

Implementation, Maintenance and Enforcement of the 2015 Ozone National Ambient Air Quality Standard in Maine -Certification-

1.0 Preamble, Introduction and Background

On October 1, 2015, the Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standard (NAAQS) for ground-level ozone at a level of 0.70 parts per million¹². Pursuant to the 1990 Clean Air Act Amendments (CAA) sections 110(a)(1) and (2), each state is required to submit to the EPA, a State Implementation Plan (SIP) to provide for the implementation, maintenance and enforcement of a newly promulgated or revised NAAQS³. This SIP revision fulfills this requirement for the 2015 ozone NAAQS.

Section 110(a)(1) contains the general requirements for submitting a SIP to address new or revised primary NAAQS within three years of their promulgation. Section 110(a)(2) contains specific elements to be included in these plans. Pursuant to EPA guidance dated September 2013, this submission addresses each of the required elements of section 110(a)(2) and affirms that Maine's SIP meets the requirements of CAA sections 110(a)(1) and (2).

SIPs must include the following elements of CAA section 110(a)(2):

- Enforceable Emission Limitations and Other Control Measures (§110(a)(2)(A))
- Ambient Air Quality Monitoring, Compilation, Analysis and Reporting (§110(a)(2)(B))
- Enforcement and Stationary Source Permitting (§110(a)(2)(C))
- Interstate Transport (§110(a)(2)(D))
- Assurance of Adequate Resources (§110(a)(2)(E))
- Stationary Source Monitoring System and Reporting (§110(a)(2)(F))
- Emergency Powers and Contingency Plans (§110(a)(2)(G))
- Authority for SIP Revisions for the Revised NAAQS (§110(a)(2)(H))

¹ 80 FR 65292; October 26, 2015.

² All references to ambient air quality standards in Maine regulations (and statute) refer to the federal NAAQS. Maine Statute at 38 M.R.S. § 584-A states:

§584-A. AMBIENT AIR QUALITY STANDARDS

For purposes of statutory interpretation, rules, licensing determinations, policy guidance and all other actions by the department or the board, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard established pursuant to Section 109 of the federal Clean Air Act, 42 United States Code, Section 7409, as amended. The department shall implement ambient air quality standards as required by the federal Clean Air Act, 42 United States Code, Section 7409 and regulations promulgated under that section by the United States Environmental Protection Agency. Nothing in this section may be construed to limit the authority of the department to adopt emission standards designed to achieve and maintain ambient air quality standards.

³ SIPs fulfilling CAA §110(a)(1) and (2) are also known as infrastructure SIPs.

- Authority for SIP Revisions for New Nonattainment Areas (§110(a)(2)(I))
- Consultation, Public Notification and Prevention of Significant Deterioration ((PSD/Visibility) (§110(a)(2)(J))
- Air Quality Monitoring and Reporting (§110(a)(2)(k))
- Permitting Fees (§110(a)(2)(L))
- Consultation/Participation with Affected Local Entities (§110(a)(2)(M))

This submittal addresses the infrastructure requirements of Section 110(a)(2)(A)-(M) of the CAA for the implementation of the 2015 O₃ NAAQS in Maine. Each of the requirements of section 110(a)(2) of the CAA (Subparagraphs A–M) and Maine’s satisfaction of these requirements is presented in tabular form below.

**State of Maine
Certification of State Implementation Plan Adequacy
Required Section 110(a)(1) and (2) SIP Elements for the
2015 Ozone National Ambient Air Quality Standard**

CAA Section	Requirement	Maine Program
<p>110(a)(2)(A)-Emission limits and other control measures</p>	<p>Enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related measures</p>	<p>38 MRSA §581. Declaration of findings and intent</p> <p>38 MRSA §581 states in relevant part:</p> <p><i>The Legislature finds and declares that air pollution exists with varying degrees of severity within this State; that such air pollution is potentially and in some cases actually dangerous to the health of the citizenry, often causes physical discomfort, injury to property and property values, discourages recreational and other uses of the state's resources and is aesthetically unappealing. The Legislature by this chapter intends to exercise the police power of the State in a coordinated state-wide program to control present and future sources of emission of air contaminants to the end that air polluting activities of every type shall be regulated in a manner that reasonably insures the continued health, safety and general welfare of all of the citizens of the State; protects property values and protects plant and animal life.</i></p> <p>38 MRSA §585. Establishment of emission standards</p> <p>38 MRSA §585 states, in relevant part:</p> <p><i>The board may establish and may amend standards, herein called "emission standards", limiting and regulating in a just and equitable manner the amount and type of air contaminants which may be emitted to the ambient air within a region. Such emission standards shall be designed to prevent air pollution and to achieve and maintain the ambient air quality standards within the region in which applicable.</i></p> <p>38 MRSA §585-A. Establishment of standards</p> <p>38 MRSA §585-A states, in relevant part:</p> <p><i>The board may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution.</i></p> <p>38 MRSA §590. Licensing</p>

