts Env-A 2002.01 thru 2002.05 Visible Emission Standards for Fuel Burning Devices and Opacity Standard for Fuel Burning Devices Subject to 40 CFR 60 - Subparts Env-A 2002.06 thru 2002.10 Particulate Emission Standards for Fuel Burning Devices <p>CHAPTER Env-A 2100 Particulate Matter and Visible Emissions Standards (formerly Part Env-A 1203), eff. 11-24-04</p> <p>CHAPTER Env-A 2400 Ferrous and Non-Ferrous Foundries, Smelters and Investment Casting Industries (formerly Part Env-A 1205), eff. 11-24-04</p> <p>CHAPTER Env-A 2500 Pulp and Paper Industry: Particulate Matter and Visible Emissions Standards (formerly Part Env-A 1206), eff. 11-24-04</p> <p>CHAPTER Env-A 2600 Pulp and Paper Industry: Total Reduced Sulfur Emissions From Kraft Mills, eff. 12-9-04</p> <p>CHAPTER Env-A 2700 Hot Mix Asphalt Plants (formerly Part Env-A 1207), eff. 11-24-04</p> <p>CHAPTER Env-A 2800 Sand and Gravel Sources, and Cement and Concrete Sources (formerly Part Env-A 1208), eff. 11-24-04</p> <p>CHAPTER Env-A 2900 Multiple Pollutant Annual Budget Trading and Banking Program, eff. 5-13-03</p> <p>CHAPTER Env-A 3000 Emissions Reduction Credits Trading Program, eff. 1-21-97</p> <p>CHAPTER Env-A 3100 Discrete Emissions Reduction Trading Program, eff. 1-21-97</p> <p>CHAPTER Env-A 3200 NOx Budget Trading Program</p> <p>CHAPTER Env-A 3300 Municipal Waste Combustion, eff. 2-2-08</p> <p>CHAPTER Env-A 3400 Commercial and Industrial Solid Waste Incinerators, eff. 5-2-02</p> <p>CHAPTER Env-A 3500 Hospital/Medical/Infectious Waste Incineration, eff. 1-5-07</p> <p>CHAPTER Env-A 3600 National Low Emission Vehicle (National LEV) Program</p> <p>CHAPTER Env-A 3700 NOx Emissions Reduction Fund for NOx-Emitting Generation Sources, eff. 12-20-01 and 3-26-05</p> <p>CHAPTER Env-A 4000 Portable Fuel Container Spillage Control, eff. 1-9-08</p> <p>CHAPTER Env-A 4100 Consumer Products, eff. 9-24-05</p> <p>CHAPTER Env-A 4200 Architectural and Industrial Maintenance Coatings, eff. 7-27-06</p> <p>CHAPTER Env-A 4300 Other Solid Waste Incineration, eff. 1-5-07</p> <p style="text-align: right;">– CONTINUED</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| | | <p>CONTINUED –</p> <p>New Hampshire Code of Administrative Rules, Department of Safety (Saf-C 100 - 6700): The following chapters and parts have applicability to vehicular sources of particulate matter emissions, including NO_x, SO₂, and VOCs as precursors to particulate matter:</p> <p>CHAPTER Saf-C 3200 Official Motor Vehicle Inspection Requirements, eff. 6-22-07, provides for the inspection of passenger cars, trucks, combination vehicles, trailers and semi-trailers, motorcycles, farm and agricultural vehicles, antique vehicles and motorcycles, recreation vehicles, street rods, and homemade vehicles.</p> <p>Part Saf-C 3220 Emissions Requirements: The following subparts provide for inspection of motor vehicle components:</p> <ul style="list-style-type: none"> - Saf-C 3220.01 Positive Crankcase Ventilation (PCV) - Saf-C 3220.02 Air Injection Pump/Pulse Air System - Saf-C 3220.03 Inspection of Fuel System - Saf-C 3220.04 Evaporative Canister - Saf-C 3220.05 Inspection of Exhaust System - Saf-C 3220.06 Replacement Parts <p>CHAPTER Saf-C 5800 Roadside Diesel Opacity Inspection, eff. 1-1-99, implements a roadside heavy-duty diesel emissions testing program mandated by the New Hampshire Legislature as part 1998 NH Laws 207. The law was passed pursuant to the State's agreement with the Federal Environmental Protection Agency on an overall clean air strategy under the provisions of the federal Clean Air Act Amendments of 1990. The rules apply to all diesel powered motor vehicles with a manufacturer's gross vehicle weight rating of 10,000 pounds or more and all diesel-powered buses manufactured to carry 25 or more passengers, whether these vehicles are registered in New Hampshire or another jurisdiction.</p> |
