

Vermont Department of Environmental Conservation

Air Quality & Climate Division

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Agency of Natural Resources

November 2, 2015

David Conroy

EPA - New England, Region I

5 Post Office Square, Suite 100

Boston, MA 02109-3912

Re: Certification of Vermont State Implementation Plan adequacy regarding CAA Sections 110(a)(1) and 110(a)(2) for the 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide National Ambient Air Quality Standards

Dear Mr. Conroy:

Enclosed please find documentation outlining the adequacy of Vermont's State Implementation Plan (SIP) in meeting the program infrastructure requirements of sections 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA) for the 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide National Ambient Air Quality Standards (NAAQS).

The US Environmental Protection Agency (EPA) promulgated new NAAQS for ozone, nitrogen dioxide, and sulfur dioxide on March 12, 2008, January 22, 2010, and June 2, 2010 respectively. Ozone primary and secondary NAAQS were revised to 0.075 parts per million (ppm). The new NAAQS for nitrogen dioxide revised the 1-hour primary standard to 100 ppb, and retained the annual NAAQS of 53 ppb. The new rule for sulfur dioxide added a 1-hour primary standard at 75 parts per billion (ppb), and revoked both the existing 24-hour and annual primary sulfur dioxide standards.

Under Sections 110(a)(1) and 110(a)(2) of the CAA, all states are required to submit plans (i.e., SIPs) to provide for the implementation, maintenance and enforcement of the NAAQS and to address basic SIP requirements, including emissions inventories, monitoring and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of sections 110(a)(1) and 110(a)(2) are to be submitted by states within 3 years after promulgation of a new or revised standard.

The enclosed documents demonstrate that Vermont statutory authority and Vermont Air Pollution Control Regulations (VT APCR), which are currently part of the Vermont SIP, meet the requirements of CAA Sections 110(a)(1) and 110(a)(2) with respect to the 2008 ozone, 2010 nitrogen dioxide, and 2010 sulfur dioxide NAAQS.

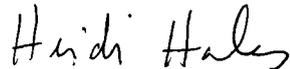
In support of this submittal, please find enclosed the following documents:

1. Public Notice;

2. Certification pursuant to 40 CFR §51.102;
3. List of witnesses, comments received, and responses to comments;
4. SIP technical support document;
5. Vermont Statutes and Executive Authority to be included in the SIP;
6. Demonstration that Vermont does not contribute significantly to non-attainment or maintenance of the 2008 ozone NAAQS in any other state.

If you have any questions, please contact Rich Poirot of my staff at (802) 272-3664.

Very truly yours,



Heidi Hales
Director, Air Quality and Climate Division

cc. Anne Arnold, EPA Region I, via email
Rich Poirot, VT Air Quality and Climate Division, via email

CERTIFICATION OF VERMONT STATE IMPLEMENTATION PLAN (SIP)
ADEQUACY REGARDING CLEAN AIR ACT SECTIONS 110(a)(1) AND (2)

State of Vermont
Department of Environmental Conservation
Air Quality and Climate Division

November 2, 2015



ENCLOSURE 1

**OZONE, NITROGEN DIOXIDE, AND SULFUR DIOXIDE NATIONAL AMBIENT
AIR QUALITY STANDARDS INFRASTRUCTURE ELEMENTS:
PUBLIC NOTICE OF INTENT TO REVISE THE STATE IMPLEMENTATION
PLAN FOR AIR QUALITY**

State of Vermont, Agency of Natural Resources
Notice of Intent to Revise the Infrastructure State Implementation Plan Elements for
Air Quality

Notice is hereby given that the Vermont Air Quality and Climate Division (AQCD) is providing the opportunity for interested persons to request a public hearing and provide comment on proposed revisions to the Vermont Infrastructure State Implementation Plan (SIP) elements that will be submitted to the US Environmental Protection Agency (EPA).

The Vermont AQCD is proposing revisions to the Vermont Infrastructure SIP elements to address federal requirements of the Clean Air Act (CAA) Sections 110(a)(1) and 110(a)(2) with respect to the National Ambient Air Quality Standards (NAAQS) for ozone, nitrogen dioxide, and sulfur dioxide. Under Sections 110(a)(1) and (2) of the CAA, Vermont is required to submit plans (i.e., SIPs) to provide for the implementation, maintenance and enforcement of the primary NAAQS and to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of Sections 110(a)(1) and (2) are to be submitted by states within 3 years after promulgation of new or revised standards. The standards for ozone, nitrogen dioxide, and sulfur dioxide were revised on March 12, 2008, January 22, 2010, and June 2, 2010, respectively. The proposed infrastructure SIP element revisions are available on the AQCD's website at <http://www.anr.state.vt.us/air/Planning/htm/StateImplementationPlan.htm> and at the AQCD offices located in the Davis Building, Second Floor, 1 National Life Drive, Montpelier, VT 05620. You may also request a copy of the proposed infrastructure SIP element revisions using the contact information listed below.

If the Division receives a request for a hearing, the hearing will be held on September 3, 2014 at 6:00pm in the Auditorium in the Pavilion Building located at 109 State Street in Montpelier, Vermont.

Those requesting a hearing must call (802) 828-1288. The deadline to submit a request for a hearing is August 29, 2014 by 5:00pm EST. If no request for a hearing is received prior to this date, the hearing will be cancelled. If the meeting is cancelled, a Notice of Cancellation of the hearing will be posted on September 2, 2014 on the AQCD's website at <http://www.anr.state.vt.us/air/Planning/htm/StateImplementationPlan.htm>. Interested persons may also call (802) 828-1288 to determine if the public hearing has been cancelled.

If requested, a hearing will be held to receive comments from interested persons regarding the proposed revisions. Attendance at the hearing is not necessary to submit written comments on the proposed SIP revisions. Written comments on the proposed SIP revisions must be received by the AQCD by 5:00pm EST on September 12, 2014.

All written comments must be mailed, faxed, or emailed to:

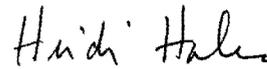
Corie Dunn
Air Quality and Climate Division
Davis Building – 2nd Floor
1 National Life Drive
Montpelier, Vermont 05620
FAX: (802) 828-1250
Email: corie.dunn@state.vt.us

ENCLOSURE 2

**CERTIFICATION PURSUANT TO 40 CFR § 51.102 AND APPENDIX V OF
40 CFR PART 51**

**CERTIFICATION PURSUANT TO 40 CFR § 51.102 & APP. V OF 40 CFR PART 51
REGARDING REVISIONS TO VERMONT'S STATE IMPLEMENTATION PLAN (SIP)**

As required by 40 CFR § 51.102(f), I hereby certify that the requirements of 40 CFR §51.102(a)-(d) were met and that the public notice and hearing procedure followed was consistent with the information provided in the public notice and the State's laws and constitution, as applicable. Public notice of the proposed revisions to Vermont's State Implementation Plan (SIP) was posted online on August 4, 2014 on the AQCD website (http://www.anr.state.vt.us/air/Planning/docs/VTANR_ISIP_Public%20Notice_Aug42014.pdf) and published on August 4, 2014 in the Secretary of State's newspapers of record. The public was provided with the opportunity to comment until September 12, 2014. The public notice included an offer for public hearing (if requested) on September 3, 2014 at 6:00pm in the Auditorium in the Pavilion Office Building located at 109 State Street in Montpelier, Vermont. No requests for public hearing were received prior to that date, and a notice of cancellation was posted on the AQCD website (http://www.anr.state.vt.us/air/Planning/docs/VTANR_ISIP_Public%20Notice_CANCELLATION_27August2014.pdf).



Heidi Hales
Certifying Officer

ENCLOSURE 3

**LIST OF WITNESSES, COMMENTS RECEIVED, AND VERMONT'S RESPONSE
TO COMMENTS**

RESPONSIVENESS SUMMARY

The comments below apply to Vermont's proposed Infrastructure State Implementation Plan (SIP) for the 2008 Ozone, 2010 Nitrogen Dioxide, and 2010 Sulfur Dioxide standards. On August 7, 2014 Vermont submitted a draft of its proposed Ozone, Nitrogen Dioxide, and Sulfur Dioxide Infrastructure SIP revisions for public comment and to the U.S. Environmental Protection Agency (EPA) for review.

Vermont received comments from the EPA on September 11, 2014, and did not receive any other comments. Based on the comments received, Vermont has made revisions which are incorporated into the October 2015 version of the Vermont Infrastructure SIPs for Ozone, Nitrogen Dioxide, and Sulfur Dioxide.