		<p>38 MRSA §590 states, in relevant part:</p> <p><i>1. License required. After ambient air quality standards and emission standards have been established within a region, the board may by rule provide that a person may not operate, maintain or modify in that region any air contamination source or emit any air contaminants in that region without an air emission license from the department.</i></p> <p>06-096 CMR Chapters 100 through 163 include a number of rules addressing the control of ozone precursors. These rules include:</p> <ul style="list-style-type: none">06-096 CMR Chapter 100 Definitions Regulation06-096 CMR Chapter 110 Ambient Air Quality Standards06-096 CMR Chapter 111 Petroleum Liquid Storage Vapor Control06-096 CMR Chapter 112 Petroleum Liquids Transfer Vapor Recovery06-096 CMR Chapter 113 Growth Offset Regulation06-096 CMR Chapter 114 Classification of Air Quality Control Regions06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations06-096 CMR Chapter 116 Prohibited Dispersion Techniques06-096 CMR Chapter 117 Source Surveillance06-096 CMR Chapter 118 Gasoline Dispensing Facilities Vapor Control06-096 CMR Chapter 119 Motor Vehicle Fuel Volatility Limit06-096 CMR Chapter 120 Gasoline Tank Truck Tightness Self-Certification06-096 CMR Chapter 123 Paper Coating Regulation06-096 CMR Chapter 126 Capture Efficiency Test Procedures06-096 CMR Chapter 127 New Motor Vehicle Emission Standards06-096 CMR Chapter 129 Surface Coating facilities06-096 CMR Chapter 130 Solvent Degreasers06-096 CMR Chapter 131 Cutback Asphalt and Emulsified Asphalt06-096 CMR Chapter 132 Graphic Arts-Rotogravure and Flexography06-096 CMR Chapter 133 Petroleum Liquids Transfer Vapor Recovery at Bulk Gasoline Plants06-096 CMR Chapter 134 Reasonably Available Control Technology for Facilities that Emit Volatile Organic Compounds06-096 CMR Chapter 137 Emission Statements06-096 CMR Chapter 138 Reasonably Available Control Technology for Facilities that Emit Nitrogen Oxides06-096 CMR Chapter 139 Transportation Conformity06-096 CMR Chapter 140 Part 70 Air Emission License Regulations06-096 CMR Chapter 143 New Source Performance Standards (NSPS)06-096 CMR Chapter 145 NOx Control Program
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<p>110(a)(2)(B)- Ambient air quality monitoring/data system</p>	<p>Provisions to provide for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request</p>	<p>Maine’s initial SIP, containing provisions for an ambient air quality monitoring and data analysis system was approved on October 28, 1972. The air monitoring network plan has been updated on numerous occasions, with the most recent monitoring plan approved by EPA on September 11, 2020.</p> <p>Monitoring Authority. Maine’s general authority for ambient air quality monitoring pursuant to CAA Section 110(a)(2)(B) is provided by 38 MRS § 341-A(1), which states:</p> <p><i>1. Purpose. The department shall prevent, abate and control pollution of the air, water and preserve, improve and prevent diminution of the natural environment of the State. The department shall protect and enhance the public’s right to use and enjoy the State’s natural resources and may educate the public on natural resource use, requirements, and issues.</i></p> <p>More specific authority is provided by 38 MRS § 584-A, which states:</p> <p><i>For the purposes of statutory interpretation, rules, licensing determinations policy guidance and all other actions by the department or the board, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard established pursuant to Section 109 of the federal Clean Air Act, 42 United States Code, Section 7409, as amended. The department shall implement ambient air quality standards as required by the federal Clean Air Act, 42 United States Code, Section 7409 and regulations promulgated under that section by the United States Environmental Protection Agency. Nothing in this section may be construed to limit the authority of the department to adopt emission standards designed to achieve and maintain ambient air quality standards.</i></p> <p>Maine DEP operates a comprehensive ambient air quality monitoring and data analysis program for all required NAAQS through a statewide network of air quality monitors, and maintains a database on these pollutants that are released from new and existing area, point and mobile sources. These data are reviewed in accordance with the Quality</p>

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		Assurance Project Plans (QAPPS) and submitted to AQS within 90 days of the end of each quarter.
110(a)(2)(C)-Program for enforcement of control measures	Program for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet PSD and NSR requirements	<p>38 MRS § 347-A. Violations</p> <p>38 MRS § 347-A states, in relevant part:</p> <p><i>1. General procedures. This subsection sets forth procedures for enforcement actions.</i></p> <p><i>A. Whenever it appears to the commissioner, after investigation, that there is or has been a violation of this Title, of rules adopted under this Title or of the terms or conditions of a license, permit or order issued by the board or the commissioner, the commissioner may initiate an enforcement action by taking one or more of the following steps:</i></p> <p><i>(1) Resolving the violation through an administrative consent agreement pursuant to subsection 4, signed by the violator and approved by the commissioner and the Attorney General;</i></p> <p><i>(2) Referring the violation to the Attorney General for civil or criminal prosecution;</i></p> <p><i>(3) Scheduling and holding an enforcement hearing on the alleged violation pursuant to subsection 2; or</i></p> <p><i>(4) With the prior approval of the Attorney General, commencing a civil action pursuant to section 342, subsection 7 and the Maine Rules of Civil Procedure, Rule 3.</i></p> <p><i>B. Before initiating a civil enforcement action pursuant to paragraph A, the commissioner shall issue a notice of violation to the person or persons the commissioner considers likely to be responsible for the alleged violation or violations. The notice of violation must describe the alleged violation or violations, to the extent then known by the commissioner; cite the applicable law, rule and term or condition of the license, permit or order alleged to have been violated; and provide time periods for the alleged violator to take necessary corrective action and to respond to the notice. For violations the commissioner finds to be minor, the notice may state that further enforcement action will not be pursued if compliance is achieved within the time period specified in the notice or under other appropriate circumstances. The commissioner is not required to issue a notice of violation before issuing an emergency order pursuant to subsection 3 or other applicable provision of this Title; nor is the commissioner required to issue a notice of violation before referring an alleged violation to the Attorney General for criminal prosecution or in a matter requiring immediate enforcement action.</i></p> <p><i>2. Hearings. The commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of any hearing held pursuant to subsection 1, paragraph A, subparagraph (3). The notice must specify the act or omission which is claimed to be in violation of law or regulation.</i></p> <p><i>Any hearing conducted under the authority of this subsection must be in accordance with the provisions of Title 5, chapter 375, subchapter IV. At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods,</i></p>