| 110(a)(2)(B) Ambient air quality monitoring/data system | <p>"provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to –</p> <p>(i) monitor, compile, and analyze data on ambient air quality, and</p> <p>(ii) upon request, make such data available to the Administrator;"</p> | <p>40 CFR Part 58 Ambient Air Quality Surveillance: In accordance with this part, NHDES submitted a comprehensive air quality monitoring plan to EPA on July 17, 2007. The latest annual air monitoring network plan was also submitted to EPA on July 17, 2007 with the comprehensive air quality monitoring plan. NHDES collects and reports ambient air quality data for O₃, SO₂, NO₂, Pb, CO, PM₁₀ and PM_{2.5}. The data are reviewed and validated before being sent to the EPA air quality system AQS, no later than 90 days after the end of a calendar quarter.</p> <p>RSA 125-C:6 Powers and Duties of the Commissioner:</p> <ul style="list-style-type: none"> - RSA 125-C:6, IV authorizes the Commissioner to collect and disseminate the results of studies relating to air quality. - RSA 125-C:6, V authorizes the Commissioner to consult and cooperate with agencies of the federal government. <p>RSA 125-C:6, XVI authorizes the Commissioner to establish an air quality monitoring equipment replacement program to provide for sufficient annual replacement to meet federal Environmental Protection Agency guidelines and to assure the reliability and accuracy of the network equipment.</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| 110(a)(2)(C) Program for enforcement of control measures | "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;" | <p>RSA 125-C:4 Rulemaking Authority; Subpoena Power:</p> <ul style="list-style-type: none"> - RSA 125-C:4, I authorizes rulemaking to control emissions and establish a permit program. <p>RSA 125-C:11 Permit Required provides for a permit program, permits with enforceable emission limits, and emission control measures.</p> <p>RSA 125-C:15 Enforcement:</p> <ul style="list-style-type: none"> - RSA 125-C:15, I authorizes NHDES to issue orders to correct violations RSA 125-C. - RSA 125-C:15, I-b, II, III and IV provide for penalties for violations of RSA 125-C. <p>These statutes establish legal authority for the enforcement of New Hampshire Rules Governing the Control of Air Pollution (Env-A 100 - 4300).</p> |
| 110(a)(2)(D) Interstate transport | <p>"contain adequate provisions –</p> <ul style="list-style-type: none"> (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 <ul style="list-style-type: none"> (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);" | <p>Revision to the New Hampshire State Implementation Plan:</p> <p>On March 11, 2008, NHDES submitted a SIP revision to EPA addressing interstate air pollution transport to fulfill the requirements of CAA section 110(a)(2)(D)(i).</p> <p>RSA 125-C:6. XV and Part Env-A 619 address the prevention of significant deterioration (PSD) of ambient air quality in relation to interstate transport of pollutants and protection of air quality in Class I international parks – see program description for CAA section 110(a)(2)(J).</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| 110(a)(2)(E) Adequate resources | <p>"provide –</p> <p>(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),</p> <p>(ii) requirements that the State comply with the requirements respecting State boards under section 128, and</p> <p>(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;"</p> | <p>RSA 125-C:6 Powers and Duties of the Commissioner 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.</p> <p>RSA 125-C:12 Administrative Requirements authorizes the Commissioner to collect fees to recover the costs of reviewing and acting upon permit applications and enforcing the terms of permits issued.</p> <p>The State of New Hampshire Air Quality Implementation Plan, as originally submitted on January 27, 1972, and subsequently amended, describes the existing organizations, manpower, funding, and physical resources to carry out the plan.</p> <p>RSA 21-O:11 Air Resources Council 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.</p> <p>The State of New Hampshire does not rely on any local or regional government, agency, or instrumentality for the implementation of any provision of the SIP.</p> |