EPA Comment:

In order to meet several elements, Vermont relies on several statutes that have not been incorporated into Vermont's SIP. In accordance with EPA's "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," dated September 13, 2013 (Guidance), EPA generally recommends the state include, for incorporation by reference, the statute(s) the State is relying on for meeting the I-SIP requirements. However, under many I-SIP elements, the Guidance does alternatively allow the state to reference its statutory authority instead of requesting a specific statute be incorporated into the SIP. If Vermont chooses to rely on a reference to a statute instead of incorporation into the SIP, the state should include a copy of the statutory language with its SIP submittal along with a narrative on how that statutory language meets the requirements of a particular I-SIP element or elements. Based on our understanding of the EPA Guidance in relation to Vermont's proposed I-SIPs, Vermont should submit to EPA for incorporation into the SIP, its statute 10 V.S.A. 554 referenced in several elements, as well as its Executive Order 09-11, Executive Code of Ethics, referenced in Element E, sub element (ii). When including statutory language in its SIP submittals, Vermont should clearly note which statutory language the state wants to be incorporated into the SIP and which statutory language the state is including as a simple reference for satisfying the I-SIP element.

Vermont Response:

Vermont has included statutory language of 10 V.S.A. 554 and a reference to Vermont Executive Order 09-11 (2011) for incorporation into the SIP. The full text of the statutory language and Executive Order are in Enclosure 5.

EPA Comment:

For the Prevention of Significant Deterioration (PSD) portions of elements C, D(i)(II), J (sub element 3), and K, the state must have an approved PSD program. On July 25, 2014, Vermont DEC submitted revisions to its SIP, addressing PM_{2.5} pollutants and other changes within the context of PSD permitting. At this time, EPA has not completed its assessment of the July 25, 2014 SIP submittal. However, our limited review, to date, has determined two inconsistencies that may prevent full approval of Vermont's PSD program. First, it appears that Vermont may not have adequately addressed the requirement that NO_x and VOC are

precursor pollutants to ozone. Second, the state's definition of federal land manager may be too restrictive to meet PSD requirements. Under EPA's regulations, a state must notify any federal land manager having authority over all federal land. Vermont's PSD rules limit notifications to the federal land manager to only projects impacting Class I areas. For example, notification to the Federal land manager responsible for the Green Mountain National Forest is required under this sub element but not under state regulations. EPA will need to fully approve Vermont's PSD program in order to be able to fully approve Vermont's I-SIP submittals.

Vermont Response:

Vermont is in the process of amending its Air Pollution Control Regulations (APCR) and its SIP to include NO_x and VOC as precursor pollutants to ozone for the purposes of defining what constitutes a “significant” increase in actual emissions from a source of air contaminants. Vermont is also amending its regulations and SIP to broaden the definition of federal land manager to include any federal land manager having authority over federal land, regardless of its classification. Vermont expects to send these proposed changes to EPA for review in the spring of 2016. Vermont anticipates that EPA will be able to conditionally approve these Infrastructure SIPs based on Vermont’s intent to promulgate these regulations and amend the SIP as soon as practicable.

EPA Comment:

Element D: EPA suggests that element D be broken into parts and revised to read as follows:

<p>110(a)(2)(D)(i)(I) Interstate transport provisions</p>	<p>Include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.</p>	<p>SEE NOTE BELOW</p>
<p>110(a)(2)(D)(i)(II) Interstate transport provisions - PSD and visibility</p>	<p>Include 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>10 V.S.A §556 and VT APCR §5-501 Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont' s more expansive definition of major stationary</p>

		source. Please see section 110(a)(2)(J) of this document for Vermont's PSD measures. Vermont's Regional Haze SIP demonstrates that Vermont sources do not significantly impact visibility in any downwind Class I area. (77 FR 30212 May 22, 2012).
110(a)(2)(D)(ii) Interstate and international transport provisions	Provide adequate provisions to prevent endangerment of public health due to interstate and international transport of pollutants.	Vermont has no pending obligations under section 115 or 126(b) of the Act.

For 110(a)(2)(D)(i)(I), EPA recommends that Vermont contact EPA to discuss how the state might address this provision for each pollutant.

Vermont Response:

Vermont separated sub-elements of 110(a)(2)(D) as suggested and has coordinated with EPA to discuss Vermont's consideration of 110(a)(2)(D)(i)(I) for each pollutant. Vermont added language to demonstrate for SO₂, NO₂, and ozone that the state does not contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other state.

EPA Comment:

Element E, sub-element (i) and element F, sub-element (ii): When EPA approved Vermont's original SIP in 1972, the Agency found that Vermont did not have adequate legal authority to meet 40 CFR 51.230(f). EPA codified this finding at 40 CFR 52.2373. At this time, EPA also found Vermont's plan did not provide for public availability of emission data required by 40 CFR 51.116(c). EPA codified this finding at 40 CFR.52.2374. Both of these issues involved EPA finding in 1972 that 10 V.S.A. section 563 could be read to allow facilities to claim emission data information to be confidential business information. Vermont should request their Attorney General to review 10 V.S.A. section 563 and determine if the state statutory language is consistent with the requirements of § 114(c) of the Clean Air Act and 40 CFR 51.230 that emissions data be available to the public and not considered to be confidential business information. Please include the Attorney General's opinion with Vermont's I-SIP submittals.

We note that EPA is not aware of Vermont limiting public access to any emissions information and the state has not omitted emissions data required to be reported to EPA under 40 CFR 51.15. In fact, EPA approved state regulation "Registration of Air Contaminant Sources," Sections 5-801 through 5-806 to meet the requirement for an emission statement program. However, 10 V.S.A. §563 continues to raise questions concerning its effect on the public availability of emission data, prompting our request for the Attorney General's opinion on the issue.

Vermont Response:

Vermont is in the process of amending 10 V.S.A. §563 to prevent the withholding of any emissions data and emissions monitoring data from the public. All other data that is submitted to the Agency, except for emissions and emissions monitoring data, will be treated as exempt from public disclosure if it qualifies as a trade secret pursuant to 1 V.S.A. §317(c)(9). The amendment, Section 3 of H.248¹, was passed by the Vermont House of Representatives during the first year of the 2015-2016 session of the Vermont General Assembly. H.248 is expected to gain approval from the Vermont Senate and be signed into law in 2016. The revised language for 10 V.S.A. §563 is quoted below.

“The Secretary shall not withhold emissions data and emission monitoring data from public inspection or review. The Secretary shall keep confidential any record or other information furnished to or obtained by the Secretary concerning an air contaminant source, other than emissions data and emission monitoring data, that qualifies as a trade secret pursuant to 1 V.S.A. §317(c)(9).”

EPA Comment:

Element F: EPA's Guidance notes that a state should certify the absence of any provision in the SIP preventing the use of credible evidence. Vermont should include such a certification when submitting its I-SIP submittals. See 40 CFR 51.212.

Vermont Response:

Vermont has included under element F, a certification of the absence of any provision in the SIP that would prevent the use of credible evidence, as quoted below.

“Nothing in Vermont’s State Implementation Plan precludes the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements, if the appropriate performance or compliance test or procedure had been performed.”

EPA Comment:

Element G: This element requires states to have adequate contingency plans for high pollutant concentrations in the ambient air. When determining if a contingency plan is required, a state must first classify areas within its boundaries based on the pollutant concentrations. Areas are classified as priority I, IA, II, or III, with priority I, IA, and II areas requiring a contingency plan. A contingency plan is not required for priority III areas. See 40 CFR 51.150 and 51.152. The classifications of areas in Vermont were last amended in 1980. See 40 CFR 52.2371. Vermont is classified as a priority III for O₃ and NO₂ and the Champlain Valley Interstate and Vermont Intrastate are both classified as priority II for sulfur dioxide.

In reviewing the data from EPA's Air Quality System (AQS), the measured SO₂ concentrations in Vermont have been below the levels for a Priority II area for more than

¹ H.248, an act relating to miscellaneous revisions to the air pollution statutes, As Passed by the House; <http://legislature.vermont.gov/assets/Documents/2016/Docs/BILLS/H-0248/H-0248%20As%20Passed%20by%20the%20House%20Official.pdf>

10 years. EPA plans on working with Vermont to update the area classifications prior to, or at the same time as, EPA takes action on Vermont's SO₂ I-SIP submittal. Reclassifying the area to priority III would remove the requirement to have a contingency plan.

Vermont Response:

Vermont acknowledges that measured SO₂ concentrations in the state have been below the levels for a Priority II area for more than 10 years. A recent review of Vermont monitoring data from 1980 through the present (11/1/2015) indicates that there have been no measurements exceeding the SO₂ "Priority II Region" minimum thresholds (0.02 ppm annual mean; 0.10 ppm 24-hour maximum; 0.50 ppm 3-hour maximum) anywhere in Vermont in any of the past 35 years. Vermont is working with EPA to reclassify the Champlain Valley Interstate and Vermont Intrastate to Priority III regions to remove the requirement to have a contingency plan. Vermont anticipates that EPA will be able to conditionally approve these Infrastructure SIPs based on these monitoring data and on Vermont's intent to reclassify these regions as soon as practicable.

EPA Comment:

Element J: Vermont's proposed I-SIP narrative incorrectly references Vermont's section 5-502(4)(e) as applying to sources within 100 km of a Class I area. It states:

"Section 5-502(4)(e) additionally requires that any proposed source within 100 kilometers of a Class I area (or further at the Secretary's discretion) demonstrate that it will not adversely impact visibility or any other "Air Quality Related Value" in any such Class I area."