		<p><i>practices and procedures, if any, adopted or used by that person to comply with this chapter and present such evidence as may be pertinent and relevant to the alleged violation.</i></p> <p><i>After hearing, or in the event of a failure of the alleged violator to appear on the date set for a hearing, the commissioner shall, as soon as practicable, make findings of fact based on the record and, if the commissioner finds that a violation exists, shall issue an order aimed at ending the violation. The person to whom an order is directed shall immediately comply with the terms of that order.</i></p> <p><i>3. Emergency orders. Whenever it appears to the commissioner, after investigation, that there is a violation of the laws or regulations the department administers or of the terms or conditions of any of the department's orders that is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. Service of a copy of the commissioner's findings and order must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure. In the event that the persons are so numerous that the specified method of service is a practical impossibility or the commissioner is unable to identify the person or persons causing or contributing to the hazard, the commissioner shall make the order known through prominent publication or announcement in news media serving the affected area.</i></p> <p><i>The person to whom the order is directed shall comply with the order immediately. The order may not be appealed to the Superior Court in the manner provided in section 346, but within 48 hours after receipt of the order the person may apply to the board for a hearing on the order. Within 7 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote. The nature of the hearing is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order was directed. The decision of the board may be appealed to the Superior Court in the manner provided by section 346.</i></p> <p><i>4. Administrative consent agreements. Following issuance of a notice of violation pursuant to subsection 1 and after receipt of the alleged violator's response to that notice or expiration of the time period specified in the notice for a response, in situations determined by the commissioner appropriate for further enforcement action, the commissioner may send a proposed administrative consent agreement to the alleged violator or violators.</i></p> <p><i>A. Except as otherwise expressly agreed to by the Attorney General, all proposed administrative consent agreements must be reviewed and approved by the Department of the Attorney General before being sent to the alleged violator.</i></p>
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<p>110(a)(2)(D) Interstate transport provisions</p>	<p><i>... "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</i></p>	<p>The Maine SIP currently contains adequate provisions prohibiting sources from emitting air pollutants in amounts which will contribute significantly to nonattainment, or interfere with maintenance, of any NAAQS, including the 2015 ozone NAAQS in Maine or in any other state.⁴ Maine’s SIP also contains adequate provisions to prevent interference with measures by any other state to prevent significant deterioration of air quality or to protect visibility. Maine may make changes that it believes in its discretion are appropriate, while continuing to fulfil this obligation. At present, Maine’s legal authority is contained in 38 M.R.S. §585-A Establishment of Standards, which states:</p> <p style="padding-left: 40px;"><i>585-A. Establishment of Standards</i></p> <p style="padding-left: 40px;"><i>The board may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution.</i></p> <p style="padding-left: 40px;"><i>Prior to the establishment or amendment of rules, the board shall offer an opportunity for a public hearing thereon in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The board shall solicit and consider all available information concerning applicable ambient air quality and</i></p>

⁴ The Department has prepared a separate SIP revision addressing the CAA §110(a)(2)(D)(i)(I) (“good neighbor”) requirements to demonstrate that emissions from sources in Maine do not significantly contribute to nonattainment in, or interfere with maintenance by, any other state with respect to the 2015 ozone NAAQS. DEP’s analysis of recent EPA’s and Ozone Transport Commission’s (OTC) 2023 modeling demonstrates that Maine meets its good neighbor requirements for the 2015 NAAQS.

	<p><i>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); ”</i></p>	<p><i>emission standards; the availability, effectiveness and cost of any air pollution control apparatus designed to prevent or control air pollution or violations of ambient air quality or emission standards which would be required by any proposed rules; and such other evidence as in the board's judgment will enable it to determine and establish rules adequate to maintain applicable ambient air quality and emission standards.</i></p> <p><i>The board shall establish or amend rules to achieve the purposes set forth in this section. The board may delay the effective date of the rules.</i></p> <p><i>The department shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters before it proposes any revisions to the state implementation plan, required in the federal Clean Air Act, Section 110, 42 United States Code, Section 7410, that would require the State to implement new emissions reduction strategies or programs or substantially revise or terminate existing emissions reduction strategies or programs. Notwithstanding any other parts of this section, rules adopted pursuant to this section relating to motor vehicle fuel standards are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.</i></p> <p>Nothing in Maine’s statutory or regulatory authority prohibits or otherwise interferes with Maine’s ability to exercise Sections 126 and 155 of the CAA. No source or sources within Maine are the subject of an active finding under Section 126 of the CAA, nor are there any findings under Section 115 of the CAA against Maine.</p>
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<p>110(a)(2)(D)(i)(II) Interstate transport provisions – PSD and visibility</p>	<p>Provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with PSD measures or measures to protect visibility in another state.</p>	<p>06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulation</p> <p>The Maine Regional Haze SIP addressing visibility was approved by EPA on April 24, 2012. See 77 FR 24385.</p> <p>The Maine Regional Haze 5-Year Progress Report was submitted to EPA on February 23, 2016 and approved on September 19, 2017 (82 FR 42699).</p>
<p>110(a)(2)(D)(ii) Interstate and international transport provisions</p>	<p>Adequate provisions to prevent endangerment of public health due to interstate and international transport of pollutants.</p>	<p>Maine’s Chapter 115 Section IX (E)(3) (which is in the SIP), requires the state to provide a “copy of the public notification and a copy of the draft order to the U.S. Environmental Protection Agency, Region I, the chief executives of the municipality and county where the source proposes to locate, any comprehensive land use planning agency, and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.” Also, note that Maine has no pending obligations under section 115 or 126(b) of the Act.</p> <p>The Department recognizes that Maine’s public and affected states draft notification procedures as established in Section 2(k)(2) of 06-096 CMR ch. 140, provide that affected states must be given at least 30-days’ notice and are inconsistent with section 110(a)(2)(D)(ii) of the CAA, which requires all nearby states that may be affected by the construction of a new or modified major source of air pollution be given notice at least 60 days prior to the date on which the commencement of construction is to be permitted. Since these notification procedures do not meet the requirements of CAA Section 126(a)(1), the Department is committing to revise and submit its new source review program regulations to EPA no later than one year after the effective date of EPA’s final action on this I-SIP.</p>
<p>110(a)(2)(E)-Adequate Resources</p>	<p>Provisions for adequate personnel, funding, and legal authority under State Law to carry out SIP and related issues</p>	<p>38 MRS § 341-A. Department of Environmental Protection</p> <p><i>38 MRS § 341-A states, in relevant part:</i></p> <p><i>There is established a Department of Environmental Protection, in this Title called the "department."</i></p> <p><i>1. Purpose. The department shall prevent, abate and control the pollution of the air, water and land and</i></p>