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| 110(a)(2)(F) Stationary source emissions monitoring and reporting | <p>"require, as may be prescribed by the Administrator –</p> <p>(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,</p> <p>(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and</p> <p>(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;"</p> | <p>RSA 125-C:6 Powers and Duties of the Commissioner authorizes the Commissioner to require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the Commissioner on the nature and amounts of emissions from such stationary sources. The Commissioner shall have the authority to make such data available to the public and to require as necessary correlation with any applicable emission standards.</p> <p>CHAPTER Env-A 800 Testing and Monitoring Procedures, eff. 10-31-02, 12-22-04, and 4-27-07, establishes minimum testing and monitoring procedures, calculation procedures, standards, and requirements in order to determine compliance with applicable state and federal statutes and rules. Applicable parts include:</p> <ul style="list-style-type: none"> - Part Env-A 802 Compliance Stack Testing for Stationary Sources - Part Env-A 803 NOx RACT Testing Procedures - Part Env-A 804 Volatile Organic Compound Testing - Part Env-A 805 Capture Efficiency [for VOCs] - Part Env-A 806 Sulfur Content Testing of Fuels - Part Env-A 807 Testing for Opacity of Emissions - Part Env-A 808 Continuous Emission Monitoring - Part Env-A 809 Approval of Alternate Methods <p>CHAPTER Env-A 900 Owner or Operator Recordkeeping and Reporting Obligations, eff. 4-21-07, 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. Applicable parts include:</p> <ul style="list-style-type: none"> - Part Env-A 902 Availability of Records - Part Env-A 903 General Recordkeeping Requirements - Part Env-A 904 VOC Emission Statements Recordkeeping Requirements - Part Env-A 905 NOx Emission Statements Recordkeeping Requirements - Part Env-A 906 Additional Recordkeeping Requirements - Part Env-A 907 General Reporting Requirements - Part Env-A 908 VOC Emission Statements Reporting Requirements - Part Env-A 909 NOx Emission Statements Reporting Requirements - Part Env-A 910 Additional Reporting Requirements - Part Env-A 911 Recordkeeping and Reporting Requirements for Permit Deviations - Part Env-A 912 Alternative Time Periods <p>Subpart Env-A 902.01(d) reads: "Subject to Env-A 103, all data submitted to the division, including emission data and applicable emission limitations, shall be made available to the public." Env-A 103 provides a mechanism by which a person who submits information to the director can protect confidential information, to the extent permitted under RSA 125-C:6, VII. Under RSA 125-C:6, VII, emission data is not considered confidential information.</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| 110(a)(2)(G) Emergency power | “provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;” | <p>RSA 125-C:4 Rulemaking Authority; Subpoena Power:</p> <ul style="list-style-type: none"> - RSA 125-C: 4, I states in part: “The commissioner shall adopt rules under RSA 541-A, relative to: ... (c) procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.” <p>RSA 125-C:9 Authority of the Commissioner in Cases of Emergency states: “Whenever the commissioner 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 commissioner shall rescind or abate such order as soon as the emergency ceases to exist.”</p> <p>Note: Based on EPA guidance issued March 24, 2008, and PM_{2.5} levels recorded in the state, New Hampshire will not be required to submit an emergency episode plan for PM_{2.5}.</p> |
| 110(a)(2)(H) Future SIP revisions | <p>“provide for revision of such plan –</p> <p>(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</p> <p>(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;”</p> | <p>RSA 125-C:6 Powers and Duties of the Commissioner states: “In addition to the other powers and duties granted herein, the commissioner shall have and may exercise the following powers and duties:... II. Developing a comprehensive program and provide services for the study, prevention and abatement of air pollution...”</p> <p>In addition to this legal authority, CHAPTER Env-A 200 Procedural Rules, Part Env-A 204 Public Hearings on the State Implementation Plan provides procedures for State Implementation Plan hearings.</p> |
| 110(a)(2)(J) Consultation with government officials | “meet the applicable requirements of section 121 (relating to consultation),...” | <p>RSA 125-C:6 Powers and Duties of the Commissioner states: “In addition to the other powers and duties granted herein, the commissioner shall have and may exercise the following powers and duties:... </p> <p>V. Advising, consulting, and cooperating 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;</p> <p>VI. Encouraging local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state;</p> <p>VI-a. Encouraging the recycling of waste oil by allowing qualified marketers to sell, and qualified facilities to burn, a mixture that consists of at least 90 percent virgin No. 6 oil and the remainder complying with the used fuel oil specifications in 40 CFR, section 279.11, table 1;...</p> <p>XIII. Coordinating and regulating the air pollution control programs of political subdivisions of the state and entering agreements with said subdivisions to plan or implement programs for the control and abatement of air pollution...”</p> |