Section 5-502(4)(e), submitted to EPA for approval on July 25, 2014, has no 100 km limitation.

In addition, for Element J-PSD and Visibility, we suggest you reference your approved Regional Haze SIP (77 FR 30212; May 22, 2012) and add the following statement: "EPA has interpreted the CAA Section 110(a)(2)(J) provision on visibility as not being "triggered" because the visibility requirements in Part C are not changed by a new NAAQS."

Vermont Response:

Vermont has corrected the language in Element J to be consistent with VT APCR Section 5-502(4)(e) as approved by EPA so that there is no 100 km limitation. For Element J—PSD and Visibility, Vermont referenced the approved Regional Haze SIP and included the suggested statement above.

EPA Comment:

Element L: EPA Guidance allows states that use title V fees to cover the cost of "all CAA permitting, implementation, and enforcement for new or modified major sources" to reference EPA's approval of their title V permit program for satisfying this element. EPA understands that Vermont's title V permit fees meet these costs. If that is true, Vermont should reference their approved title V permit program for meeting Element L of the I-SIP.

Vermont Response:

The costs of all CAA permitting, implementation, and enforcement for new or modified sources are covered by Title V fees. To meet the requirements of Element L, Vermont has referenced its approved Title V permit program contained in APCR Subchapter X: Operating Permits (66 FR 59535).

ENCLOSURE 4

SIP TECHNICAL SUPPORT DOCUMENT

Vermont's Compliance with CAA

Section 110(a)(1) and (2) SIP requirements for the 2008 Ozone NAAQS

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
<p>110(a)(2)(A) Emission limits and other control measures</p>	<p>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.</p>	<p>10 V.S.A. §554 authorizes the Secretary of the Agency of Natural Resources to “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23.</p> <p>10 V.S.A. §556 requires permits for the construction or modification of air contaminant sources.</p> <p>10 V.S.A. §558 authorizes the Secretary “to establish emission control requirements . . . necessary to prevent, abate, or control air pollution.”</p> <p>10 V.S.A. § 579 Vehicle emissions labeling program for new motor vehicles (for model year 2010 and later vehicles)</p> <p>The sections of the Vermont Air Pollution Control Regulations (VT APCR) that specify or are used to establish emission limits related to the control of ozone and ozone precursors (nitrogen oxides and volatile organic compounds) include:</p> <p>§5-201 Open Burning Prohibited §5-241 Prohibition of Nuisance and Odor §5-251 Control of Nitrogen Oxides Emissions §5-253.1 Petroleum Liquid Storage in Fixed Roof Tanks §5-253.2 Bulk Gasoline Terminals §5-253.3 Bulk Gasoline Plants §5-253.4 Gasoline Tank Trucks §5-253.5 Stage I Vapor Recover Controls at Gasoline Dispensing Facilities §5-253.10 Paper Coating §5-253.12 Coating of Flat Wood Paneling §5-253.13 Coating of Miscellaneous Metal Parts</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p> §5-253.14 Solvent Metal Cleaning §5-253.15 Cutback and Emulsified Asphalt §5-253.16 Wood Furniture Manufacturing §5-253.20 Other Sources that Emit Volatile Organic Compounds §5-261 Control of Hazardous Air Contaminants §5-308 Ozone §5-309 Nitrogen Dioxide §5-501 Review of Construction or Modification of Air Contaminant Sources §5-502 Major Stationary Sources and Major Modifications §5-701 Maintenance and Removal of Control Devices §5-702 Excessive Smoke Emissions from Motor Vehicles Subchapter IV. Operations and Procedures Subchapter VIII. (§5-801 - §5-806) Registration of Air Contaminant Sources </p>
110(a)(2)(B) Ambient air quality monitoring/ data system	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.	<p> 10 V.S.A. §554 authorizes the Secretary to “conduct studies, investigations and research relating to air contamination and air pollution” and “[d]etermine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.” </p> <p> The most recent (2014) annual air monitoring network plan is available on the AQCD website.² Data collected by network monitors are required to be reviewed, validated, and sent to the EPA air quality system no later than 90 days after the end of a calendar quarter. </p>
110(a)(2)(C) Program for enforcement, PSD and NSR	Include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and	<p> 10 V.S.A. §557 authorizes inspections of air contaminant sources. </p> <p> 10 V.S.A. §568 establishes penalties for violating air pollution control laws and regulations or making false statements. </p> <p> 10 V.S.A Chapter 201 “Administrative Environmental Law Enforcement” and </p>

² <http://www.anr.state.vt.us/air/Monitoring/docs/Vermont%202014%20Air%20Monitoring%20Network%20Plan%20070214.pdf>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
	<p>construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.</p>	<p>10 V.S.A Chapter 211 “Civil Enforcement” provides the Secretary with the authority to enforce, including the authority to assess civil and criminal penalties, Vermont’s air pollution control laws and regulations.</p> <p>10 V.S.A §556, VT APCR §5-501, Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont’s more expansive definition of major stationary source. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants...” Subchapter V also includes Vermont’s PSD³ program that applies to sources that emit greenhouse gases (GHG) in accordance with EPA’s Tailoring Rule.</p> <p>VT APCR §5-261, Control of Hazardous Air Contaminants provides for the control of “emissions of any hazardous air contaminant [as defined in the VT APCR], except in conformity with the provisions of this section.” Several VOCs and nitric oxide are listed in the VT APCR as hazardous air contaminants.</p> <p>VT APCR §5-501(7) provides for public notification as well as notification of officials and agencies of states or areas that may be affected by the construction or modification being permitted in Vermont.</p> <p>Please see section 110(a)(2)(j) of this document for Vermont’s PSD measures.</p>

³ Vermont submitted changes to its SIP on July 25, 2014. Some of these changes are within the context of PSD permitting authority and have not yet received approval from EPA. Vermont is also in the process of amending the Vermont Air Pollution Control Regulations to make further changes to the regulations in the context of PSD permitting authority and expects to submit those proposed to changes to EPA for comment in early 2016.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(D)(i)(I) Interstate transport provisions	Include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.	No source or sources within Vermont have been identified as contributing significantly to non-attainment or maintenance of the 2008 ozone NAAQS in any other state or are the subject of an active finding under section 126 of the CAA with respect to O ₃ or any other air pollutant. Additional modeling analyses demonstrating that Vermont does not contribute significantly to non-attainment or maintenance of the 2008 ozone NAAQS in any other state is provided in Enclosure 6.
110(a)(2)(D)(i)(II) Interstate transport provisions – PSD and visibility	Include provisions (i) prohibiting any source or other type of emissions activity within the state from contributing significantly to nonattainment, or interfering with PSD measures or measures to protect visibility in another state.	<p>10 V.S.A §556 and VT APCR §5-501 Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont’s more expansive definition of major stationary source.</p> <p>Please see section 110(a)(2)(J) of this document for Vermont’s PSD measures.</p> <p>Vermont’s Regional Haze SIP demonstrates that Vermont sources do not significantly impact visibility in any downwind Class I area.</p>
110(a)(2)(D)(ii) Interstate and international transport provisions	Provide adequate provisions to prevent endangerment or public health due to interstate and international transport of pollutants.	Vermont has no pending obligations under section 115 or section 126(b) of the Clean Air Act.
110(a)(2)(E) Adequate personnel, funding and authority	Provide for adequate personnel, funding and legal authority under state law to carry out the SIP, and demonstrate adherence to	<p>3 V.S.A. §2822 provides the Secretary with the authority to assess air permit and registration fees.</p> <p>10 V.S.A. §553 designates the Agency of Natural Resources as the air pollution control agency of the state.</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
	<p>conflict of interest requirements.</p>	<p>10 V.S.A §554 provides the Secretary with the power to “[a]ppoint and employ personnel and consultants as may be necessary for the administration of this chapter” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23 and “[a]ccept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purposes of carrying out any of the functions of this chapter.”</p> <p>In addition to Federal funding, and permit and registration fees, the VT APCD receives state funding to implement its air programs.</p> <p>The Vermont Agency of Natural Resources, Department of Environmental Conservation is the sole authority implementing the SIP and does not rely on local or regional governments, agencies, or external permit review or enforcement boards or bodies to carry out this responsibility.</p> <p>Vermont Executive Order 09-11 (2011) (Executive Code of Ethics) contains strict ethical rules prohibiting all VT executive branch employees (including the ANR Secretary) from taking “any action in any particular matter in which he or she has either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved.”</p>
<p>110(a)(2)(F) Stationary source monitoring and reporting</p>	<p>Require the installation, maintenance, and replacement of equipment to monitor emissions from stationary sources and to submit periodic emissions reports and correlate such reports with any emission limitations or standards,</p>	<p>VT APCR §5-402, Written Reports When Requested, authorizes the Air Pollution Control Officer to request written reports on the nature and amount of emissions and other emissions-related data.</p> <p>VT APCR §5-404, Methods for Sampling and Testing of Sources, authorizes the Air Pollution Control Officer to require stack testing when there is reason to believe that emission limits are being violated by an air contaminant source.</p> <p>VT APCR §5-405, Required Air Monitoring, authorizes the Air Pollution Control</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
	<p>which shall be available at reasonable times for public inspection.</p>	<p>Officer to require any air contaminant source “to install, use and maintain such monitoring equipment and records, establish and maintain such records, and make such periodic emission reports as the Officer shall prescribe.”</p> <p>VT APCR §5-802, Requirement for Registration, requires that “[e]ach operator of a source which emits more than five tons of any and all air contaminants per year shall register the source with the Secretary, and shall renew such registration annually.”</p> <p>1 V.S.A. §315-320 provides for the free and open examination of public records, including emissions reports.⁴</p> <p>Nothing in Vermont’s State Implementation Plan precludes the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements, if the appropriate performance or compliance test or procedure had been performed.</p>
<p>110(a)(2)(G) Emergency episodes</p>	<p>Provide for authority to address activities causing imminent and substantial endangerment of public health, including contingency plans to implement the emergency episode provisions of the SIP.⁵</p>	<p>10 V.S.A. §560 authorizes actions to order the immediate discontinuation of air emissions causing imminent danger to human health or safety.</p> <p>10 V.S.A. §8009 authorizes the issuance of an emergency administrative order when a violation presents or an activity will or is likely to result in an immediate threat to the public health.</p>