		<p><i>preserve, improve and prevent diminution of the natural environment of the State. The department shall protect and enhance the public's right to use and enjoy the State's natural resources and may educate the public on natural resource use, requirements and issues.</i></p> <p><i>2. Composition. The department shall consist of the Board of Environmental Protection, in the laws administered by the department called "board," and of a Commissioner of Environmental Protection, in the laws administered by the department called "commissioner."</i></p> <p><i>3. Commissioner. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature.</i></p> <p><i>A. The commissioner serves at the pleasure of the Governor.</i></p> <p><i>B. The commissioner may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the commissioner receives, or during the previous 2 years has received, a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. If the commissioner's authority is restricted under this paragraph, the commissioner shall delegate duties related to the restricted matter to employees of the department who do not hold major policy-influencing positions pursuant to Title 5, section 938 and who do not receive or have not received during the previous 2 years a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Duties that must be delegated include National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency. If a person with a conflict under this paragraph is nominated for the position of commissioner, the Governor shall submit to the President of the Senate and Speaker of the House of Representatives a plan for delegating the duties required to be delegated under this paragraph. The plan must be submitted with the information packet required to be provided by the Governor to the President of the Senate and Speaker of the House of Representatives under Title 3, section 154.</i></p> <p><i>C. The commissioner may delegate duties assigned to the commissioner under this Title to staff of the department.</i></p>
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		<p><i>D. The commissioner is subject to the conflict-of-interest provisions of Title 5, section 18.⁵</i></p> <p><i>4. Licenses and permits. For purposes of this Title, licenses or permits issued by the department may be issued by either the commissioner or the board subject to the provisions of section 341-D, subsection 2. ”</i></p> <p>State Boards and Conflict of Interest. Section 110(a)(2)(E)(ii) of the CAA requires SIPs to contain provisions that: (1) any board or body which approves permits or enforcement orders under the Clean Air Act has at least a majority of members who represent the public interest, and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.⁶</p> <p>38 MRS § 341-C. Board membership.</p> <p>38 MRS § 341-C(2) states:</p> <p><i>2. Qualifications and requirements. Members of the board must be chosen to represent the broadest possible public interest and experience that can be brought to bear on the administration and implementation of this Title and all other laws the board is charged with administering. At least 3 members must have technical or scientific backgrounds in environmental issues and no more than 4 members may be residents of the same congressional district. The boundaries of the congressional districts are defined in Title 21-A, chapter 15. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the board. If a county or municipality is a participant in an adjudicatory proceeding before the board, a commissioner, official or employee from that county or municipality may not participate in that proceeding.</i></p> <p>38 MRSA §341-C(8) states, in relevant part:</p> <p><i>8. Federal standards. In accordance with federal standards, board member participation is limited by</i></p>
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⁵ 38 M.R.S. § 341-A(3)(D) was submitted to EPA on September 4, 2019 for incorporation into the Maine SIP.

⁶ Maine law was recently amended to address these federal requirements, and on September 4, 2019, the Department submitted the Maine Board of Environmental Protection membership requirements and conflict of interest provisions found in 38 M.R.S. Sections 341-C(2) and 341-C(8) (Public Law 2019, Chapter 180) for incorporation into the Maine SIP.

		<p><i>this subsection. For the purposes of this subsection, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement.</i></p> <p><i>B. A board member may not participate in the review of or act on any permitting decision or enforcement order under the federal Clean Air Act, 42 United States Code, Section 7401, et seq. if the board member receives or derives a significant portion of that board member's income from persons subject to permits or enforcement orders under the federal Clean Air Act. Board members whose participation is restricted under this paragraph shall recuse themselves from all permitting and enforcement matters under the federal Clean Air Act. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency.</i></p> <p>38 MRS § 341-D. Board responsibilities and duties</p> <p>38 MRS § 341-D. states, in relevant part:</p> <p><i>The board is charged with the following duties and responsibilities.</i></p> <p><i>1-C. Rulemaking. The board shall adopt, amend or repeal rules in accordance with section 341-H.</i></p> <p>Conflict of interest provisions for the Commissioner and the Board of Environmental Protection</p> <p>In Maine, licenses and permits may be issued by either the Commissioner or the Board (see 38 M.R.S. § 341-A(4), with Board jurisdiction for licensing decisions limited to projects of statewide significance in accordance with 38 M.R.S. § 341-D(2). Final license decisions and enforcement orders made by the Commissioner may be appealed to the Board of Environmental Protection pursuant to 38 M.R.S. § 341-D(4), and Board decisions may be appealed to the Maine Superior Court. Maine statute currently satisfies the requirements of CAA § 128(a)(2), since both the Commissioner (see 38 M.R.S. § 341-A(3)(D)) and the members of the Board (see 38 M.R.S. § 341-C(7)) are subject to the conflict of interest provisions contained in Maine statute at 5 M.R.S. § 18.</p> <p>38 MRS § 342. Commissioner, duties</p> <p>38 MRS § 342 states, in relevant part:</p> <p><i>The Commissioner of Environmental Protection shall have the following duties:</i></p> <p><i>1-A. Administration of department. The commissioner is the chief administrative officer of the department and responsible for all administrative matters of the department, except as otherwise specified. The commissioner shall assure that all determinations made by the staff of the department are</i></p>
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		<p><i>promptly rendered. The commissioner shall resolve disputes between department staff and applicants with respect to any questions regarding requirements, interpretation or application of the laws, rules or department policy. In resolving disputes, the commissioner shall attempt to reach a fair and appropriate result given all of the circumstances of the issue and may utilize the services of such consultants or experts as the commissioner determines would be helpful to resolve any disputed issue. For purposes of this subsection and section 341-A, subsection 3, paragraph C, staff of the department does not include staff of the board.</i></p> <p>38 MRS § 341-H. Departmental rulemaking</p> <p>38 MRS § 341-H states, in relevant part:</p> <p><i>The department may adopt, amend or repeal rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering as provided in this section.</i></p> <p><i>1. Rule-making authority of the board. Notwithstanding any other provision of this Title, and except as provided in this subsection, the board shall adopt, amend or repeal only those rules of the department designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. The board shall also adopt, amend and repeal routine technical rules as necessary for the conduct of the board's business, including the processing of applications, the conduct of hearings and other administrative matters.</i></p> <p><i>2. Rule-making authority of the commissioner. Notwithstanding any other provision of this Title, the commissioner shall adopt, amend or repeal only those rules of the department that are not designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.</i></p> <p><i>3. Duties of department. The department shall:</i></p> <p><i>A. Identify in its regulatory agenda under Title 5, section 8060, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than a federal standard, if an applicable federal standard exists;</i></p> <p><i>B. During the consideration of any proposed rule, when feasible, and using information available to it, identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the federal standard, if such a federal standard exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard; and</i></p> <p><i>C. Notwithstanding Title 5, chapter 375, subchapter 2 or 2-A, the department shall accept and consider additional public comment on a proposed rule following the close of the formal rule-making comment period at a meeting that is not a public hearing only if the additional public comment is directly related</i></p>
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<p>110(a)(2)(F)- Stationary Source Monitoring System</p>	<p>Programs to establish a system to monitor emissions from stationary sources and to submit periodic emission reports</p>	<p>Stationary Source Monitoring. Section 110(a)(2)(F) of the CAA requires programs to establish a system to monitor emissions from stationary sources and submit periodic emission reports. This system must ensure that emissions data will not receive any confidential treatment, be correlated by the Department and not preclude the use of any credible evidence:</p>

