

# New York State Department of Environmental Conservation

## Assistant Commissioner

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Joe Martens  
Commissioner

Ms. Judith A. Enck  
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U.S. EPA, Region 2  
290 Broadway, 26<sup>th</sup> Floor  
New York, NY 10007-1866

### **Infrastructure Assessment Pursuant to Clean Air Act Sections 110(a)(1) and (2) for the 2008 Lead NAAQS**

Dear Regional Administrator Enck:

On behalf of the Governor of the State of New York, I am submitting for approval by the United States Environmental Protection Agency (EPA) the infrastructure assessment for the National Ambient Air Quality Standard (NAAQS) for lead. On October 15, 2008, EPA substantially strengthened the primary and secondary lead NAAQS. As required by the Clean Air Act (CAA), the New York State Department of Environmental Conservation (Department) is submitting this infrastructure assessment as a State Implementation Plan (SIP) revision to demonstrate that New York's air program addresses basic SIP requirements related to the attainment of the revised NAAQS.

This infrastructure demonstration ensures that New York State has the legal and administrative authority and resources to meet the requirements of the CAA. Section 110(a)(1) contains the general requirements for submitting a SIP after promulgation of a new or revised NAAQS, while section 110(a)(2) contains the specific elements to be addressed in these plans.

A public notice and comment period will soon be issued to allow for public input on this SIP revision. The Department is requesting parallel processing of this non-controversial SIP revision.

Should you have any questions regarding this submission, please do not hesitate to contact Mr. Scott Griffin at (518) 402-8396 with any questions you may have.

Sincerely,

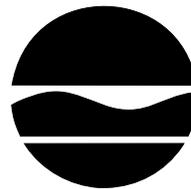
J. Jared Snyder  
Assistant Commissioner  
Office of Air Resources, Climate Change  
and Energy

Enclosure



INTERNATIONAL YEAR  
OF FORESTS - 2011

Department of Environmental Conservation  
Division of Air Resources



Joe Martens  
Commissioner

**NEW YORK  
STATE IMPLEMENTATION PLAN  
FOR THE  
INFRASTRUCTURE ASSESSMENT FOR LEAD  
UNDER SECTIONS 110(a)(1) AND (2)  
OF THE CLEAN AIR ACT**

**PROPOSED REVISION**

**OCTOBER 2011**

New York State Department of Environmental Conservation  
*Andrew M. Cuomo, GOVERNOR*

*Joe Martens, COMMISSIONER*

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**New York State Department of Environmental Conservation's  
Infrastructure Assessment Pursuant to Clean Air Act Sections 110(a)(1) and (2)  
for the 2008 Lead NAAQS**

Introduction:

On October 15, 2008, the U.S. Environmental Protection Agency (EPA) revised the lead (Pb) National Ambient Air Quality Standard (NAAQS) for the first time since its initial establishment in 1978. Pursuant to Clean Air Act (CAA) sections 110(a)(1) and (2), each state must meet basic State Implementation Plan (SIP) requirements related to the attainment of a new or revised NAAQS. Section 110(a)(1) requires “a plan which provides for implementation, maintenance, and enforcement” of a primary and secondary NAAQS, while section 110(a)(2) lists the specific required elements. Such SIPs meeting the requirements of CAA sections 110(a)(1) and (2) must be submitted within three years after promulgation of a new or revised standard—i.e., by October 15, 2011 for the 2008 Pb NAAQS.

This submission by the New York State Department of Environmental Conservation (Department) addresses each of the required infrastructure elements of CAA section 110(a)(2), and affirms that New York’s SIP meets the requirements of CAA sections 110(a)(1) and (2). The required elements are described in the following sections of the CAA:

- 110(a)(2)(A): Emission Limitations and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement, Prevention of Significant Deterioration (PSD), and New Source Review (NSR)
- 110(a)(2)(D): Interstate/International Transport Provisions
- 110(a)(2)(E): Adequate Personnel, Funding, and Authority
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Episodes
- 110(a)(2)(H): Future SIP Revisions
- 110(a)(2)(I): Nonattainment Area Plan or Plan Revision Under Part D
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, PSD, and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Data
- 110(a)(2)(L): Permitting Fees
- 110(a)(2)(M): Consultation/Participation by Affected Local Entities

Infrastructure SIP Requirements:

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

*“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 of 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 infrastructure SIP is not intended to identify nonattainment emission controls. No nonattainment areas have been designated in New York State for the 2008 Pb NAAQS. If, however, such need arises, the Department will establish emissions limitations and other control measures to attain the Pb NAAQS. Such efforts will be reviewed and acted upon through a separate process meeting the requirements of the CAA.

