



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Thomas S. Burack, Commissioner



December 22, 2015

Mr. Curtis Spalding  
Regional Administrator  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square, Suite 100  
Boston, MA 02109-3912

**Re: Certification of Adequacy for 2012 Fine Particulate Matter (PM<sub>2.5</sub>) Standard**

Dear Administrator Spalding:

As Governor Hassan's designee, I am enclosing for your review and approval New Hampshire's certification of adequacy for the 2012 annual National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>).

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 2012 PM<sub>2.5</sub> standard, the due date is December 14, 2015.

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

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

As the Governor's designee, my signature on this letter is evidence that the State of New Hampshire has adopted this Certification of Adequacy and revision to the State Implementation Plan (SIP). The only state requirement for SIP submittals is that at least 30 days before the date of any public hearing related to SIP revisions, public notice shall be published in a newspaper of general daily statewide circulation.

If you have any questions, please contact me at (603) 271-6791 or Felice Janelle of my staff at (603) 271-4848.

Sincerely,

A handwritten signature in cursive script, reading "Craig A. Wright".

Craig A. Wright  
Director  
Air Resources Division

Enclosures

cc: Dave Conroy, EPA Region 1

**Certification of State Implementation Plan Adequacy  
Regarding Clean Air Act Section 110(a)(1) and (2)  
for Fine Particulate Matter (PM<sub>2.5</sub>)**

**December 2015**

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**Certification of New Hampshire's State Implementation Plan Adequacy Regarding Clean Air Act Sections 110(a)(1) and (2) for Fine Particulate Matter (PM<sub>2.5</sub>)**

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# **Certification of New Hampshire's State Implementation Plan Adequacy Regarding Clean Air Act Sections 110(a)(1) and (2) for Fine Particulate Matter (PM<sub>2.5</sub>)**

## **Introduction**

New Hampshire must certify to the U.S. Environmental Protection Agency (EPA) that its State Implementation Plan (SIP) provides for the implementation, maintenance, and enforcement of each primary or secondary national ambient air quality standard. This type of SIP submission, required under sections 110(a)(1) and (2) of the Clean Air Act (CAA), is commonly referred to as an "infrastructure SIP."

This certification is submitted in response to the new and revised National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) as published by the EPA as a final rule on January 15, 2013 [\[78 FR 3086\]](#). 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.<sup>1</sup>

## **Background**

Particle pollution, also called particulate matter or PM, is a complex mixture of extremely small particles and liquid droplets in the air. When breathed in, these particles can reach the deepest regions of the lungs. Exposure to particle pollution is linked to a variety of health problems, ranging from aggravated asthma to premature death in people with heart and lung disease. Particle pollution is also the main cause of visibility impairment in the nation's cities and national parks.

To protect public health and welfare, EPA established NAAQS for six criteria pollutants - particulate matter is one of them. EPA first issued standards for particulate matter in 1971 and revised the standards in 1987, 1997, and 2006. PM standards address two categories of particle pollution: *fine particles* (PM<sub>2.5</sub>), 2.5 micrometers in diameter and smaller; and *inhalable coarse particles* (PM<sub>10</sub>) that are between 2.5 and 10 micrometers in diameter.

The revised standard reduces the annual fine particle standard from 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 12  $\mu\text{g}/\text{m}^3$  and retains the 24-hour fine particle standard of 35  $\mu\text{g}/\text{m}^3$ . The existing 24-hour PM<sub>10</sub> standard of 150  $\mu\text{g}/\text{m}^3$  is also retained. EPA is also revising the Air Quality Index (AQI) for PM<sub>2.5</sub> to be consistent with the standard. The AQI provides timely information about daily levels of pollution and the public health implications of ambient concentrations of criteria pollutants like PM<sub>2.5</sub>. This information is currently made available primarily through EPA's [AirNow](#) Web site.

## **New Hampshire's SIP Revision**

The submittal of this document is intended to meet New Hampshire's obligations under the CAA with respect to section 110(a)(1) and (2) for the 2012 annual PM<sub>2.5</sub> primary NAAQS. The following describes how New Hampshire's SIP meets these requirements with specific reference to subsections 110(a)(2)(A) through (M).

<sup>1</sup> The rule was finalized on December 14, 2012 and published one month later.