	<p>In Maine, there are over 300 statutory exceptions to the Freedom of Access Act's (1 M.R.S. Chapter 13, subchapter 1) definition of a public record. Many of these exceptions specifically designate a certain type of record, or a class of information within a record, as confidential or otherwise not subject to the Freedom of Access laws. Although hazardous air pollutant emission data was formerly deemed confidential pursuant to 38 M.R.S. § 585-C(2)(D), these provisions were repealed in 2015. Maine's Freedom of Access Act does not include any exceptions that apply to stationary source emissions. A copy of 38 M.R.S. § 585-C is attached herein.</p> <p>The Maine SIP provides for correlation by the Department of emissions reports by sources with applicable emission limitations or standards, as required by CAA § 110(a)(2)(F)(ii). Maine's emissions reporting requirements are established by its 06-096 CMR 137 Emission Statements rule, which requires all stationary sources that are licensed to emit volatile organic compounds (VOCs) and nitrogen oxides (NOx)⁷ exceeding 25 tons per year (TPY) report emissions on an annual basis. The Department utilizes a web-based electronic reporting system, the Maine Air Emissions Inventory Reporting System (MAIRIS), that allows us to package and electronically submit reported emissions data to EPA. The MAIRIS system is structured to electronically correlate reported emissions with permit conditions and other applicable standards, and identify all inconsistencies and potential compliance concerns.</p> <p>There are no provisions in Maine law preventing the use of any credible evidence as required pursuant to 40 CFR § 51.212. In fact, section 3(E)(7)(a)(v) of Maine's 06-096 CMR 140 Part 70 Air Emission License Regulation states: Notwithstanding any other provision in the State Implementation Plan approved by the EPA or Section 114(a) of the CAA, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any statute, regulation, or Part 70 license requirement.</p> <p>38 MRS § 590 Licensing</p> <p>06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations</p>
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⁷ In NO₂ equivalent

		<p>This regulation contains compliance assurance requirements for licensed sources and stipulates that licenses shall include the following compliance assurance elements:</p> <ul style="list-style-type: none"> (a) A description of all required monitoring and analysis procedures or test methods required under the requirements applicable to the source. (b) A description of all recordkeeping requirements. (c) A description of all reporting requirements. <p>06-096 CMR Chapter 117 Source Surveillance</p> <p>This regulation specifies which air emission sources are required to operate continuous emission monitoring systems (CEMS), and details the performance specifications, quality assurance requirements and procedures for such systems, and subsequent record keeping and reporting requirements.</p> <p>06-096 CMR Chapter 140 Part 70 Air Emission License Regulations</p> <p>This regulation identifies the sources of air emissions that require a Part 70 air emission license and incorporates the requirements of Title IV and Title V of the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.; and 38 MRS, Section 344 and Section 590. This regulation contains compliance assurance requirements for licensed sources requiring a Part 70 air emission license.</p>
<p>110(a)(2)(G)- Emergency Power</p>	<p>Authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs</p>	<p>Section 110(a)(2)(G) of the CAA requires authority to address activities causing imminent and substantial endangerment of public health, including contingency plans to implement the emergency episode provisions of the SIP. Existing Maine law provides authority to meet the requirements of Section 303 of the 1990 Clean Air Amendments (42. U.S.C. § 7603) through a combination of statutes governing the Maine Department of Environmental Protection and the Maine Emergency Management Agency. Title 38 M.R.S. §§ 347-A(3) and 591 together authorize the Commissioner to issue an emergency order upon finding an apparent violation of DEP laws or regulations to address emissions of criteria pollutants, air contaminants governed by standards promulgated under section 585, and hazardous air pollutants governed by standards promulgated under section 585-B. In the unlikely event that air emissions were creating a substantial or immediate threat to the public health, safety or to the environment without violating any DEP law or regulation, the DEP Commissioner can notify the Governor of an imminent threat, and the Governor can then exercise his emergency authority under 37-B M.R.S. § 742 to issue an</p>

		<p>order to terminate the cause of the emergency. Title 37-B M.R.S. § 742 states (in relevant part):</p> <p>742. EMERGENCY PROCLAMATION 1. Emergency proclamation. <i>Emergency proclamations must be issued as follows.</i></p> <p><i>A. Whenever a disaster⁸ or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State or any section of the State. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency plans in any or all areas of the State. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation</i></p> <p><i>B. Subject at all times to the further direction and order of the Governor, an executive proclamation of emergency activates the emergency plans applicable to the affected areas and is the authority for the deployment and use of any forces or resources to which the plan or plans apply.</i></p> <p><i>C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:</i></p> <p><i>(11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made; and</i></p> <p>Maine also has explicit authority to issue an emergency order upon finding an apparent violation of air quality laws.</p> <p>38 MRS § 347-A(3) Emergency Orders</p>
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⁸ It is important to note that air contamination is explicitly recognized as a potential disaster under 37-B MRS § 703(2), which states: "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, extreme public health emergency pursuant to Title 22, section 802, subsection 2-A, **air contamination** (*emphasis added*), blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