The Revere Smelting & Refining (RSR) facility in Orange County has the potential for significant Pb emissions. State and federal control requirements are therefore relied on to ensure maintenance of the 2008 NAAQS. A negative-pressure system is used to control process sources, process fugitive sources and fugitive dust sources as per the total enclosure requirements of 40 CFR Part 63.547(e). The emission unit containing the reverberatory furnace and associated equipment vents its emissions to twelve separate baghouse units to control Pb (as well as particulate) emissions. The short rotary furnace and rotating kiln dryer vent to an additional two baghouse units for Pb and particulate control. RSR's Title V permit defines specific Pb emission rates for these emission units.

The RSR facility is also subject to the recordkeeping and reporting requirements under 40 CFR Parts 63.1 through 63.5 and 63.7 through 63.10, which require the use and proper operation of continuous monitoring systems. RSR will be subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) rule, once final, for secondary Pb smelting (40 CFR Part 63 Subpart X) to further control Pb emissions. The Department also maintains air quality monitors around RSR, as discussed under section 110(a)(2)(B) of this document.

Excessive Pb emissions from stationary sources are otherwise prevented under 6 NYCRR Part 212, "General Process Emission Sources." This regulation contains requirements that apply broadly to existing sources, new emission sources, and sources undergoing modification that may potentially lead to adverse health, economic, or aesthetic effects.

The Department has adequate provisions contained in 6 NYCRR Part 201-1.4, "Unavoidable noncompliance and violations," for start-up/shutdown conditions and malfunctions. Part 201-1.4 outlines the actions and recordkeeping and reporting requirements that must be adhered to in such circumstances. Subdivision (d) of this section pertains to emission exceedances that could potentially interfere with maintenance of a NAAQS, stating: "In the event of maintenance, start-up/shutdown or malfunction conditions which result in emissions exceeding any applicable emission standard, the facility owner and/or operator shall take appropriate action to prevent emissions, which will result in contravention of any applicable ambient air quality standard. Reasonably available control technology, as determined by the commissioner, shall be applied during any maintenance, start-up/shutdown or malfunction condition subject to this subdivision."

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

*"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."*

EPA initially published the final Pb NAAQS revision in November, 2008,<sup>1</sup> though on December 27, 2010, EPA finalized additional revisions pertaining to where state and local monitoring agencies would be required to conduct Pb monitoring.<sup>2</sup> The new regulations replaced the population-oriented monitoring requirement with a requirement to add Pb monitors to urban NCore monitors. EPA also lowered the emission threshold from 1.0 ton per year (tpy) to 0.50 tpy for source-specific monitoring of industrial sources of Pb (e.g., Pb smelters and foundries).

Particulate Pb samples are collected on glass fiber filters using a standard total suspended particulate (TSP) high-volume sampler and are subsequently analyzed by a laboratory using atomic absorption spectroscopy. Under the new rule, EPA is allowing Pb-PM<sub>10</sub> samplers in lieu of Pb-TSP where the maximum 3-month arithmetic mean Pb concentration is expected to be less than 0.10 µg/m<sup>3</sup> and where sources are not expected to emit ultra-coarse Pb. The population-oriented Pb monitors at the NCore sites or National Air Toxic Trends Sites (NATTS) are located away from known sources of Pb and will utilize Pb-PM<sub>10</sub> samplers. The Department currently has two urban Pb monitors at the NATTS sites: Rochester, and the Bronx. The Rochester site is also a designated NCore site. These monitors will take advantage of the allowance for the submission of Pb-PM<sub>10</sub> data in place of Pb-TSP data.

A review of recent emissions data identified no facilities in New York State with emissions greater than 0.5 tpy. The Department, however, decided to continue the operation of four Pb-TSP monitors (one co-located) in operation in Middletown, where the RSR facility is located. This facility recycles a high volume of Pb-acid batteries and consequently has the potential to contribute Pb emissions at levels exceeding the NAAQS. Certified monitoring data have thus far shown compliance with the 2008 NAAQS.