## **New Hampshire's Compliance with Clean Air Act Section 110(a)(1) and (2) SIP Requirements for Fine Particulate Matter (PM<sub>2.5</sub>)**

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

*Clean Air Act (CAA) 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 Chapter."*

This section describes the state's basic structural provisions for implementation of the NAAQS. New Hampshire's Revised Statutes Annotated (RSA) at Chapter 21–O<sup>i</sup> established the New Hampshire Department of Environmental Services (NHDES), and RSA Chapter 125–C<sup>ii</sup> give the Commissioner of NHDES the authority to develop rules and regulations necessary to meet state and Federal ambient air quality standards. Emission limits and other control measures are due on a different time schedule<sup>2</sup>. However it is noted that New Hampshire is currently classified attainment/unclassifiable for PM<sub>2.5</sub>.

NHDES has adopted primary and secondary ambient air quality standards consistent with the current federal NAAQS for PM<sub>2.5</sub> in its Chapter Env–A 300, Part Env-A 303. EPA approved New Hampshire's Chapter Env–A 300, Ambient Air Quality Standards, on June 24, 2014 [[79 FR 35695](#)]. Infrastructure SIPs for prior PM<sub>2.5</sub> NAAQS (1997 and 2006) have been fully approved by EPA [[80 FR 42446](#)].

### **Applicable NH Laws and Regulations**

Chapter Env-A 500 Standards Applicable to Certain New or Modified Facilities and Sources of Hazardous Air Pollutants allows NHDES to establish state standards to regulate facilities and sources of pollutants with authority delegated by the EPA under §112 of the Clean Air Act [[67 FR 59001](#)]. Rules at Chapters Env-A 600 Statewide Permit System, Env-A 700 Permit Fee System, Chapter 800 Testing and Monitoring Procedures, and Chapter Env-A 900 Owner or Operator Recordkeeping and Reporting Obligations<sup>iii</sup>, comprise New Hampshire's permitting system.

Rules authorized and enforced by the NH Department of Safety have applicability to vehicular sources of particulate matter emissions, including NO<sub>x</sub>, SO<sub>2</sub>, and VOCs as precursors to particulate matter, and include Chapter Saf- C 3200: Official Motor Vehicle Inspection Requirements and Chapter Saf-C 5800: Roadside Diesel Opacity Inspection [[79 FR 5292](#)].

Additional chapters and parts have general and specific applicability to sources of particulate matter emissions, including NO<sub>x</sub>, SO<sub>2</sub>, and VOCs as precursors to particulate matter.<sup>iv</sup>

<sup>2</sup> EPA Memorandum, Stephen D. Page to Regional Air Division Directors, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Clean Air Act Sections 110(a)(1) and 110(a)(2)", September 13, 2013.



### **Subsection 110(a)(2)(B): Ambient Air Quality Monitoring/Data System**

#### *CAA Citation:*

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

SIPs must include provisions to provide for establishing and operating an air monitoring program. RSA Chapter 125-C:6 III, IV and XVI<sup>i</sup> grants the commissioner the power and duty to conduct studies related to air quality, to disseminate the results, and to assure the reliability and accuracy of monitoring equipment to meet federal EPA standards. NHDES operates a monitoring network in accordance with 40 CFR 58, and EPA approved the state's most recent Annual Air Monitoring Network Plan on October 10, 2014. NHDES submits annual [network review and assessments](#) every five years. Furthermore, NHDES populates AQS with air quality monitoring data in a timely manner and provides EPA with prior notification when considering a change to its monitoring network or plan. NHDES currently monitors PM<sub>2.5</sub> at eight locations in the state.

### **Subsection 110(a)(2)(C): Program for Enforcement of Control Measures**

#### *CAA Citation:*

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

States must enforce the SIP measures that they enact. NHDES staffs and implements an enforcement program pursuant to RSA Chapter 125-C Air Pollution Control. Specifically, RSA Chapter 125-C:15<sup>v</sup>, Enforcement, authorizes the Commissioner of the NHDES or his or her authorized representative, upon finding a violation of Chapter 125-C has occurred, to issue a notice of violation or an order of abatement, and to include within it a schedule for compliance. Additionally, RSA 125-C:15 I-b, II, III, and IV provide for penalties for violations of Chapter 125-C.