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		<p>38 MRS § 347-A states:</p> <p><i>3. Emergency orders. Whenever it appears to the commissioner, after investigation, that there is a violation of the laws or regulations the department administers or of the terms or conditions of any of the department's orders that is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may order the person or persons causing or contributing to the hazard to immediately take such actions as are necessary to reduce or alleviate the danger. Service of a copy of the commissioner's findings and order must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure. In the event that the persons are so numerous that the specified method of service is a practical impossibility or the commissioner is unable to identify the person or persons causing or contributing to the hazard, the commissioner shall make the order known through prominent publication or announcement in news media serving the affected area.</i></p> <p><i>The person to whom the order is directed shall comply with the order immediately. The order may not be appealed to the Superior Court in the manner provided in section 346, but within 48 hours after receipt of the order the person may apply to the board for a hearing on the order. Within 7 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote. The nature of the hearing is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order was directed. The decision of the board may be appealed to the Superior Court in the manner provided by section 346.</i></p> <p>06-096 CMR Chapter 109 Emergency Regulations</p> <p>This rule is intended to prevent air pollution from reaching levels that would cause imminent and substantial harm to the health of persons, by restricting emissions during periods of air pollution emergencies.</p> <p>Maine therefore has authority to issue an emergency order not only upon finding an apparent violation of air quality laws, but also when there is the imminent threat of substantial harm to the environment or public health.</p>
<p>110(a)(2)(H)- Future SIP Revisions</p>	<p>Authority to revise SIPs in response to changes in the NAAQS, availability</p>	<p>38 MRS § 581. Declaration of findings and intent</p> <p>38 MRS § 581 states:</p>

	<p>of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate</p>	<p><i>The Legislature finds and declares that air pollution exists with varying degrees of severity within this State; that such air pollution is potentially and in some cases actually dangerous to the health of the citizenry, often causes physical discomfort, injury to property and property values, discourages recreational and other uses of the state's resources and is aesthetically unappealing.</i></p> <p><i>The Legislature by this chapter intends to exercise the police power of the State in a coordinated state-wide program to control present and future sources of emission of air contaminants to the end that air polluting activities of every type shall be regulated in a manner that reasonably insures the continued health, safety and general welfare of all of the citizens of the State; protects property values and protects plant and animal life.</i></p> <p><i>Nothing in this chapter is intended, nor shall be construed, to limit, impair, abridge, create, enlarge or otherwise affect, substantively or procedurally, the right of any person to damage or other relief on account of injury to persons or property due to violation of air quality standards or emission standards and to maintain any action or other appropriate procedure therefore; nor to so affect the powers of the State to initiate, prosecute and maintain actions to abate public nuisances.</i></p> <p>38 MRS § 341-D. Board responsibilities and duties</p> <p>38 MRS § 341-D. states, in relevant part:</p> <p><i>The board is charged with the following duties and responsibilities.</i></p> <p><i>1-C. Rulemaking. The board shall adopt, amend or repeal rules in accordance with section 341-H.</i></p> <p>38 MRS § 342. Commissioner, duties</p> <p>38 MRS § 342 states, in relevant part:</p> <p><i>The Commissioner of Environmental Protection shall have the following duties:</i></p> <p><i>1-A. Administration of department. The commissioner is the chief administrative officer of the department and responsible for all administrative matters of the department, except as otherwise specified. The commissioner shall assure that all determinations made by the staff of the department are promptly rendered. The commissioner shall resolve disputes between department staff and applicants with respect to any questions regarding requirements, interpretation or application of the laws, rules or department policy. In resolving disputes, the commissioner shall attempt to reach a fair and appropriate result given all of the circumstances of the issue and may utilize the services of such consultants or experts as the commissioner determines would be helpful to resolve any disputed issue. For purposes of this subsection and section 341-A, subsection 3, paragraph C, staff of the department does not include</i></p>
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		<p><i>staff of the board.</i></p> <p>38 MRS § 341-H. Departmental rulemaking</p> <p>38 MRS § 341-H states, in relevant part:</p> <p><i>The department may adopt, amend or repeal rules and emergency rules necessary for the interpretation, implementation and enforcement of any provision of law that the department is charged with administering as provided in this section.</i></p> <p><i>1. Rule-making authority of the board. Notwithstanding any other provision of this Title, and except as provided in this subsection, the board shall adopt, amend or repeal only those rules of the department designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. The board shall also adopt, amend and repeal routine technical rules as necessary for the conduct of the board's business, including the processing of applications, the conduct of hearings and other administrative matters.</i></p> <p><i>2. Rule-making authority of the commissioner. Notwithstanding any other provision of this Title, the commissioner shall adopt, amend or repeal only those rules of the department that are not designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.</i></p> <p><i>3. Duties of department. The department shall:</i></p> <p><i>A. Identify in its regulatory agenda under Title 5, section 8060, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than a federal standard, if an applicable federal standard exists;</i></p> <p><i>B. During the consideration of any proposed rule, when feasible, and using information available to it, identify provisions of the proposed rule that the department believes would impose a regulatory burden more stringent than the burden imposed by the federal standard, if such a federal standard exists, and shall explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal standard; and</i></p> <p><i>C. Notwithstanding Title 5, chapter 375, subchapter 2 or 2-A, the department shall accept and consider additional public comment on a proposed rule following the close of the formal rule-making comment period at a meeting that is not a public hearing only if the additional public comment is directly related to comments received during the formal rule-making comment period or is in response to changes to the proposed rule. Public notice of the meeting must comply with Title 1, section 406 and must state that the department will accept additional public comment on the proposed rule at that meeting.</i></p>
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		<p><i>4. Legislative review of a rule. If a rule adopted by the department is the subject of a request for legislative review of a rule under Title 5, chapter 377-A, the Executive Director of the Legislative Council shall immediately notify the department of that request and of the legislative committee's decision under that chapter on whether or not to review the rule.</i></p> <p>Maine will review and revise its SIP from time to time as may be necessary 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.</p>
<p>110(a)(2)(J)- Public Notification</p>	<p>States must meet the requirements of section 121 regarding consultation with government officials, and must notify the public pursuant section 127 if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedences</p>	<p>Consultation with Government Officials</p> <p>38 MRS § 342. Commissioner, Duties 38 MRS § 342 (1-A). Administration of Department 38 MRS § 342 (3-A). Negotiating Agreements</p> <p>06-096 CMR Chapter 114 Classification of Air Quality Control Regions</p> <p>Section 1(E) of this rule states, in relevant part:</p> <p><i>E. Prior to proposing the redesignation of any area for Prevention of Significant Deterioration purposes, the Board shall hold a public hearing which shall be conducted in the area proposed to be redesignated. Prior to the public hearing a report shall be made available with a description and analysis of health, environmental, economic, social and energy impacts of the proposed redesignation. Should the area proposed for redesignation include or be deemed to affect federally owned lands, the Board shall consult with the appropriate federal land manager prior to such redesignation. For the purpose of redesignating any areas other than those recognized mandatory Class I areas identified in Section 1(C), the procedural requirements or 40 CFR 51.24 (g) shall be followed.</i></p> <p>06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations</p> <p>06-096 CMR Chapter 115 Section 9(E)(3) applies to major stationary sources and major modifications, and states:</p> <p><i>“Submittal of a copy of the public notification and a copy of the draft order to the U.S. Environmental Protection Agency, Region I, the chief executives of the municipality and county where the source proposes to locate, any comprehensive land use planning agency, and any State, Federal Land Manager, or Indian</i></p>