EPA's revised monitoring rule maintained the emission threshold for airports at 1.0 tpy. In addition, an airport monitoring study will be implemented to determine the need for monitoring of airports which emit less than 1.0 tpy of Pb. Under this new rule, Pb monitoring is required for a minimum of one year at 15 additional airports that have been identified as having characteristics that could lead to ambient Pb concentrations approaching or exceeding the NAAQS. Brookhaven and Republic airports in Suffolk County have been designated as such, and monitoring is expected to commence at both sites by the end of 2011.

All ambient measurements captured by the required Pb monitors undergo data validation and are subsequently submitted by the Department to EPA's Air Quality System (AQS) for public access.

As of July, 2007, each state (or where applicable, local) agency is required to "adopt and submit to the Regional Administrator an annual monitoring network plan which shall provide for the establishment and maintenance of an air quality surveillance system that consists of a network of SLAMS monitoring stations including FRM, FEM, and ARM monitors that are part of SLAMS, NCore stations, CSN stations, state speciation stations, SPM stations, and/or, in serious, severe and extreme ozone nonattainment areas, PAMS stations, and SPM monitoring

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<sup>1</sup> Federal Register Vol. 73, No. 219; Wednesday, November 12, 2008; p.66964

<sup>2</sup> Federal Register Vol. 75, No. 247; Monday, December 27, 2010; p.81126

stations.”<sup>3</sup> The Department prepares an Annual Monitoring Network Plan as part of the fulfillment of these new requirements. The latest iteration, dated June 27, 2011, has been submitted to EPA. Should any changes be planned for the state’s monitoring sites or the network plan, the Department will provide notification to appropriate staff at EPA’s Region 2 office.

Section 110(a)(2)(C): Programs for Enforcement, Prevention of Significant Deterioration (PSD), and New Source Review (NSR)

*“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 [NAAQS] are achieved, including a permit program as required in parts C and D of this subchapter.”*

Section 19-0305 of the New York State Environmental Conservation Law (ECL) authorizes the Department’s Commissioner to enforce the codes, rules, and regulations of the Department established in accordance with this article. The SIP is a compilation of the rules and regulations that are promulgated or revised to achieve attainment of a NAAQS. Therefore, the Department has the authority to enforce all SIP measures.

The Department has a SIP-approved PSD/NSR program under 6 NYCRR Part 231, “New Source Review for New and Modified Facilities.” Part 231 regulates “major sources” under NSR (when the source lies in a nonattainment area) or PSD (when the source lies in an attainment area). The Department has recently adopted a revision to Part 231 to add greenhouse gases to the existing regulated contaminants.

Under Part 231, a major Pb facility is defined as one with annual actual emissions equal to or greater than five tpy. A proposed major Pb facility, or an existing major Pb facility that proposes a modification in excess of the de minimis emission limit (0.6 tpy for Pb), is subject to the relevant program dependent upon its location. A Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis would result.

New York ensures that all applicable federal PSD requirements that are included in PSD permits are incorporated into Title V operating permits, and that all federally-enforceable requirements are applied and enforced. Title V of the CAA requires states to implement a permitting program for major stationary sources. This federal requirement is supported by 40 CFR Part 70. Section 19-0311 of Article 19 of the ECL directs the Department to establish a permitting program to implement Title V of the CAA. The Department’s permitting regulations are set forth at 6 NYCRR Part 201, “Permits and Certificates.” Major sources of air pollution are covered by State Facility permits (Subpart 201-5) and Title V permits (Subpart 201-6). In addition, the Department has implemented a permitting program for minor sources of air pollution; these sources are covered by minor facility registrations (Subpart 201-4).

With the above permitting requirements in place, New York affirms that the current NSR and PSD permitting programs remain in effect and continue to apply to the state’s major stationary sources, and that the requirements from these programs are federally enforceable.

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<sup>3</sup> Code of Federal Regulations, Title 40, Section 58.10

New York commits to implementing any proposed revisions to the Pb PSD program initiated by EPA, as well as any EPA-issued modeling guidance to carry out the analyses necessary to satisfy the PSD requirements for Pb.