Prevention of significant deterioration (PSD) applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of or unclassifiable with regard to the relevant NAAQS. NHDES's EPA-approved PSD rules, contained at Part Env-A 619, contain provisions that address the majority of the applicable infrastructure SIP requirements related to the 2012 PM<sub>2.5</sub> NAAQS. EPA approved Part Env-A 619 [\[80 FR 57722\]](#), and NH has committed to revising the rule to address 40 CFR 51.166 (q)(2)(iv). In the same Federal Register notice, EPA conditionally approved the NH Nonattainment New Source Review program conditioned on NH addressing provisions at 40 CFR 51.165(a)(5)(i), 40 CFR 51.165(a)(6) and 40 CFR 51.165(a)(7). These revisions will be made concurrently.

### **Applicable NH Laws and Regulations**

In addition to PSD provisions noted above, New Hampshire's permitting program at Env-A 600 includes requirements for minor sources and modifications at Part Env-A 607 Temporary

Permits, Part Env-A 608 State Permits to Operate, and Env-A 609 Title V Operating Permits<sup>3</sup>.

**Subsection 110(a)(2)(D)(i): 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."*

States must enact provisions relative to the interstate transport of pollutants. [Data provided by the EPA](#) to support the area designation process for the 2012 annual PM<sub>2.5</sub> standard indicate that New Hampshire and surrounding states are classified attainment/unclassifiable, and that design values for these states are below the 2012 annual PM<sub>2.5</sub> NAAQS. Design values for 2010-2012 for the states contiguous to New Hampshire (Vermont, Maine, Massachusetts) range from 4.6-9.9. Based on this data, NHDES certifies that air emissions from sources in New Hampshire do not contribute significantly to nonattainment or maintenance of the 2012 annual PM<sub>2.5</sub> NAAQS in other states. In addition, no source or sources within the state are the subject of an active finding under section 126 of the CAA with respect to PM<sub>2.5</sub>.

**Applicable NH Laws and Regulations**

Part Env-A 619 Prevention of Significant Deterioration and Part Env-A 618 Nonattainment New Source Review were approved on September 25, 2015 [\[80 FR 57722\]](#). NH has committed to revising the rule to include 40 CFR 51.165 (a)(6) and (7), 40 CFR 51.165 (a)(5)(i), and 40 FR 51.166(q)(2)(iv) by September 2016. New Hampshire's Mitigation of Regional Haze rule (Env-A 2300) was approved by EPA on August 22, 2012 [\[77 FR 50602\]](#).

**Subsection 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Pollution Abatement**

*CAA Citation:*

*"Each such plan shall...contain adequate provisions...(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement)."*

SIPs must contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. There are no final findings under section 115 of the CAA against New Hampshire with respect to PM<sub>2.5</sub>.

As noted above, EPA has approved into the SIP New Hampshire's Prevention of Significant Deterioration program.

<sup>3</sup> New Hampshire's Title V Operating Permit Program was approved by EPA on September 24, 2001



### **Subsection 110(a)(2)(E): Adequate Resources**

*CAA Citation:*

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

New Hampshire has documented through prior infrastructure SIP submittals that its air agency has the requisite authority and resources to carry out its SIP obligations. New Hampshire RSA 125-C:6, Powers and Duties of the Commissioner, authorizes the Commissioner of the NHDES to enforce the state's air laws, establish a permit program, accept and administer grants, and exercise incidental powers necessary to carry out the law. Additionally, 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.

RSA 21-O:11, Air Resources Council, establishes the New Hampshire Air Resources Council, a state board that has the authority to hear enforcement and permit appeals. Under state law, permits and enforcement orders issued by the Commissioner can be appealed to the Air Resources Council in an adjudicative proceeding<sup>vi</sup>. New Hampshire submitted RSA 21-O:11, Air Resources Council, to the EPA on December 31, 2012, and EPA has proposed its approving it into the New Hampshire SIP.

With respect to sub-element (iii), 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.