⁴ Vermont is currently pursuing amendments to 10 V.S.A. §563, which allows owners and operators of air contaminant sources to certify information furnished to the Agency as confidential business information. [Amendments to §563](#) will require the Agency to make public all emissions and emissions monitoring data submitted to the Agency by owners and operators of air contaminant sources. The Agency expects these changes to be signed into law in 2016.

⁵ All areas in Vermont as classified as Priority III for O₃ pursuant to 40 CFR §51.2371, and therefore does not need to submit a contingency plan to implement Vermont’s emergency episode authority.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(H) Future SIP revisions	Provide for SIP revisions 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.	10 V.S.A §554 provides the Secretary with the power to “[p]repare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23.
110(a)(2)(I) Nonattainment area plan or plan revision Under Part D	Each 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).	According to EPA guidance, states are not expected to address element 110(a)(2)(I) in the context of an infrastructure SIP submission.
110(a)(2)(J) Consultation with government officials	Provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relating to consultation.	10 V.S.A §554 specifies that the Secretary shall have the power to “[a]dvice, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.” See also VT ANR notification requirements under 110(a)(2)(D).

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
<p>110(a)(2)(J) Public notification</p>	<p>Requires states to notify the public if NAAQS are exceeded in an area and enhance public awareness of measures that can be taken to prevent exceedances.</p>	<p>10 V.S.A §554 authorizes the Secretary to “[c]ollect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.”</p> <p>VT DEC Air Quality and Climate Division website reports daily air quality forecasts for ozone, and also reports near real-time and historical ozone measurement data. Air quality forecasts are also distributed daily via email to interested parties and are also submitted to and distributed through EPA’s AIRNOW website and EnviroFlash notification systems. When forecast or measured ozone concentrations exceed the level of the 2008 ozone NAAQS, air quality alerts are sent by email to a large number of affected parties, including the media and the National Weather Service. Alerts include information about the health implications of elevated pollutant levels and list actions to reduce emissions and exposures.</p> <p>Air Quality Data Summaries summarizing the year’s air quality monitoring results are issued annually and posted on the VT DEC Air Quality and Climate Division website.</p>
<p>110(a)(2)(J) PSD and visibility protection</p>	<p>Meet the applicable requirements of part C relating to prevention of significant deterioration of air quality and visibility protection.</p>	<p>VT APCR §5-501, Review Of Construction or Modification of Air Contaminant Sources and §5-502, Major Stationary Sources and Major Modifications, specifies requirements for PSD and visibility protection. Sections 5-501 and 5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting of major stationary sources. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants...”⁶ Section 5-502(4)(e) additionally requires that any proposed source demonstrate that it will</p>

⁶ The Vermont AQCD commits to pursue adoption of appropriate regulatory revisions and updates to its program infrastructure as it relates to ozone within a reasonable period of time after the EPA issues a final document establishing the required PSD program parameters.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p>not adversely impact visibility or any other “Air Quality Related Value” in any Class I Federal area.</p> <p>EPA has fully approved Vermont’s Regional Haze SIP (77 FR 30212; May 22, 2012). EPA has interpreted the CAA Section 110(a)(2)(J) provision on visibility as not being “triggered” because visibility requirements in Part C are not changed by new NAAQS.</p>
<p>110(a)(2)(K) Air quality modeling/data</p>	<p>Provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.</p>	<p>VT APCR §5-406, Required Air Modeling, specifies that “[t]he <i>Air Pollution Control Officer</i> may require the owner or operator of any proposed <i>air contaminant</i> source . . . to demonstrate that operation of the proposed source . . . will not directly or indirectly result in a violation of any <i>ambient air quality standard</i>, interfere with the attainment of any <i>ambient air quality standard</i>, or violate any applicable prevention of significant deterioration increment . . .”</p> <p>VTAPCR §5-502, Major Stationary Sources and Major Modifications, requires the submittal of an air quality impact evaluation or air quality modeling to demonstrate impacts of new and modified major sources.</p> <p>Vermont continues to be a partner in regional modeling efforts conducted by members of the Ozone Transport Commission.</p>
<p>110(a)(2)(L) Permitting fees</p>	<p>Require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.</p>	<p>10 V.S.A §556 provides for the assessment of application fees from air emissions sources for permits . . . for the construction or modification of air contaminant sources.</p> <p>3 V.S.A §2822(j) sets forth the permit fees for air emissions sources.</p> <p>VT APCR Subchapter X: Operating Permits sets forth Vermont’s approved Title V permit program. (66 FR 59535)</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(M) Consultation/ participation by affected local entities	Provide for consultation and participation in SIP development by local political subdivisions affected by the SIP	<p>10 V.S.A §554 authorizes the Secretary to “[a]dvice, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.”</p> <p>See also VT ANR notification requirements under 110(a)(2)(D).</p>

Vermont's Compliance with CAA

Section 110(a)(1) and (2) SIP Requirements for the 2010 Nitrogen Dioxide NAAQS

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
<p>110(a)(2)(A) Emission limits and other control measures</p>	<p>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.</p>	<p>10 V.S.A. §554 authorizes the Secretary of the Agency of Natural Resources to “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23.</p> <p>10 V.S.A. §556 requires permits for the construction or modification of air contaminant sources.</p> <p>10 V.S.A. §558 authorizes the Secretary “to establish emission control requirements . . . necessary to prevent, abate, or control air pollution.”</p> <p>10 V.S.A. § 579 Vehicle emissions labeling program for new motor vehicles (for model year 2010 and later vehicles)</p> <p>The sections of the Vermont Air Pollution Control Regulations (VT APCR) that specify or are used to establish emission limits related to the control of nitrogen dioxide include:</p> <p>§5-201 Open Burning Prohibited §5-241 Prohibition of Nuisance and Odor §5-251 Control of Nitrogen Oxides Emissions §5-261 Control of Hazardous Air Contaminants §5-309 Nitrogen Dioxide §5-501 Review of Construction or Modification of Air Contaminant Sources §5-502 Major Stationary Sources and Major Modifications §5-701 Maintenance and Removal of Control Devices §5-702 Excessive Smoke Emissions from Motor Vehicles Subchapter IV. Operations and Procedures Subchapter VIII. (§5-801 - §5-806) Registration of Air Contaminant Sources</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(B) Ambient air quality monitoring/ data system	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.	<p>10 V.S.A. §554 authorizes the Secretary to “conduct studies, investigations and research relating to air contamination and air pollution” and “[d]etermine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.”</p> <p>The most recent (2014) annual air monitoring network plan is available on the AQCD website.⁷ Data collected by network monitors are required to be reviewed, validated, and sent to the EPA air quality system no later than 90 days after the end of a calendar quarter.</p>
110(a)(2)(C) Program for enforcement, PSD and NSR	Include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.	<p>10 V.S.A. §557 authorizes inspections of air contaminant sources.</p> <p>10 V.S.A. §568 establishes penalties for violating air pollution control laws and regulations or making false statements.</p> <p>10 V.S.A Chapter 201 “Administrative Environmental Law Enforcement” and 10 V.S.A Chapter 211 “Civil Enforcement” provides the Secretary with the authority to enforce, including the authority to assess civil and criminal penalties, Vermont’s air pollution control laws and regulations.</p> <p>10 V.S.A §556, VT APCR §5-501, Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont’s more expansive definition of major stationary source. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient</p>