Section 110(a)(2)(D): Interstate/International Transport Provisions

110(a)(2)(D)(i): *“Each such plan shall [...] contain adequate provisions: prohibiting, consistent with the provisions of this subchapter, 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 primary or secondary [NAAQS], or (II) interfere with measures required to be included in the applicable implementation plan for any other state under part C of this subchapter to prevent significant deterioration of air quality to protect visibility.”*

110(a)(2)(D)(ii): *“Each such plan shall [. . .] contain adequate provisions insuring compliance with the applicable requirements of sections 115 or 126 (b) that involve Pb emissions (relating to interstate and international pollution abatement).”*

The physical properties of Pb prevent emissions from experiencing the same travel or formation phenomena as PM<sub>2.5</sub> or ozone. More specifically, there is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. Regarding section 110(a)(2)(D)(i)(I), it is unlikely that a source would emit Pb in a location and in quantities that would contribute significantly to nonattainment in, or interfere with maintenance by, any other state. Such a scenario is only likely in the case that a large source (e.g., with emissions of 0.5 tpy or greater) would be located within close proximity (e.g., within two miles, per EPA guidance) of a state border.

A review of the New York State emissions inventory was conducted when considering the Department’s designation recommendations for the revised Pb NAAQS. A survey of facility data showed that no facilities with emissions of 0.5 tpy or more existed in close proximity to state borders (or, in fact, anywhere in the state). The Department considers CAA section 110(a)(2)(D)(i)(I) to be adequately addressed through this finding.

To satisfy section 110(a)(2)(D)(i)(II), the Department confirms that new major sources of Pb and major modifications are subject to the state’s PSD program. (Because of the lack of Pb nonattainment areas in the state, NSR does not apply.) The necessary PSD requirements are contained in 6 NYCRR Part 231, “New Source Review for New and Modified Facilities.”

With regard to the visibility protection requirement under CAA section 110(a)(2)(D)(i)(II), the argument above continues to hold true. Sources in New York State are of great enough distance from any federal Class I area to not impact visibility in any significant way. Pb-related visibility impacts in general are considered to be insignificant. Furthermore, visibility protection and regional haze program requirements are contained in Part C of the CAA (under sections 169A and 169B); Pb is not directly regulated under this portion of the CAA. The Department is fulfilling its obligations under Part C through separate efforts. The visibility protection requirements under CAA section 110(a)(2)(D)(i)(II) are therefore not being further addressed in this infrastructure SIP submission.

New York relies on 6 NYCRR Part 621, “Uniform Procedures,” to fulfill the requirement of notifying neighboring states of potential impacts from a new or modified source, as required under CAA section 110(a)(2)(D)(ii). Paragraph 621.7(i)(4), “Public Notice and Comment,” requires that notice of complete application be provided to the appropriate groups. This includes, among others, EPA, Federal Land Managers (where applicable), and “any affected states and Indian governments for new projects, major permit modifications and permit renewals subject to air Title V facility permit requirements.” New York interprets this regulatory requirement as being consistent with 40 CFR Part 51.166(q)(2)(iv).

Section 110(a)(2)(E): Adequate Personnel, Funding, and Authority

*“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,*

*(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.”*

ECL section 19-0305 authorizes the Department’s Commissioner to enforce the codes, rules, and regulations of the Department established in accordance with this article. The SIP is a compilation of the rules and regulations that are promulgated to achieve attainment of a NAAQS. Therefore, the Department has the authority to enforce all SIP measures.

The Division of Air Resources (DAR) receives both operating and capital funding. Operating funds are allocated to DAR annually and are used for daily administrative expenses. These expenses include salaries, fringe benefits, and indirect and non-personnel services such as travel, supply and equipment costs. Indirect costs are, in turn, allocated to other departments or divisions that support DAR activities. DAR is allocated operating funds from the following sources: General Fund, Utility Environmental Regulatory Account, Co-operative Agreements (i.e., CAA section 103 and 105 grants), and the Clean Air Fund, which is comprised of the Title V and Mobile Source Accounts.

Capital funds are allocated to DAR at the discretion of the New York State legislature and are used for the financing or acquisition of capital facilities, such as the construction of an air monitoring site. DAR is allocated capital funds from three sources: General Fund, Mobile Source Account, and Rehabilitation and Improvement.

The New York State Public Officer's Law (POL) satisfies the condition that the state comply with the requirements respecting state boards under CAA section 128. Specifically, POL section 74(2) states: "No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage

in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest." POL 74(3)(e) states: "No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties."

Finally, the Department confirms that where New York 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.

#### Section 110(a)(2)(F): Stationary Source Monitoring and Reporting

*"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 source,*

*(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."*

Authority for this provision is provided under Article 19 of the ECL. In particular, ECL section 19-0311 (Operating Permit Program) states in subsection 3 that operating permits issued pursuant to this section shall include, among other things, "provisions for detailed monitoring, record-keeping and reporting, including requirements that records be kept for five years, and that monitoring records be submitted to the Department at least every six months ..." This requirement is mirrored in 6 NYCRR Part 201-6.5(b), which requires monitoring of emissions, recordkeeping, and reporting in permit conditions that are included in all Title V permits for major stationary sources.