### **Applicable NH Laws and Regulations**

A list of NH rules that have been submitted for inclusion in the SIP is provided in the footnote to this document.<sup>vii</sup>

### **Subsection 110(a)(2)(F): Stationary Source Emissions Monitoring and Reporting**

*CAA Citation:*

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

New Hampshire RSA 125-C: 6, Powers and Duties of the Commissioner, authorizes the Commissioner of NHDES to require the installation, maintenance, and use of emissions monitoring devices and to require periodic reporting to the Commissioner of the nature and extent of the emissions. This authority also enables the Commissioner to correlate this information to any applicable emissions standard and to make the information available to the public. NHDES implements Chapter Env-A 800, Testing and Monitoring Procedures, and Chapter Env-A 900, Owner or Operator Recordkeeping and Reporting Obligations, as the primary means of fulfilling these obligations. New Hampshire's Chapters Env-A 800 and 900 were approved into the SIP on November 5, 2012 [77 FR 66388]. Additionally, under RSA 125-C:6, VII, and Env-A 103.04, emissions data are not considered confidential information. New Hampshire routinely collects information on air emissions from its industrial sources and makes this information available to the public.

### **Subsection 110(a)(2)(G): Emergency Power**

*CAA Citation:*

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

RSA 125-C:9, Authority of the Commissioner in Cases of Emergency, authorizes the Commissioner of NHDES, with the consent of the Governor and Air Resources Council, to issue an order requiring actions to be taken as the Commissioner deems necessary to address an air pollution emergency. Such orders are effective immediately upon issuance. Based on its inventory of PM<sub>2.5</sub> sources and historic ambient air monitoring data, New Hampshire does not require a more specific contingency plan beyond having the authority to restrain any source from causing or contributing to an imminent or substantial endangerment, which is provided in RSA 125-C:9. Episodic cases of extreme PM<sub>2.5</sub> may be reported to the public via EPA [AirNow](#) and EPA [EnviroFlash](#).

Exemptions from contingency plan requirements are provided in 40 CFR 51.152, Contingency Plans, specifically, at (d)(1) *"Exempt from the requirements of this section those portions of Priority I, IA or II regions which have been designated as attainment or unclassifiable for national primary or secondary standards under Section 107 of the Act..."* Also exempt are areas classified Priority III. New Hampshire does not have areas designated as nonattainment for the 1997 or 2006 PM<sub>2.5</sub> NAAQS NAAQS.<sup>4</sup> It is anticipated that the entire state will also be designated attainment/nonclassifiable for the 2012 NAAQS.

In addition, 40 CFR 51.513(a) instructs state to periodically reevaluate priority classifications, considering the three most recent years of air quality data. According to 40 CFR 51.150, Priority II areas for PM<sub>2.5</sub> are those with annual mean values 60-95 µg/m<sup>3</sup> and 24-hr maximum 150-325 µg/m<sup>3</sup>. As shown on Table 1, representing three years of data from monitoring locations throughout the state, PM<sub>2.5</sub> concentrations are well below those values. According to 40 CFR 52.1521, New Hampshire has regions classified Priority I (Merrimack Valley-Southern New Hampshire, Priority IA (Androscoggin Valley Interstate) and Priority III (Central New Hampshire Intrastate). Based on the three most recent years of PM<sub>2.5</sub> data, NHDES requests that the entire state be reclassified Priority III.

<sup>4</sup> [Status of SIP Requirements for Designated Areas | Nonattainment Area & OTR SIP Requirements | State Implementation Plan Status | Six Common Pollutants | Air & Radiation | US EPA](#)



Table 1. New Hampshire PM <sub>2.5</sub> data, 2012-2014 <sup>5</sup>								
PM <sub>2.5</sub> (µg/m <sup>3</sup> )		Maximum 24-Hour Average			Annual Mean			Design Value <sup>6</sup>
City	Site ID	2012	2013	2014	2012	2013	2014	
Laconia	33-001-2004	19.3	14.6	13.2	6.6	5.2	4.5	5.4
Keene	33-005-0007	36.8	38.5	34	8.8	8.3	9.4	8.8
Lebanon	33-009-0010	19.5	23.3	20.3	6.2	6.1	6.3	6.2
Nashua	33-011-1015	24	15.8	13.8	8.2	7.5	6	7.2
Peterborough	33-011-5001	17.9	17.3	16.2	4.2	6.2	5.9	5.4
Pembroke	33-013-1006	27.1	27	18.4	8.6	7.2	6.7	7.5
Portsmouth	33-015-0014	25	29.4	21	7	7.6	6.2	6.9
Londonderry	33-015-0018	23.3	25.8	24.5	6.3	9	10.1	8.5