⁷ <http://www.anr.state.vt.us/air/Monitoring/docs/Vermont%202014%20Air%20Monitoring%20Network%20Plan%20070214.pdf>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p>concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants..."⁸</p> <p>Subchapter V also includes Vermont's PSD⁹ program that applies to sources that emit greenhouse gases (GHG) in accordance with EPA's Tailoring Rule.</p>
<p>110(a)(2)(D)(i)(I) Interstate transport provisions</p>	<p>Include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.</p>	<p>On January 20, 2012 EPA designated all areas of the country as "unclassifiable/attainment" for the 2010 NO₂ NAAQS, as the available air quality data showed that all monitored areas in the country met the 2010 NO₂ NAAQS for 2008-2010, and no state or tribe had recommended an area be designated "nonattainment". More recent measurements from 2012-2014 indicate continued attainment of the 2010 NO₂ NAAQS at all sites in the country. Vermont NO_x emissions are among the lowest of any state and have been declining for the past several decades, with total statewide NO_x emissions as reported in the NEI inventory dropping from 30,229 tons in 2002 to 19,352 tons in 2011.</p>
<p>110(a)(2)(D)(i)(II) Interstate transport provisions – PSD and visibility</p>	<p>Include provisions (i) prohibiting any source or other type of emissions activity within the state from contributing significantly to nonattainment, or interfering with PSD measures or measures to protect visibility in another state.</p>	<p>10 V.S.A §556, VT APCR §5-501 Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont's more expansive definition of major stationary source.</p> <p>Please see section 110(a)(2)(J) of this document for Vermont's PSD measures.</p> <p>Vermont's Regional Haze SIP demonstrates that Vermont sources do not significantly impact visibility in any downwind Class I area. (77 FR 30212 May 22, 2012).</p>

⁸ The Vermont AQCD commits to pursue adoption of appropriate regulatory revisions and updates to its program infrastructure as it relates to nitrogen dioxide within a reasonable period of time after the EPA issues a final document establishing the required PSD program parameters. In the interim the Vermont AQCD will continue to apply the suggested significant impact levels and other PSD requirements described in EPA's June 29, 2010 Guidance Concerning the Implementation of the 1-hour NO₂ NAAQS for the Prevention of Significant Deterioration Program.

⁹ Vermont submitted changes to its SIP on July 25, 2014. Some of these changes are within the context of PSD permitting authority and have not yet received approval from EPA. Vermont is also in the process of amending the Vermont Air Pollution Control Regulations to make further changes to the regulations in the context of PSD permitting authority and expects to submit those proposed to changes to EPA for comment in early 2016.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(D)(ii) Interstate and International Transport provisions	Provide adequate provisions to prevent endangerment of public health due to interstate and international transport of pollutants	Vermont has no pending obligations under section 115 or section 126(b) of the Clean Air Act.
110(a)(2)(E) Adequate personnel, funding and authority	Provide for adequate personnel, funding and legal authority under state law to carry out the SIP, and demonstrate adherence to conflict of interest requirements.	<p>3 V.S.A. §2822 provides the Secretary with the authority to assess air permit and registration fees.</p> <p>10 V.S.A. §553 designates the Agency of Natural Resources as the air pollution control agency of the state.</p> <p>10 V.S.A §554 provides the secretary with the power to “[a]ppoint and employ personnel and consultants as may be necessary for the administration of this chapter” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23 and “[a]ccept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purposes of carrying out any of the functions of this chapter.”</p> <p>In addition to Federal funding, and permit and registration fees, the VT APCD receives state funding to implement its air programs.</p> <p>The Vermont Agency of Natural Resources, Department of Environmental Conservation is the sole authority implementing the SIP and does not rely on local or regional governments, agencies, or any external permit review or enforcement boards or bodies to carry out this responsibility.</p> <p>Vermont Executive Order 09-11 (2011) (Executive Code of Ethics) contains strict ethical rules prohibiting all VT executive branch employees (including the ANR Secretary) from taking “any action in any particular matter in which he or she has either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved.”</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
<p>110(a)(2)(F) Stationary source monitoring and reporting</p>	<p>Require the installation, maintenance, and replacement of equipment to monitor emissions from stationary sources and to submit periodic emissions reports and correlate such reports with any emission limitations or standards, which shall be available at reasonable times for public inspection.</p>	<p>VT APCR §5-402, Written Reports When Requested, authorizes the Air Pollution Control Officer to request written reports on the nature and amount of emissions and other emissions-related data.</p> <p>VT APCR §5-404, Methods for Sampling and Testing of Sources, authorizes the Air Pollution Control Officer to require stack testing when there is reason to believe that emission limits are being violated by an air contaminant source.</p> <p>VT APCR §5-405, Required Air Monitoring, authorizes the Air Pollution Control Officer to require any air contaminant source “to install, use and maintain such monitoring equipment and records, establish and maintain such records, and make such periodic emission reports as the Officer shall prescribe.”</p> <p>VT APCR §5-802, Requirement for Registration, requires that “[e]ach operator of a source which emits more than five tons of any and all air contaminants per year shall register the source with the Secretary, and shall renew such registration annually.”</p> <p>1 V.S.A. §315-320 provides for the free and open examination of public records, including emissions reports.¹⁰</p> <p>Nothing in Vermont’s State Implementation Plan precludes the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements, if the appropriate performance or compliance test or procedure had been performed.</p>

¹⁰ Vermont is currently pursuing amendments to 10 V.S.A. §563, which allows owners and operators of air contaminant sources to certify information furnished to the Agency as confidential business information. [Amendments to §563](#) will require the Agency to make public all emissions and emissions monitoring data submitted to the Agency by owners and operators of air contaminant sources. The Agency expects these changes to be signed into law in 2016.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(G) Emergency episodes	Provide for authority to address activities causing imminent and substantial endangerment of public health, including contingency plans to implement the emergency episode provisions of the SIP. ¹¹	<p>10 V.S.A. §560 authorizes actions to order the immediate discontinuation of air emissions causing imminent danger to human health or safety.</p> <p>10 V.S.A. §8009 authorizes the issuance of an emergency administrative order when a violation presents or an activity will or is likely to result in an immediate threat to the public health.</p>
110(a)(2)(H) Future SIP revisions	Provide for SIP revisions 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.	10 V.S.A §554 provides the Secretary with the power to “[p]repare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23.
110(a)(2)(I) Nonattainment area plan or plan revision Under Part D	Each 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).	According to EPA guidance, states are not expected to address element 110(a)(2)(I) in the context of an infrastructure SIP submission.
110(a)(2)(J) Consultation with government officials	Provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121.	<p>10 V.S.A §554 specifies that the Secretary shall have the power to “[a]dvise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.”</p> <p>See also VT ANR notification requirements under 110(a)(2)(D).</p>

¹¹ Vermont is classified as a Priority III area for NO₂ pursuant to 40 CFR §51.2371, and therefore does not need to submit a contingency plan to implement Vermont’s emergency episode authority.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(J) Public notification	Requires states to notify the public if NAAQS are exceeded in an area and enhance public awareness of measures that can be taken to prevent exceedances.	<p>10 V.S.A §554 authorizes the Secretary to “[c]ollect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.”</p> <p>VT DEC Air Pollution Control Division website includes near real-time air quality data, and a record of historical data. Air quality forecasts are distributed daily via email to interested parties. Air quality alerts are sent by email to a large number of affected parties, including the media. Alerts include information about the health implications of elevated pollutant levels and list actions to reduce emissions and to reduce the public’s exposure.¹²</p> <p>Air Quality Data Summaries summarizing the year’s air quality monitoring results are issued annually and posted on the VT DEC Air Pollution Control Division website.</p>
110(a)(2)(J) PSD and visibility protection	Meet the applicable requirements of part C relating to prevention of significant deterioration of air quality and visibility protection.	<p>VT APCR §5-501, Review Of Construction or Modification of Air Contaminant Sources and §5-502, Major Stationary Sources and Major Modifications, specifies requirements for PSD and visibility protection. Sections 5-501 and 5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting of major stationary sources. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants...”¹³ Section 5-502(4)(e) additionally requires that any proposed source demonstrate that it will not adversely impact visibility or any other “Air Quality Related Value” in any Class I Federal area.</p> <p>EPA has fully approved Vermont’s Regional Haze SIP (77 FR 30212; May 22,</p>