The Department constructs statewide emissions inventories in order to develop control strategies for pollutants from facilities and other stationary sources. Stationary source emissions inventories are based on actual emissions data submitted by major regulated facilities through annual emission statements, and calculated emissions from minor stationary sources based on area source procedures established by EPA. Pb emissions (along with emissions of other key pollutants) are submitted to EPA through the Consolidated Emissions Regulatory Report (CERR) for uploading to EPA's National Emission Inventory (NEI).

#### Section 110(a)(2)(G): Emergency Episodes

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

Articles 3 and 19 of the ECL provide New York State with the authority to address air pollution emergencies. To prevent and control these emergency episodes, the Department

adopted 6 NYCRR Part 207, “Control Measures for Air Pollution Episode,” which implements ECL section 3-0301. Part 207 requires the owner of a “significant air contamination source” to submit a proposed episode action plan to the Department’s Commissioner, containing detailed steps to be taken by the source owner to reduce air contaminant emissions during each stage of an air pollution episode. The regulation also enables the Commissioner to designate air pollution episodes which trigger the action plans.

In October, 2009, the Department completed a comprehensive revision of its Air Pollution Episode Procedures to address updated PM<sub>2.5</sub> significant harm levels (SHLs) along with revised values for ozone episodes. The revision involved updating the contact information for the Bureaus of Air Quality Assurance, Stationary Sources, and Air Quality Surveillance, and the Impact Assessment and Meteorology Section, which provide important information and data-gathering services during an air pollution episode. Local-level emergency contacts were also updated.

New York’s Air Pollution Episode Procedures include air pollution episode criteria for PM<sub>2.5</sub>, PM<sub>10</sub>, ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide, based on SHLs established by EPA. EPA has not established any SHLs for Pb to this point. The Department has the authority to revise its procedures to include such criteria for Pb, and commits to doing so upon EPA action.

#### Section 110(a)(2)(H): Future SIP Revisions

*“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 primary or secondary [NAAQS] 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 [NAAQS] which it implements or to otherwise comply with any additional requirements established under this chapter (CAA).”*

Revisions to the SIP are authorized by Article 19 and sections 3-0301, 19-0103, 19-0301, 19-0303, and 19-0305 of the ECL. Article 19 of the ECL was adopted to protect New York’s air resources from pollution and to put into effect the policy of the state to maintain a reasonable degree of purity of the air resources, consistent with the public health and welfare and the industrial development of the state. To this end, the state legislature gave the Department specific powers and duties, including the power to promulgate regulations for preventing, controlling, or prohibiting air pollution. The Department also has the specific authority to regulate motor vehicle exhaust and approve air contaminant control systems as well as to regulate fuels.

Section 71-2103 provides general enforcement authority for the air regulations. Section 71-2105 provides criminal enforcement authority. Thus, New York has the authority to revise the SIP and provide for enforcement in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate.

#### Section 110(a)(2)(I): Nonattainment Area Plan or Plan Revision Under Part D

*“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).”*

This subsection related to a nonattainment area plan or plan revision is not being addressed in this infrastructure SIP submission. Nonattainment area plans required under Part D are required on a different schedule from the section 110 infrastructure elements and will be developed and submitted, as necessary, through a separate process.

#### Section 110(a)(2)(J): Consultation with Government Officials, Public Notification, PSD, and Visibility Protection

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

CAA section 121 requires states to provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over federal land to which the state plan applies. On December 22, 2005, the Department reestablished a SIP Coordinating Council consisting of senior policy representatives from 19 state agencies and authorities, and a SIP Task Force consisting of officials from 37 local governments and designated organizations of elected officials. Periodic meetings of both groups were held during the ozone and PM<sub>2.5</sub> SIP development period for the 1997 NAAQS, and will continue as necessary to address the Pb NAAQS and other revised standards.