### **Subsection 110(a)(2)(H): Future SIP revisions**

*CAA Citation:*

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

New Hampshire RSA 125–C:6, Powers and Duties of the Commissioner, provides that the Commissioner of NHDES may develop a comprehensive program and provide services for the study, prevention, and abatement of air pollution. Additionally, Chapter Env-A 200, Procedural Rules, which was approved into the New Hampshire SIP on October 28, 2002 [\[67 FR 65710\]](#) provides for public hearings for SIP revision requests prior to their submittal to EPA.

As evidence of New Hampshire's commitment to fulfilling the requirements of this subsection, NHDES has made numerous SIP revisions in the past for the purpose of meeting the National Ambient Air Quality Standards.

### **Subsection 110(a)(2)(I): Areas Designated Nonattainment**

*CAA Citation:*

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

EPA does not expect infrastructure SIP submissions to address subsection 110(a)(2)(I). The specific SIP submission for designated nonattainment areas required under part D follow a different schedule from the section 110 infrastructure elements and are reviewed and acted upon

<sup>5</sup> [AirData | US Environmental Protection Agency](#). These numbers represent

<sup>6</sup> The design value of the PM<sub>2.5</sub> primary NAAQS is the annual arithmetic mean, averaged over three years.



through a separate process.<sup>7</sup> Note that New Hampshire does not have areas designated as nonattainment for the PM<sub>2.5</sub> 2012 NAAQS.<sup>8</sup>

**Subsection 110(a)(2)(J)(i)(ii): Consultation with Government Officials; Public Notification; PSD; Visibility Protection**

*CAA Citation:*

*"Each such plan shall...meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection..."*

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements, and requires states to notify the public if NAAQS are exceeded in an area.

New Hampshire RSA 125-C:6 Powers Duties of the Commissioner, authorizes the Commissioner of NHDES to advise, consult, and cooperate with the cities, towns, and other agencies of the state and federal government, interstate agencies, and other groups or agencies in matters relating to air quality. Additionally, RSA 125-C:6 enables the Commissioner to coordinate and regulate the air pollution control programs of political subdivisions to plan and implement programs for the control and abatement of air pollution and to collect and disseminate the results of studies relating to air quality. Furthermore, New Hampshire regulations at Part Env-A 621 direct NHDES to notify town officials, regional planning agencies, and FLMs, among others, of the receipt of certain permit applications and the NHDES' preliminary determination to issue, amend, or deny such permits.

As noted previously in this document, Part Env-A 619 Prevention of Significant Deterioration and Part Env-A 618 Nonattainment New Source Review were approved September 25, 2015 [\[80 FR 57722\]](#). NH has committed to revising the rule to include 40 CFR 51.165 (a)(6) and (7), 40 CFR 51.165 (a)(5)(i), and 40 CFR 51.166(q)(2)(iv) by September 2016. New Hampshire's Mitigation of Regional Haze rule (Env-A 2300) was approved by EPA on August 22, 2012 [\[77 FR 50602\]](#).

In prior rulings [\[80 FR 42446\]](#), EPA has found that no new visibility obligation is triggered when a new NAAQS becomes effective, therefore the visibility protections of Section 110(a)(3)(J) are not germane for infrastructure SIPs.

**Additional information**

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.

NHDES supplies local air quality information to the public via EPA [AirNow](#).

<sup>7</sup> Ibid.

<sup>8</sup> [Status of SIP Requirements for Designated Areas | Nonattainment Area & OTR SIP Requirements | State Implementation Plan Status | Six Common Pollutants | Air & Radiation | US EPA](#)

### **Subsection 110(a)(2)(K): Air Quality Modeling/Data**

#### *CAA Citation:*

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

State air agencies must demonstrate that they have the authority to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant, and to submit data to EPA upon request. Pursuant to the authority granted to the Commissioner of NHDES in RSA 125-C:6, New Hampshire reviews the potential impact of major sources consistent with 40 CFR part 51, Appendix W "Guidelines on Air Quality Models." The modeling data are sent to EPA along with the draft major permits. For non-major sources, Part Env-A 606, Air Pollution Dispersion Modeling Impact Analysis Requirements, specifies the air pollution dispersion modeling impact analysis requirements that 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.