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| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| | | <p>CONTINUED –</p> <p>CHAPTER Env-A 600 Statewide Permit System:</p> <ul style="list-style-type: none"> - Part Env-A 621 Permit Notice and Hearing Procedures: Temporary Permits and Permits to Operate (formerly incorporated into CHAPTER Env-A 208) 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. - Part Env-A 622 Permit Notice and Hearing Procedures: Title V Operating Permits (formerly incorporated into CHAPTER Env-A 200) 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. <p>CHAPTER 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.</p> |
| 110(a)(2)(J) Public notification | “meet the applicable requirements of...section 127 (relating to public notification),...” | <p>RSA 125-C:6 Powers and Duties of the Commissioner states: “In addition to the other powers and duties granted herein, the commissioner shall have and may exercise the following powers and duties:...</p> <p>IV. Collecting and disseminating the results of studies relating to air quality;</p> <p>V. Advising, consulting, and cooperating 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;</p> <p>VI. Encouraging local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state;...”</p> <p>RSA 125-C:12 Administrative Requirements states:</p> <p>“...II. The commissioner shall act upon a permit application within a reasonable period of time. Prior to such action, the commissioner shall provide notice of the application by publication in at least one newspaper of general circulation. The commissioner shall also provide an opportunity for a hearing to interested persons. The requirement of public notice and hearing shall not apply to such devices or sources that will have, in the opinion of the commissioner, an insignificant effect on air quality. The commissioner may adopt rules relative to the requirements of public notice and hearing for such devices or sources.</p> <p>III. Any person aggrieved by the decision of the commissioner granting or denying a permit application may within 10 days of the decision file an appeal with the air resources council. The air resources council shall hold a hearing on any such appeal promptly, and shall thereafter issue a decision upholding, modifying or abrogating the commissioner's decision...”</p> <p>In implementing this authority, NHDES issues press releases in advance of bad PM_{2.5} and ozone days. NHDES also posts warnings on its website, advising people what they can do help prevent NAAQS exceedances and avoid adverse health effects of poor quality air days.</p> |

| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| 110(a)(2)(J) PSD and visibility Protection | “meet the applicable requirements of...part C (relating to prevention of significant deterioration of air quality and visibility protection);” | <p>RSA 125-C:6 Powers and Duties of the Commissioner states: “In addition to the other powers and duties granted herein, the commissioner shall have and may exercise the following powers and duties:...</p> <p>XV. Implementing a program of prevention of significant deterioration of ambient air quality by establishing air quality increments limiting the maximum allowable increases in the amounts of air pollutants provided such increments are not less stringent than those specified in the Clean Air Act and amendments thereto, and in regulations promulgated thereunder;...”</p> <p>CHAPTER Env-A 600 Statewide Permit System, Part Env-A 619 (formerly Env-A 623) Prevention of Significant Deterioration (PSD) of Air Quality Permit Requirements addresses the prevention of significant deterioration of air quality and visibility protection, in compliance with the requirements of 40 CFR 51.166, 40 CFR 52.21 and RSA-125-C.</p> |