		<p><i>Governing Body whose lands may be affected by emissions from the source or modification. Such submittal shall be at least 30 calendar days prior to the date upon which the public comment period ends;”</i></p> <p>06-096 CMR Chapter 139 Transportation Conformity</p> <p>06-096 CMR Chapter 139 establishes a consultation process between federal state and local entities for the purpose of implementing section 176(c)(4)(E) of the CAA with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by Metropolitan Planning Organizations (MPOs) or other recipients of funds under Title 23 U.S.C. or the Federal Transit Laws (Title 49 U.S.C. Chapter 53).</p> <p>Public Notification</p> <p>AQI Forecasting and Reporting. Pursuant to 40 CFR 58.50, the Department provides daily air quality forecasts to the public via EPA’s Air Now and Enviroflash programs, as well as via the Department’s website and air quality information telephone</p> <p>Maine continues to issue daily air quality forecasts and advisories pursuant to its Performance Partnership Agreement</p> <p>Chapter 4 of Maine’s initial SIP, approved on October 18, 1972, contains for public notification in the event an NAAQS exceedence. Chapter 9 of this SIP contains provisions for intergovernmental cooperation with federal and state government entities.</p> <p>The Department recognizes that Maine’s public and affected states draft notification procedures as established in Section 2(k)(2) of 06-096 CMR ch. 140, provide that affected states must be given at least 30-days’ notice and are inconsistent with section 110(a)(2)(D)(ii) of the CAA, which requires all nearby states that may be affected by the construction of a new or modified major source of air pollution be given notice at least 60 days prior to the date on which the commencement of construction is to be permitted.</p>
<p>100(a)(2)(J)- PSD and Visibility Protection</p>	<p>States must meet applicable requirements of part C related to prevention of significant</p>	<p>38 MRS § 584-B. Establishment of ambient increments - Class I regions</p> <p>06-096 CMR Chapter 114 Classification of Air Quality Control Regions</p>

	deterioration and visibility protection	<p>This regulation determines those areas that have been officially found to be exceeding the ambient air quality standards and are therefore nonattainment areas. It also designates which class of increment that will apply in each area.</p> <p>06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations</p> <p>Maine's PSD regulations require the owner of any proposed new major source or major modification to demonstrate that any increased emissions from a proposed facility or expansion would not significantly deteriorate air quality, regardless of where these emissions may travel. Proposed facilities subject to Maine's PSD licensing requirements must therefore assess PSD increment consumption in Maine as well as adjacent or downwind states.</p> <p>The federal visibility regulations promulgated in December 1980⁹ require consideration of the effects of new sources on the visibility values of Federal Class I areas. Chapter 115 of the Department's regulations requires owners and operators of all new major stationary sources or major modifications to perform an additional impact analysis to assess impacts on visibility in federal Class I areas. In practice, this provision requires a modeling demonstration that may consist of a Level I or Level II visibility screening analysis, or a more refined visibility modeling review that would involve the use of tools such as the CALPUFF model. These analyses require the source owner or operator to demonstrate that operation of the source will have an insignificant visibility impact on the applicable Class I area. The Department works closely with the appropriate federal land manager when reviewing these analyses. This provision of Maine's NSR regulations essentially prohibits the permitting of a major stationary source or major modification that may significantly degrade visibility in a federal Class I area.</p> <p>The NSR program in Maine is implemented through the Chapter 100 Definitions Regulation which was approved into the SIP on October 15, 1996¹⁰, the Chapter 113 Growth Offset Regulation which was approved into the SIP on February 14, 1996¹¹, and the Chapter 115 Major and Minor Source Air Emission License Regulations which were approved into the SIP by EPA on February 14, 1996.¹² Although these rules have been amended several times since being incorporated into the SIP, these revisions did not change any of the major source permitting requirements, and the current state regulations are consistent with the SIP-approved versions for the purposes of</p>
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⁹ 45 FR 8009
¹⁰ 61 FR 53639
¹¹ 61 FR 5694
¹² 61 FR 5694

		implementing the New Source Review program.
110(a)(2)(K)- Air Quality Modeling/Data	SIPs must provide for performing air quality modeling for predicted effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request	<p>06-096 CMR Chapter 115 Major and Minor Source Air Emission License Regulations</p> <p>Both the SIP-approved 06-096 C.M.R. Chapter 115 Major and Minor Source Air Emissions License Regulations and the Title V approved 06-096 C.M.R Chapter 140 Part 70 Air Emission License Regulations require the submission of a wide range of data as part of the air quality modeling protocols (e.g., Section VII of the SIP-approved Chapter 115). This data is available to U.S. EPA for review upon request.</p> <p>Section 7 of Chapter 115 states:</p> <p style="margin-left: 40px;">7. <i>Ambient Air Quality Analysis</i></p> <p style="margin-left: 40px;">A. <i>General. It shall be the burden of any applicant to provide an affirmative demonstration that its emissions, in conjunction with all other sources, will not violate ambient air quality standards, established pursuant to Chapter 110 of the Department's Regulations, except that sources in nonattainment areas or which significantly impact a nonattainment area shall be required to demonstrate that the source's emissions are consistent with Reasonable Further Progress provisions of the State Implementation Plan. An applicant may use ambient air monitoring, modeling, or other assessment techniques as approved by the Department. New Source Review modeling required pursuant to Subsection 7(C and D) of this Chapter shall be consistent with EPA regulations and guidelines or other requirements under the CAA. The analyses shall include relevant emissions units at the source, meteorological and topographical data necessary to estimate such impacts, and shall consider the impact of fugitive emissions, to the extent quantifiable, secondary emissions, and emissions from other existing sources including increases in mobile and area source emissions impacting the same area.</i></p> <p style="margin-left: 40px;"><i>The level of analysis shall depend upon the size of the source, the regulated air pollutants emitted, existing air quality, proximity to Class I or nonattainment areas, or areas where increment has been substantially consumed. (For the purposes of this Subsection, the Class I area shall include any conservation easements under the jurisdiction of an appropriate Federal Land Manager as of August 7, 1977.) The air quality impact analysis, in general, will not be required of the applicant for those regulated pollutants that are not listed under "significant emissions increase" in Chapter 100 of the Department's regulations. The analysis shall be conducted in accordance with the provisions of Subsection 7(E) of this Chapter, Chapter 116 of the Department's regulations and Appendix W to 40 CFR Part 51 – Guideline on Air Quality Models.</i></p>