¹² <http://www.anr.state.vt.us/air/>

¹³ Vermont submitted changes to its SIP on July 25, 2014. Some of these changes are within the context of PSD permitting authority and have not yet received approval from EPA. Vermont is also in the process of amending the Vermont Air Pollution Control Regulations to make further changes to the regulations in the context of PSD permitting authority and expects to submit those proposed to changes to EPA for comment in early 2016.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		2012). EPA has interpreted the CAA Section 110(A)(2)(J) provision on visibility as not being “triggered” because the visibility requirements in Part C are not changed by new NAAQS.
110(a)(2)(K) Air quality modeling/data	Provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.	<p>VTAPCR §5-502, Major Stationary Sources and Major Modifications, requires the submittal of an air quality impact evaluation or air quality modeling to demonstrate impacts of new and modified major sources.</p> <p>VT APCR §5-406, Required Air Modeling, specifies that “[t]he <i>Air Pollution Control Officer</i> may require the owner or operator of any proposed <i>air contaminant</i> source . . . to demonstrate that operation of the proposed source . . . will not directly or indirectly result in a violation of any <i>ambient air quality standard</i>, interfere with the attainment of any <i>ambient air quality standard</i>, or violate any applicable prevention of significant deterioration increment. . . .”</p>
110(a)(2)(L) Permitting fees	Require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.	<p>10 V.S.A §556 provides for the assessment of application fees from air emissions sources for permits for the construction or modification of air contaminant sources.</p> <p>3 V.S.A §2822(j) sets forth the permit fees for air emissions sources.</p> <p>VT APCR Subchapter X: Operating Permits sets forth Vermont’s approved Title V permit program. (66 FR 59535)</p>
110(a)(2)(M) Consultation/ participation by affected local entities	Provide for consultation and participation in SIP development by local political subdivisions affected by the SIP	<p>10 V.S.A §554 authorizes the Secretary to “[a]dvise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.”</p> <p>See also VT ANR notification requirements under 110(a)(2)(D).</p>

Vermont's Compliance with CAA

Section 110(a)(1) and (2) SIP Requirements for the 2010 Sulfur Dioxide NAAQS

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(A) Emission limits and other control measures	Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.	<p>10 V.S.A. §554 authorizes the Secretary of the Agency of Natural Resources to “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23.</p> <p>10 V.S.A. §556 requires permits for the construction or modification of air contaminant sources.</p> <p>10 V.S.A. §558 authorizes the Secretary “to establish emission control requirements . . . necessary to prevent, abate, or control air pollution.”</p> <p>10 V.S.A. §585 provides standards for the sulfur content of heating oil.</p> <p>The sections of the Vermont Air Pollution Control Regulations (VT APCR) that specify or are used to establish emission limits related to the control of sulfur dioxide (SO₂) include:</p> <ul style="list-style-type: none"> §5-201 Open Burning Prohibited §5-204 Outdoor Wood Fired Boilers §5-221 Prohibition of Potentially Polluting Materials in Fuel §5-241 Prohibition of Nuisance and Odor §5-252 Control of Sulfur Dioxide Emissions §5-261 Control of Hazardous Air Contaminants §5-302 Sulfur Oxides (Sulfur Dioxide) §5-501 Review of Construction or Modification of Air Contaminant Sources §5-502 Major Stationary Sources and Major Modifications <p>Subchapter IV. Operations and Procedures</p> <p>Subchapter VIII. (§5-801 - §5-806) Registration of Air Contaminant Sources</p>
110(a)(2)(B) Ambient air	Provide for establishment and operation of appropriate	<p>10 V.S.A. §554 authorizes the Secretary to “conduct studies, investigations and research relating to air contamination and air pollution” and “[d]etermine by</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
quality monitoring/ data system	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.	<p>appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.”</p> <p>The most recent (2014) annual air monitoring network plan is available on the AQCD website.¹⁴ Data collected by network monitors are required to be reviewed, validated, and sent to the EPA air quality system no later than 90 days after the end of a calendar quarter.</p> <p>Review of air quality monitoring data from 2009-2011 showed no violations of the 2010 SO₂ standard in any areas of VT.¹⁵ According to current EPA guidance, VT is not required to conduct source-specific monitoring or modeling.</p>
110(a)(2)(C) Program for enforcement, PSD and NSR	Include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.	<p>10 V.S.A. §557 authorizes inspections of air contaminant sources.</p> <p>10 V.S.A. §568 establishes penalties for violating air pollution control laws and regulations or making false statements.</p> <p>10 V.S.A Chapter 201 “Administrative Environmental Law Enforcement” and 10 V.S.A Chapter 211 “Civil Enforcement” provides the Secretary with the authority to enforce, including the authority to assess civil and criminal penalties, Vermont’s air pollution control laws and regulations.</p> <p>10 V.S.A §556, VT APCR §5-501, Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for</p>

¹⁴ <http://www.anr.state.vt.us/air/Monitoring/docs/Vermont%202014%20Air%20Monitoring%20Network%20Plan%20070214.pdf>

¹⁵ Spalding, H. Curtis. Letter to Gov. Peter Shumlin. 07 Feb. 2013. United States Environmental Protection Agency, Boston, MA. http://www.epa.gov/airquality/sulfurdioxide/designations/eparesp/01_VT_resp.pdf

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p>major sources under Vermont’s more expansive definition of major stationary source. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants...” Subchapter V also includes Vermont’s PSD¹⁶ program that applies to sources that emit greenhouse gases (GHG) in accordance with EPA’s Tailoring Rule.</p> <p>VT APCR §5-501(7) provides for public notification as well as notification of officials and agencies of states or areas that may be affected by the construction or modification being permitted in Vermont.</p> <p>Please see section 110(a)(2)(J) of this document for Vermont’s PSD measures.</p>
<p>110(a)(2)(D)(i) (I) Interstate transport provisions</p>	<p>Include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.</p>	<p>No source or sources within Vermont have been identified as contributing significantly to nonattainment in any other state or are the subject of an active finding under section 126 of the CAA with respect to SO₂ or any other air pollutant. Vermont SO₂ emissions are among the lowest of any state, with 2011 NEI point source emissions totaling less than 500 tons from all Vermont point sources combined. Ambient Vermont SO₂ concentrations at Vermont’s highest concentration site have declined by 75% in the past 10 years, with a 2012-2014 1-hour design value of 13 ppb. The only 1-hour SO₂ nonattainment area in a state adjacent to Vermont, in central New Hampshire, has recently experienced dramatic reductions in SO₂ emissions and ambient concentrations following the 2012 installation of scrubbers at the Merrimack generating Station. The most recent 2013 1-hour SO₂ design value was for that central NH area was 23 ppb – less than 1/3 the level of the 2010 NAAQS.</p>

¹⁶ Vermont submitted changes to its SIP on July 25, 2014. Some of these changes are within the context of PSD permitting authority and have not yet received approval from EPA. Vermont is also in the process of amending the Vermont Air Pollution Control Regulations to make further changes to the regulations in the context of PSD permitting authority and expects to submit those proposed to changes to EPA for comment in early 2016.

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
110(a)(2)(D)(i) (II) Interstate transport provisions – PSD and visibility	Include provisions (i) prohibiting any source or other type of emissions activity within the state from contributing significantly to nonattainment, or interfering with PSD measures or measures to protect visibility in another state.	<p>10 V.S.A §556, VT APCR §5-501 Review of Construction or Modification of Air Contaminant Sources, and §5-502, Major Stationary Sources and Major Modifications, set forth the requirements for permits to construct, modify or operate major air contaminant sources. Specifically, §5-501 and §5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting for major sources under Vermont’s more expansive definition of major stationary source.</p> <p>Please see section 110(a)(2)(J) of this document for Vermont’s PSD measures.</p> <p>Vermont’s Regional Haze SIP demonstrates that Vermont sources do not significantly impact visibility in any downwind Class I area.</p>
110(a)(2)(D)(i) Interstate and International Transport provisions	Provide adequate provisions to prevent endangerment or public health due to interstate and international transport of pollutants.	Vermont has no pending obligations under section 115 or section 126(b) of the Clean Air Act.
110(a)(2)(E) Adequate personnel, funding and authority	Provide for adequate personnel, funding and legal authority under state law to carry out the SIP, and demonstrate adherence to conflict of interest requirements.	<p>3 V.S.A. §2822 provides the Secretary with the authority to assess air permit and registration fees which fund state air programs.</p> <p>10 V.S.A. §553 designates the Agency of Natural Resources as the air pollution control agency of the state.</p> <p>10 V.S.A §554 provides the Secretary with the power to “[a]ppoint and employ personnel and consultants as may be necessary for the administration of this chapter” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. chapter 23 and “[a]ccept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purposes of carrying out any of the functions of this chapter.”</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p>In addition to Federal funding, and permit and registration fees, the VT AQCD receives state funding to implement its air programs.</p> <p>The Vermont Agency of Natural Resources, Department of Environmental Conservation is the sole authority implementing the SIP and does not rely on local or regional governments, agencies, or any external permit review or enforcement boards or bodies to carry out this responsibility.</p> <p>Vermont Executive Order 09-11 (2011) (Executive Code of Ethics) contains strict ethical rules prohibiting all VT executive branch employees (including the ANR Secretary) from taking “any action in any particular matter in which he or she has either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved.”</p>
<p>110(a)(2)(F) Stationary source monitoring and reporting</p>	<p>Require the installation, maintenance, and replacement of equipment to monitor emissions from stationary sources and to submit periodic emissions reports and correlate such reports with any emission limitations or standards, which shall be available at reasonable times for public inspection.</p>	<p>VT APCR §5-402, Written Reports When Requested, authorizes the Air Pollution Control Officer to request written reports on the nature and amount of emissions and other emissions-related data.</p> <p>VT APCR §5-404, Methods for Sampling and Testing of Sources, authorizes the Air Pollution Control Officer to require stack testing when there is reason to believe that emission limits are being violated by an air contaminant source.</p> <p>VT APCR §5-405, Required Air Monitoring, authorizes the Air Pollution Control Officer to require any air contaminant source “to install, use and maintain such monitoring equipment and records, establish and maintain such records, and make such periodic emission reports as the Officer shall prescribe.”</p> <p>VT APCR §5-802, Requirement for Registration, requires that “[e]ach operator of a source which emits more than five tons of any and all air contaminants per year shall register the source with the Secretary, and shall renew such registration annually.”</p> <p>1 V.S.A. §315-320 provides for the free and open examination of public records,</p>