CAA section 127 and 40 CFR 51.285 require state plans to contain provisions for notifying the public of NAAQS exceedances, and for increasing public awareness of measures that can be taken to prevent an exceedance and chances for participation in regulatory efforts to improve air quality. The entirety of New York State is currently in attainment, meaning any exceedance of the NAAQS would initiate a redesignation to nonattainment, for which public notification is involved. Additionally, all ambient air concentrations captured by the state’s Pb monitoring network are submitted to AQS for public access. In the rare event of an emergency situation related to a malfunction at a major Pb source, the task of public notification would be assumed by the governing body of the relevant county pursuant to State General Municipal Law Section 204-f. Municipalities also have emergency response plans recommended by the New York State Emergency Management Office (SEMO) and the Federal Emergency Management Agency (FEMA) that provide for public information and notification in the case of large-scale emergencies.

Emissions of Pb come primarily from stationary sources, as well as from aviation sources. The public therefore has a limited role in measures that can be taken to prevent the Pb standard from being exceeded; this differs from forecasted exceedances of ozone, for example,

when the public is urged to follow energy-saving and pollution-reducing steps such as limiting the use of appliances and car pooling.

The public is afforded the opportunity to participate in regulatory efforts to improve air quality, as laid out in 6 NYCRR Part 617, “State Environmental Quality Review” (SEQR). For each major SIP revision (e.g., a new or revised regulation limiting Pb emissions from a particular source type), SEQR requires the Department to provide appropriate notice, provide the opportunity to submit written comments, and allow the public and local entities the opportunity to request a public hearing.

New York has a SIP-approved PSD program that covers all criteria pollutants, including Pb. A regulatory revision to add greenhouse gases as regulated contaminants was recently completed. This program was discussed more thoroughly under section 110(a)(2)(C) of this document.

The visibility protection requirements referenced in this subsection are not being addressed in this infrastructure SIP submission. Visibility protection and regional haze program requirements are contained in Part C of the CAA (under sections 169A and 169B) and are being met by the Department through separate efforts. These Part C requirements are not affected by revisions to a NAAQS. There are therefore no new applicable visibility protection obligations under section 110(a)(2)(J) resulting from the 2008 Pb NAAQS revision.

#### Section 110(a)(2)(K): Air Quality Modeling and Data

*“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 [NAAQS], and*  
*(ii) the submission, upon request, of data related to such air quality modeling to the Administrator.”*

The Department’s regulations under 6 NYCRR Part 200.6, “Acceptable ambient air quality,” dictate that “no person shall allow or permit any air contamination source to emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any applicable ambient air quality standard and/or cause air pollution.” As such, when a new major source of emissions is coming online or an existing source is undertaking a modification that would lead to a significant increase in its potential to emit, the Department will use modeling as necessary to affirm that compliance with the Pb NAAQS will be maintained.

The Department will follow the requirements of any Pb modeling guidance that EPA may release in the future. The Department also commits to providing modeling data to the EPA Administrator upon request.

### Section 110(a)(2)(L): Permitting Fees

*“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 chapter, 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 subchapter (title) V of this chapter.”*

In New York State, the Title V Permit Fee Program established in ECL section 19-0311(c) requires the Department to promulgate regulations that, among other things, require applications to identify and describe facility emissions in sufficient detail to establish the basis for the fees and applicability of requirements of the CAA. ECL section 72-0303 requires major stationary sources to pay operating permit program fees sufficient to support an appropriation approved by the legislature for the direct and indirect costs associated with the operating permit program established in section 19-0311.

In addition, paragraph 201-6.5(a)(7) of 6 NYCRR Subpart 201-6, the Department’s approved Title V program, specifically states that “[t]he owner and/or operator of a stationary source shall pay fees to the department consistent with the fee schedule authorized by Subpart 482-2 of this Title.” Fees generated by this requirement fund New York’s Title V Program. New York State commits to continued implementation of the major stationary source permit fee regulations.

### Section 110(a)(2)(M): Consultation/Participation by Affected Local Entities

*“Each such plan shall [. . .] provide for consultation and participation by local political subdivisions affected by the plan.”*

The Department is generally self-reliant when it comes to developing, implementing, and enforcing the SIP. When necessary, additional consultation and participation by local political subdivisions are provided through the SIP Task Force that was established in 2005, which consists of officials from 37 local governments and designated organizations of elected officials. Otherwise, New York’s county agencies are no longer relied upon for their assistance with these SIP-related tasks, nor are any other organizations.

Participation by affected local entities, as well as the public, is provided for through 6 NYCRR Part 617, “State Environmental Quality Review.” For each major SIP revision, SEQR requires the Department to provide appropriate notice, provide the opportunity to submit written comments, and allow the public and local entities the opportunity to request a public hearing.