#### **Additional information**

New Hampshire's Title V program was approved by the EPA on September 24, 2001.

### **Subsection 110(a)(2)(L): Permitting Fees**

#### *CAA Citation:*

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

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit. New Hampshire implements and operates the Title V permit program, which EPA approved on September 24, 2001 [66 FR 48806]. Chapter Env-A 700, Permit Fee System, establishes a fee system requiring the payment of fees to cover the costs of: reviewing and acting upon applications for the issuance of, amendment to, modification to, or renewal of a temporary permit, state permit to operate, or Title V operating permit; implementing and enforcing the terms and conditions of these permits; and developing, implementing, and administering the Title V operating permit program. In addition, Part Env-A 705 establishes the emission-based fee program for Title V and non-Title V sources.



### **Subsection 110(a)(2)(M): Consultation and Participation by Affected Local Entities**

#### *CAA Citation:*

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

States must consult with, and allow participation from, local political subdivisions affected by the SIP. Chapter Env-A 200, Part Env-A 204 provides a public participation process for all stakeholders that includes a minimum of a 30-day comment period and an opportunity for public hearing for all SIP-related actions. Additionally, RSA 125-C:6, Powers and Duties of the Commissioner, states that the Commissioner shall consult with the cities, towns, other agencies of the state and federal government, interstate agencies, and other affected agencies or groups in matters relating to air quality.

### **Public Comment Period**

New Hampshire is submitting this document to the EPA as an amendment to the New Hampshire SIP in fulfillment of Sections 110(a) (1) and (2) of the CAA for the 2012 PM<sub>2.5</sub> NAAQS. A notice of a public comment period and the opportunity to request a public hearing on these findings and this document was posted on the web site of the New Hampshire Department of Environmental Services (NHDES) and sent electronically to the NHDES Air Resources Division mailing list on November 6, 2015. A public hearing was held on December 8, 2015, and comments were accepted through December 8, 2015. No public comments, written or verbal, were received.

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<sup>i</sup> RSA CHAPTER 21-O Department of Environmental Services, eff. July 1, 1986

<sup>ii</sup> RSA CHAPTER 125-C:6 Powers and Duties of the Commissioner, eff. June 21, 2010

<sup>iii</sup> CHAPTER Env-A 600 Statewide Permit System, eff. September 1, 2012 [[77 FR 5700](#)]

CHAPTER Env-A 700 Permit Fee System, eff. April 26, 2011 [[57 FR 36603](#)]

CHAPTER Env-A 800 Testing and Monitoring Procedures, eff. October 31, 2010 [[77 FR 66388](#)]

CHAPTER Env-A 900 Owner or Operatory Recordkeeping and Reporting Requirements, eff. July 18, 2015 [[77 FR 66388](#)]

<sup>iv</sup> CHAPTER Env-A 400 Acid Deposition Control Program, eff. March 19, 2003 [[57 FR 36603](#)]

CHAPTER Env-A 1000 Part Env-A 1001 Open Burning and Part Env-A 1002 Fugitive Dust, eff. May 1, 2011

CHAPTER Env-A 1100 Part Env-A 1101 Motor Vehicle Maintenance and Operating Requirements, eff. May 22, 2013

CHAPTER Env-A 1200 Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT), eff. June 1, 2001 [[77 FR 66921](#)]

CHAPTER Env-A 1300 Nitrogen Oxides (NOx) Reasonably Available Control Technology, eff. October 31, 2010 [[79 FR 49458](#)]

CHAPTER Env-A 1900 Part Env-A 1902.01 Visible Emission Standards and Env-A 1902.03 Particulate Matter Emission Standards, eff. April 23, 2013

CHAPTER Env-A 2000 Fuel Burning Devices, eff. September 24, 2013

CHAPTER Env-A 2100 Part Env-A 2102 Emission Standards for Particulate Matter and Part Env-A 2103 Visible Emission Standards, eff. April 23, 2013

CHAPTER Env-A 2400 Ferrous and Non-Ferrous Foundries, Smelters and Investment Casting Industries, eff. April 23, 2013