CAA Section	110(a) Requirement	Corresponding Vermont Requirements
		<p>including emissions reports.¹⁷</p> <p>Nothing in Vermont’s State Implementation Plan precludes the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements, if the appropriate performance or compliance test or procedure had been performed.</p>
<p>110(a)(2)(G) Emergency episodes</p>	<p>Provide for authority to address activities causing imminent and substantial endangerment of public health, including contingency plans to implement the emergency episode provisions of the SIP.¹⁸</p>	<p>10 V.S.A. §560 authorizes actions to order the immediate discontinuation of air emissions causing imminent danger to human health or safety.</p> <p>10 V.S.A. §8009 authorizes the issuance of an emergency administrative order when a violation presents or an activity will or is likely to result in an immediate threat to the public health.</p>
<p>110(a)(2)(H) Future SIP revisions</p>	<p>Provide for SIP revisions 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>10 V.S.A §554 provides the Secretary with the power to “[p]repare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state” and “[a]dopt, amend and repeal rules, implementing the provisions” of Vermont’s air pollution control laws set forth in 10 V.S.A. Chapter 23.</p>

¹⁷ Vermont is currently pursuing amendments to 10 V.S.A. §563, which allows owners and operators of air contaminant sources to certify information furnished to the Agency as confidential business information. [Amendments to §563](#) will require the Agency to make public all emissions and emissions monitoring data submitted to the Agency by owners and operators of air contaminant sources. The Agency expects these changes to be signed into law in 2016.

¹⁸ Two areas in Vermont are classified as a Priority II area for SO₂ pursuant to 40 CFR 51.2371. Recent data from EPA’s air quality system (AQS), however, shows the measured SO₂ concentrations in Vermont have been below the levels for a Priority II area for more than 35 years. Vermont plans to work with EPA to update this classification in conjunction with this I-SIP submittal.

<p>110(a)(2)(I) Nonattainment area plan or plan revision Under Part D</p>	<p>Each 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).</p>	<p>According to EPA guidance, states are not expected to address element 110(a)(2)(I) in the context of an infrastructure SIP submission.</p>
<p>110(a)(2)(J) Consultation with government officials</p>	<p>Provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relating to consultation.</p>	<p>10 V.S.A §554 specifies that the Secretary shall have the power to “[a]dvice, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.”</p> <p>See also VT ANR notification requirements under 110(a)(2)(D).</p>
<p>110(a)(2)(J) Public notification</p>	<p>Requires states to notify the public if NAAQS are exceeded in an area and enhance public awareness of measures that can be taken to prevent exceedances.</p>	<p>10 V.S.A §554 authorizes the Secretary to “[c]ollect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.”</p> <p>VT DEC Air Quality and Climate Division website includes near real-time air quality data, and a record of historical data. Air quality forecasts are distributed daily via email to interested parties. Air quality alerts are sent by email to a large number of affected parties, including the media. Alerts include information about the health implications of elevated pollutant levels and list actions to reduce emissions and to reduce the public’s exposure.¹⁹</p> <p>Air Quality Data Summaries summarizing the year’s air quality monitoring results are issued annually and posted on the VT DEC Air Quality and Climate Division website.</p>

¹⁹ <http://www.anr.state.vt.us/air/>

<p>110(a)(2)(J) PSD and visibility protection</p>	<p>Meet the applicable requirements of part C relating to prevention of significant deterioration of air quality and visibility protection.</p>	<p>VT APCR §5-501, Review Of Construction or Modification of Air Contaminant Sources and §5-502, Major Stationary Sources and Major Modifications, specifies requirements for PSD and visibility protection. Sections 5-501 and 5-502 provide for nonattainment and prevention of significant deterioration (PSD) permitting of major stationary sources. Section 5-502(4)(c) states that “... the increase in allowable emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants...”²⁰ Section 5-502(4)(e) additionally requires that any proposed source demonstrate that it will not adversely impact visibility or any other “Air Quality Related Value” in any Federal Class I area.</p> <p>EPA has fully approved Vermont’s Regional Haze SIP (77 FR 30212; May 22, 2012). EPA has interpreted the CAA Section 110(a)(2)(J) provision on visibility as not being “triggered” because visibility requirements in Part C are not changed by new NAAQS.</p>
<p>110(a)(2)(K) Air quality modeling/data</p>	<p>Provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.</p>	<p>VTAPCR §5-502, Major Stationary Sources and Major Modifications, requires the submittal of an air quality impact evaluation or air quality modeling to demonstrate impacts of new and modified major sources.</p> <p>VT APCR §5-406, Required Air Modeling, specifies that “[t]he <i>Air Pollution Control Officer</i> may require the owner or operator of any proposed <i>air contaminant</i> source . . . to demonstrate that operation of the proposed source . . . will not directly or indirectly result in a violation of any <i>ambient air quality standard</i>, interfere with the attainment of any <i>ambient air quality standard</i>, or violate any applicable prevention of significant deterioration increment . . .”</p>

²⁰ Vermont submitted changes to its SIP on July 25, 2014. Some of these changes are within the context of PSD permitting authority and have not yet received approval from EPA. Vermont is also in the process of amending the Vermont Air Pollution Control Regulations to make further changes to the regulations in the context of PSD permitting authority and expects to submit those proposed to changes to EPA for comment in early 2016.

<p>110(a)(2)(L) Permitting fees</p>	<p>Require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.</p>	<p>10 V.S.A §556 provides for the assessment of application fees from air emissions sources for permits for the construction or modification of air contaminant sources.</p> <p>3 V.S.A §2822(j) sets forth the permit fees for air emissions sources.</p> <p>VT APCR Subchapter X: Operating Permits sets forth Vermont’s approved Title V permit program. (66 FR 59535)</p>
<p>110(a)(2)(M) Consultation/ participation by affected local entities</p>	<p>Provide for consultation and participation in SIP development by local political subdivisions affected by the SIP</p>	<p>10 V.S.A §554 authorizes the Secretary to “[a]dvice, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.”</p> <p>See also VT ANR notification requirements under 110(a)(2)(D).</p>

ENCLOSURE 5

Vermont Statutes Annotated and Executive Order to be included in the State Implementation Plan

- **10 V.S.A. §554**
- **Executive Order 09-11, Executive Code of Ethics**

The Vermont Statutes Online²¹
Title 10: Conservation and Development
Chapter 023: Air Pollution Control
§ 554. Powers

In addition to any other powers conferred on him by law the secretary shall have power to:

- (1) Appoint and employ personnel and consultants as may be necessary for the administration of this chapter.
- (2) Adopt, amend and repeal rules, implementing the provisions of this chapter.
- (3) Hold hearings related to any aspect of or matter in the administration of this chapter, and in connection therewith, subpoena witnesses and the production of evidence.
- (4) Issue orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.
- (5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state.
- (6) [Repealed.]
- (7) Encourage local units of government to handle air pollution problems within their respective jurisdiction, and by compact on a cooperative basis, and to provide technical and consultative assistance therefor.
- (8) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.
- (9) Determine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.
- (10) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.
- (11) Establish ambient air quality standards for the state as a whole or for any part thereof, based on nationally recognized criteria applicable to the state of Vermont.
- (12) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.
- (13) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

²¹ Information retrieved by VT DEC from the State of Vermont General Assembly website on October 26, 2015. <http://legislature.vermont.gov/statutes/section/10/023/00554>

(14) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of the device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any consultation shall be construed to relieve a person from compliance with this chapter, rules in force pursuant thereto, or any other provision of law.

(15) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. The funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the secretary.

(16) Have access to records relating to emissions which cause or contribute to air contamination. (1967, No. 310 (Adj. Sess.), § 4; amended 1971, No. 212 (Adj. Sess.), § 3; 1989, No. 98, § 4(b).)