		<p><i>Air quality modeling conducted as part of the licensing of a new source or modification in the United States is substantially governed by the Appendix W to 40 CFR Part 51 – Guideline on Air Quality Models. That modeling guidance was first promulgated in 1978 and by law, must be routinely updated by EPA. Thus, federal regulatory guidance on modeling and the list of acceptable models do change. The Department recognizes that air dispersion modeling guidance will be periodically updated, to reflect the latest federal guidance. To maintain an orderly licensing process in the State, applicants will be required to conform with those procedures and guidelines in effect at the time of Department approval of a written modeling protocol that meets all applicable requirements, and to complete modeling, as approved, and submit results within six (6) months of the date of approval of the protocol. If the protocol calls for collection of on-site meteorological data, then the starting date for the on-site data collection must be no later than 6 months after approval of the protocol and modeling results must be submitted within six (6) months of obtaining acceptable on-site meteorological monitoring data. Requests by the applicant to modify the modeling protocol will require conformance with current applicable air dispersion modeling guidance.</i></p> <p>06-096 Chapter 116 Prohibited Dispersion Techniques</p> <p>This Chapter adopts regulations consistent with federal requirement concerning stack height and other dispersion techniques, such as merging of plumes. These regulations also define the area surrounding the source where ambient air quality standards do not have to be met.</p> <p>06-096 CMR Chapter 140 Part 70 Air Emission License Regulations</p> <p>This regulation contains air quality modeling requirements for Part 70 sources that are analogous to those contained within Chapter 115.</p>
<p>110(a)(2)(L)- Permitting Fees</p>	<p>Each major stationary source shall pay permitting fees to cover the cost of reviewing,</p>	<p>38 MRS § 353-A. Annual air emissions license fees. 38 MRS §§ 353-A(1) states:</p> <p><i>Fees assessed. After the effective date of this section, a licensee must pay an annual fee assessed on the sum of all licensed allowable air pollutants, except for carbon monoxide, as follows¹³:</i></p>

¹³ Current fees are:

Annual licensed emissions in tons	Current per ton fee
from 1 - 1,000	\$9.36
from 1,001 - 4,000	\$18.79
additional emissions over 4,001	\$28.11

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	<p>approving, implementing and enforcing a permit</p>	<table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;"><i>Annual licensed emissions in tons</i></th> <th style="text-align: left;"><i>Per ton fee</i></th> </tr> </thead> <tbody> <tr> <td><i>1 - 1,000</i></td> <td><i>\$5</i></td> </tr> <tr> <td><i>1,001 - 4,000</i></td> <td><i>\$10</i></td> </tr> <tr> <td><i>over 4,001</i></td> <td><i>\$15</i></td> </tr> </tbody> </table> <p>38 MRS §§ 353-A(1A) states:</p> <p><i>Annual fee surcharge. Beginning November 1, 2008, a licensee shall pay an annual fee surcharge of \$2 per every 1,000 air quality units as defined in section 582, subsection 11-E. The minimum revenue threshold for the annual fee surcharge is established at \$1,250,000 per year. The commissioner may increase the annual fee surcharge to up to \$4 per every 1,000 air quality units if the annual revenue derived from this annual fee surcharge is less than \$1,250,000 per year. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2010 and every 2 years thereafter on any fee adjustment and the justification for the fee adjustment and the adequacy of the minimum revenue threshold and its ability to support the long-term sustainability of state air quality protection and improvement activities.</i></p> <p>38 MRS §§ 353-A (2) states:</p> <p><i>Fee adjustment. The commissioner may adjust the per ton fees, the annual fee surcharge set forth in subsection 1-A and the maximum and minimum fees set forth in subsection 4 on an annual basis according to the United States Consumer Price Index established by the federal Department of Labor, Bureau of Labor Statistics.</i></p>	<i>Annual licensed emissions in tons</i>	<i>Per ton fee</i>	<i>1 - 1,000</i>	<i>\$5</i>	<i>1,001 - 4,000</i>	<i>\$10</i>	<i>over 4,001</i>	<i>\$15</i>
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<p>110(a)(2)(M)- Consultation/Participation By Affected Local Entities</p>	<p>States shall provide for consultation and participation in SIP development by local political subdivisions affected by the SIP</p>	<p>5 MRS Chapter 375, Subchapter 2 establishes rulemaking requirements for state agencies, including public notification procedures.</p> <p>38 MRS § 597 Municipal air pollution control.</p> <p>38 MRS § 597 states:</p> <p><i>Nothing in this chapter shall be construed as a preemption of the field of air pollution study and control on the part of the State. Municipalities may study air pollution and adopt and enforce air pollution control</i></p>								

		<p><i>and abatement ordinances, to the extent that these ordinances are not less stringent than this chapter or than any standard, order or other action promulgated pursuant to this chapter. Local ordinance provisions which touch on matters not dealt with by this chapter or which are more stringent than this chapter shall bind persons residing in the municipality.</i></p> <p>Chapter 9 of Maine's initial SIP, which was approved on October 28, 1972, contains intergovernmental cooperation provisions.</p>
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