CHAPTER Env-A 2700 Env-A 2702.01 Particulate Matter Emission Standards for Hot Mix Asphalt Plants and Env-A 2702.02 Visible Emission Standards for Hot Mix Asphalt Plants, eff. February 16, 2013



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CHAPTER Env-A 2800 Part Env-A 2803.01 Visible Emission and Particulate Matter Standards for Non-Metallic Mineral Processing Plants, Part Env-A 2803.03 Fugitive Emission Control Systems for Non-Metallic Mineral Processing Plants, Part Env-A 2804.01 Visible Emission Standard for Cement, Ready Mix Concrete, and Cement Block Sources, and Part Env-A 2805.01 Fugitive Dust Control for All Sources, eff. October 1, 2010

CHAPTER Env-A 2900 Sulfur Dioxide and Nitrogen Oxides Annual Budget Trading and Banking Program, eff. October 1, 2011

CHAPTER Env-A 3000 Emissions Reduction Credits Trading Program, eff. January 21, 1997

CHAPTER Env-A 3100 Discrete Emissions Reduction Trading Program, eff. January 21, 1997

CHAPTER Env-A 3200 NOx Budget Trading Program, eff. November 2, 2007

CHAPTER Env-A 3300 Municipal Waste Combustion, eff. February 2, 2008

CHAPTER Env-A 4100 Consumer Products, eff. February 26, 2014

CHAPTER Env-A 4200 Architectural and Industrial Maintenance Coatings, eff. January 1, 2015

CHAPTER Env-A 4300 Other Solid Waste Incineration, eff. January 22, 2015

<sup>v</sup> CHAPTER 125-C:15 Enforcement, eff. June 8, 1998

<sup>vi</sup> Section RSA 21-O:14, Administrative Appeals, eff. June 18, 2012

<sup>vii</sup> Title I—The State and its Government, CHAPTER 21—O Department of Environmental Services Section 21—O:11 Air Resources Council, eff. September 19, 2010

Title X - Public Health, CHAPTER 125—C: Air Pollution Control

Section 125—C:1 Declaration of Policy and Purpose, eff. July 1, 1979.

Section 125—C:2 Definitions, eff. July 21, 2010.

Section 125—C:4 Rulemaking Authority; Subpoena Power, eff. 21, 2010.

Section 125—C:6 Powers and Duties of the Commissioner, eff. June 21, 2010.

Section 125—C:8 Administration of Chapter; Delegation of Duties, eff. July 1, 1996.

Section 125—C:9 Authority of the Commissioner in Cases of Emergency, eff. July 1, 1996.

Section 125—C:10 Devices Contributing to Air Pollution, eff. August 9, 1996.

Section 125—C:10-a Municipal Waste Combustion Units, eff. January 1, 2006.

Section 125—C:11 Permit Required, eff. June 21, 2010.

Section 125—C:12 Administrative Requirements, eff. June 18, 2012.

Section 125—C:13 Criteria for Denial; Suspension or Revocation; Modification, eff. June 21, 2010.

Section 125—C:14 Rehearings and Appeals, eff. July 1, 1996.

Section 125—C:18 Existing Remedies Unimpaired, eff. July 1, 1979.

Section 125—C:19 Protection of Powers, eff. July 1, 1996.

Section 125—C:21 Severability, eff. August 16, 1981.

# **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

## Enclosure B

standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

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

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

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



Enclosure C – Public Participation Documentation

Attachment 1 – Notice of Public Hearing and Comment Period

Attachment 2 – Hearing Certification

Attachment 3 – Hearing Report and Response to Comments

Attachment 4 – Hearing Memo to File



The State of New Hampshire  
**Department of Environmental Services**



**Thomas S. Burack, Commissioner**

**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 Code Administrative Rules 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 requirements for federal air quality standards.

The federal requirements that New Hampshire and other states must meet are contained in Title 40: Protection of Environment, section 50.7, National Primary and Secondary Air Quality Standards for PM<sub>2.5</sub>.

This SIP certification is submitted in response to the revised National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub> as promulgated by EPA on December 14, 2012. 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* to Felice Janelle, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095; email [Felice.Janelle@des.nh.gov](mailto:Felice.Janelle@des.nh.gov). All comments on the proposed SIP certification must be received by 4:00 p.m. on Tuesday, December 8, 2015, to be entered into the record.