| 110(a)(2)(K) Air quality modeling/data | <p>“provide for –</p> <p>(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</p> <p>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;”</p> | <p>CHAPTER Env-A 600 Statewide Permit System, Part Env-A 606 Air pollution Dispersion Modeling Impact Analysis Requirements, eff. 4-26-03, specifies the air pollution dispersion modeling impact analysis requirements that shall apply to owners and operators of certain sources and devices in order to demonstrate compliance with the New Hampshire State Implementation Plan, RSA 125-C, RSA 125-I, and any rules adopted thereunder.</p> |
| 110(a)(2)(L) Permitting fees | <p>“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 –</p> <p>(i) the reasonable costs of reviewing and acting upon any application for such a permit, and</p> <p>(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;”</p> | <p>RSA 125-C:4 Rulemaking Authority; Subpoena Power states: “I. The commissioner shall adopt rules under RSA 541-A, relative to:...</p> <p>(i) Fees for permit application and review, as authorized by RSA 125-C:12, IV...”</p> <p>RSA 125-C:12 Administrative Requirements states:</p> <p>“...IV. As a condition of any permit required, the commissioner may require payment of a fee to cover the reasonable costs of reviewing and acting upon the application for a permit and of implementing or enforcing the terms and conditions of a permit. The applicant shall pay any cost or expense associated with public notices or notifications in the permit process. The commissioner shall adopt rules relative to a fee schedule for applicants and the collection of fees under the schedule. All fees and monetary grants, gifts, donations, or interest generated by these funds shall be deposited with the state treasurer in a special nonlapsing fund to be known as the air resources fund and shall be continually appropriated to the department for the administration of this chapter.</p> |

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| CAA Section | SIP Requirement (Each such plan shall...) | New Hampshire Program |
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| | | <p>CONTINUED –</p> <p>V. As a condition of any permit to operate under RSA 125-C:11, I-a, the commissioner may require payment of a fee to cover the reasonable costs of reviewing and acting upon the application for a permit to operate, permit renewal, and permit modification of an affected source, and of implementing or enforcing the terms and conditions of an affected source permit. The applicant shall pay any cost or expense associated with public notices or notifications in the permit process. The commissioner shall adopt rules relative to a fee schedule for applicants and the collection of fees under the schedule. Funds collected by the commissioner under this paragraph from permit fees shall be deposited in the air resources fund, shall be accounted for separately, and shall be used by the commissioner for the establishment and operation of a statewide system of permitting for the construction, operation, or modification of any new or existing affected source.”</p> <p>CHAPTER Env-A 700 Permit Fee System: The purpose of this chapter is to establish 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.</p> |
| 110(a)(2)(M) Consultation and participation by affected local entities | “provide for consultation and participation by local political subdivisions affected by the plan.” | <p>RSA 125-C:6 Powers and Duties of the Commissioner states: “In addition to the other powers and duties granted herein, the commissioner shall have and may exercise the following powers and duties:... V. Advising, consulting, and cooperating 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; VI. Encouraging local units to promote cooperation by the people, political subdivisions, industries, and others in preventing and controlling air pollution in the state; VI-a. Encouraging the recycling of waste oil by allowing qualified marketers to sell, and qualified facilities to burn, a mixture that consists of at least 90 percent virgin No. 6 oil and the remainder complying with the used fuel oil specifications in 40 CFR, section 279.11, table 1;... XIII. Coordinating and regulating the air pollution control programs of political subdivisions of the state and entering agreements with said subdivisions to plan or implement programs for the control and abatement of air pollution...”</p> |