A public hearing at the Department offices has been scheduled for 1:00 p.m. on Tuesday, December 8<sup>th</sup>, Room 110 at 29 Hazen Drive, Concord, NH 03301.

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 from the Department's website at <http://des.nh.gov>.

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

Dated: November 4, 2015



The State of New Hampshire  
**Department of Environmental Services**

Thomas S. Burack, Commissioner



**CERTIFICATION OF PUBLIC PROCESS:**

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

I hereby certify that:

In accordance with New Hampshire Administrative Rule Env-A 204.01(b) and Federal regulations at 40 CFR § 51.102, public notice was given that the New Hampshire Department of Environmental Services (the Department) intended to submit for the approval of the U.S. Environmental Protection Agency (EPA) a certification that New Hampshire's State Implementation Plan (SIP) fulfills the "infrastructure" requirements established in sections 110(a)(1) and (2) of the Clean Air Act (CAA) for ozone.


A public hearing on the SIP submittal was held at 1:00 p.m., Tuesday, December 8, 2015, at the Department's offices in Room 114 at 29 Hazen Drive, Concord, NH 03301. Opportunity was provided for members of the public to submit oral comments during the hearing or written comments at any time up to 4:00 p.m. on the hearing date, for consideration by the Department in preparing the final SIP submittal.

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

The notice was published in the *Union Leader*, a newspaper of general, statewide circulation, on Thursday, November 6, 2015, more than 30 days prior to the date of the hearing.

Since no members of the public attended the hearing, the presentation of the draft SIP revision and recordation of the presentation were determined to be unnecessary. Therefore, the hearing was closed at 1:10 p.m., and a memo stating the circumstances was added to the file.

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



Michele Roberge  
SIP Planning Manager, Air Resources Division

12/11/2015

Date





The State of New Hampshire  
**Department of Environmental Services**



**Thomas S. Burack, Commissioner**

December 8, 2015, 1 PM, DES Room 110  
Hearing Officer: Karla McManus  
DES Personnel: Felice Janelle, Michele Roberge

**Comments to Open the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS  
Infrastructure SIP Public Hearing**

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

This certification is submitted in response to the revised National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) that was finalized December 14, 2012. PM<sub>2.5</sub> refers to particles that have a diameter of 2.5 micron or smaller. The revised standard reduces the annual fine particle standard from 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 12  $\mu\text{g}/\text{m}^3$ . 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.

Particle pollution is comprised of extremely small particles and liquid droplets in the air. When breathed in, these particles can reach the deepest regions of the lungs. Exposure to particle pollution is linked to a variety of health problems, ranging from aggravated asthma to premature death in people with heart and lung disease. Particle pollution is also the main cause of visibility impairment in the nation’s cities and national parks.

In addition to the revised annual standard of 12  $\mu\text{g}/\text{m}^3$ , EPA is retaining the 24-hour fine particle standard of 35  $\mu\text{g}/\text{m}^3$ . Also retained is the 24-hour standard of 150  $\mu\text{g}/\text{m}^3$  for coarse particulate matter (PM<sub>10</sub>), consisting of particles between 2.5 and 10 microns in diameter. Statewide testing for both fine and coarse particulate matter indicate that all areas of the state meet the revised annual and existing 24-hour standards for fine particulate matter.

The submittal of this document is intended to meet New Hampshire’s obligations under the CAA with respect to section 110(a)(1) and (2) for the 2012 annual PM<sub>2.5</sub> primary National Ambient Air Quality Standards.

### **Memo to File**

TO: 2012 PM<sub>2.5</sub> NAAQS Infrastructure SIP File  
FROM: Felice Janelle, SIP Planning Analyst  
DATE: December 10, 2015  
RE: Public Hearing on 2012 Annual PM<sub>2.5</sub> Infrastructure SIP

On Tuesday, December 8 1:00 p.m., a public hearing was held in Room 110 of 29 Hazen Drive, Department of Environmental Services. This hearing was noticed in the Union Leader on November 6, 2015.

No members of the public attended the hearing, so it was determined that it was not necessary to present the proposed SIP revision and record the hearing. The hearing was closed at 1:10 p.m.

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