EO 09-11 Executive Code Of Ethics²²

STATE OF VERMONT Executive Department

EXECUTIVE ORDER [Executive Code of Ethics]

WHEREAS, Throughout the state, dedicated public servants bring their talents and expertise to work on behalf of the people of Vermont,

WHEREAS, it is essential to the proper operation of government that public officers be independent and impartial; that governmental decisions and policy be made fairly and impartially, on the merits of the matter at issue; that public office not be used for private gain other than the remuneration provided by law; and that there be public confidence in the integrity of government; and

WHEREAS, there is a risk that the attainment of one or more of these ends may be impaired whenever a conflict exists between the private interests of a public officer and his or her official responsibilities; and

WHEREAS, it is also essential to the proper operation of government that those best qualified not be discouraged from serving as public officers by requiring them to relinquish totally the opportunity to further their own interests, at least where such interests do not create irreconcilable conflicts with their official responsibilities; and

WHEREAS, both the public and private sectors of Vermont are enriched by the healthy exchange of individuals who have hands-on knowledge and work experience in both the public and private sectors.

NOW, THEREFORE, an Executive Code of Ethics effectively ensures fairness and impartiality in the conduct of state business while at the same time, encouraging the recruitment and retention of those best qualified to serve the state and ought to be reaffirmed and continued.

BE IT RESOLVED THAT I, Peter Shumlin, by virtue of the authority vested in me as Governor, do hereby promulgate the following Executive Code of Ethics.

²² Information retrieved by VT DEC from Vermont Governor Peter Shumlin's website on October 26, 2015.
http://governor.vermont.gov/executive_orders/09-11-executive-code-of-ethics

Except where otherwise provided by law, all gubernatorial appointees of the executive branch shall be subject to provisions of this Executive Order. Nothing in this Executive Order shall exempt an appointee from any other requirement of law or any duly adopted state personnel policy.

To assure adherence to this code, all future appointees, and any current appointees who have not signed an acknowledgment with respect to Executive Order No. 10-03 (codified as Executive Order No. 3-45), will be asked to sign the acknowledgment attached hereto as Exhibit A and submit it to the Secretary of Civil and Military Affairs (the "Secretary").

The Secretary has the authority to interpret the provisions of this code as they relate to particular circumstances and to issue exemptions from the Code under special circumstances. All such interpretations and exemptions shall be written and kept by the Secretary in the same manner as the Conflict Questionnaires.

I. Definitions

As used in this Executive Order:

A. "Appointee" means any exempt employee or any member of any public body appointed by or upon the approval of the Governor, or by or upon the approval of such an appointee.

B. "Appearance of a conflict of interest" as used below in §§ III (A) (2) and (7) means the impression that a reasonable person might have, after full disclosure of the facts, that an appointee's judgment might be significantly influenced by outside interests, even though there is no actual conflict of interest.

C. "Conflict of interest" means a significant interest, of an appointee or such an interest, known to the appointee, of a member of his or her immediate family or household or of a business associate, in the outcome of any particular matter pending before the appointee or his or her public body. "Conflict of interest" does not include any interest that (i) is no greater than that of other persons generally affected by the outcome of the matter, or (ii) has been disclosed and found not to be significant.

D. "Full-time appointee" means any appointee receiving a full-time salary for state service.

E. "Private entity" is any person, corporation, partnership, joint venture or association, whether organized for profit or not for profit, except those specifically chartered by the State of Vermont or which relies upon taxes for at least 50 percent of its revenues.

F. "Public body" means any agency, department, division or office and any board or commission of any such entity, or any independent board or commission, in the executive branch of the state.

II. General Conduct

An appointee must conduct the affairs of his or her office in such a manner as to instill public trust and confidence.

1. Thus, an appointee shall take all reasonable steps to avoid any action or circumstances, whether or not specifically prohibited by this code, which might result in:
 - (1) Undermining his or her independence or impartiality or action;
 - (2) Taking official action on the basis of unfair considerations;
 - (3) Giving preferential treatment to any private interest on the basis of unfair considerations;
 - (4) Giving preferential treatment to any family member or member of the appointee's household;
 - (5) Using public office for the advancement of personal interest;
 - (6) Using public office to secure special privileges or exemptions; or
 - (7) Affecting adversely the confidence of the public in the integrity of state government.
2. Every appointee shall be true and faithful to the State of Vermont; will not, directly or indirectly, do any act or thing injurious to the Constitution or Government of the State of Vermont; will faithfully execute the office which he or she holds; and will therein do equal right and justice to all men and women, to the best of his or her judgment and ability, according to law. [VT. Const., Ch 11, §56]
3. Appointees shall always treat each other, employees, staff, volunteers, and the public with dignity, respect and courtesy.
4. Appointees shall support efforts to create and maintain a diverse and effective work force.
5. Every full-time appointee shall devote all of his or her work time to the duties of his or her office.

6. An appointee shall not use state property nor permit others to use state property unless the use is reasonably related to his or her official responsibilities or the conduct is permitted pursuant to a duly adopted state or agency personnel policy.
7. An appointee shall not enter into any commitment to expend state funds unless the expenditure is reasonable and valuable to the state and made in accordance with all applicable statutes, rules or directives from the Secretary of the Agency of Administration.

H. An appointee shall be in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont. An appointee shall be in good standing with respect to, or in full compliance with a plan to pay, any and all child support obligations.

I. Exemptions sought under this Code shall be issued only to further the twin goals of this Code: to establish high standards of ethical conduct for all appointees and to encourage those Vermonters best qualified to serve in state government.

III. Personal Interests, Outside Employment, and Financial Activities

A. Ethical Rules While in State Employ:

- (1) No full-time appointee shall be the owner of, or financially interested, directly or indirectly in any private entity or private interest that is subject to the supervision of his or her respective department or agency, except as a policyholder in an insurance company or a depositor in a bank. (3 VSA 204). For the purpose of this Executive Order, a direct or indirect financial interest excludes:
 - (i) any insignificant interest held individually or by a member of the appointee's immediate household or by a business associate, or
 - (ii) any interest which is no greater than that of other persons who might be generally affected by the agency's or department's supervision.
- (2) An appointee shall not take any action in any particular matter in which he or she has either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved.
- (3) An appointee shall not take any official action that materially advances the interest of any entity (except the State of Vermont) with which the appointee is actively seeking employment.

- (4) A full-time appointee shall not, for pecuniary gain, be an advocate for any private entity in any matter before any public body or before the state legislature or its committees.
- (5) An appointee, while in state employ, shall not solicit or receive any payment, gift, or favor based on any understanding that it may influence any official action.
- (6) An appointee shall not solicit or receive any payment, gift or favor from any private interest which;
 - (i) has, or seeks to obtain, contractual or other business or financial relationships with the appointee's public body;
 - (ii) conducts business or activities that are regulated by the appointee's public body; or
 - (iii) has an interest that may be substantially affected by the appointee's official actions.
- (7) An appointee, or his or her designee, shall not accept gifts or trips from private interests if the gifts or trips are (i) a *quid pro quo*; (ii) are intended to influence any decision by the appointee; or (iii) create an appearance of a conflict of interest.
- (8) Absent specific law requiring disclosure, an appointee shall not disclose to any private entity any confidential or privileged information obtained while in state employ.
- (9) An appointee or his or her family shall not trade in stock or otherwise transact private business based upon information obtained by the Appointee through his or her work on behalf of the state.

B. Ethical Rules After State Employ:

- (1) For one year after leaving office, a former appointee shall not, for pecuniary gain, be an advocate for any private entity before any public body or before the state legislature or its committees, regarding any particular matter:
 - (i) in which the state is a party or has a direct and substantial interest; and
 - (ii) in which the appointee had participated personally and substantively while in state employ.

This prohibition applies to any matter the appointee directly handled, supervised or managed, or gave substantial input, advice or comment, or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

- (2) For one year after leaving office, a former full-time appointee shall not, for pecuniary gain, be an advocate for any private entity before any public body or before the state legislature or its committees, regarding any particular matter in which the appointee had exercised any official responsibility.

IV. Reports

Within thirty days of appointment and thereafter annually on June 30, every Appointee who earns \$30,000 or more per year shall file with the Secretary an "Ethics Questionnaire" as prescribed in Exhibit B. These questionnaires shall be treated as confidential personnel documents as defined by 1 VSA §317 (b) (7) and kept as such during the gubernatorial administration in which the appointee serves, or for one year after the appointee leaves office, whichever first occurs, at which point they will be destroyed.

V. Enforcement

The purpose of this Executive Code of Ethics is to provide guidance to gubernatorial appointees covered herein, and during such appointment, except as otherwise required by law, only the Governor or his designated agent shall have the power to sanction any violations hereof. Nothing in this code shall create a right to continue state employment. The remedy for a violation of post-employment restrictions set forth in Section III(B) shall rest with the public body before which the former appointee appears and, barring unusual circumstances, shall result only in disqualifying the former appointee from appearing or participating in the particular matter.

VI. Effective Date, Repeal and Transition

This Executive Order takes effect upon signing and, except as otherwise required by law, and except as provided below, supersedes and replaces Executive Order No. 10-03 (codified as No. 3-45), dated September 13, 2003. Appointees who completed the acknowledgment and disclosure required pursuant to the prior Executive Order No. 10-03 need not re-execute the acknowledgment and disclosure required pursuant to this Executive Order, but remain bound to and accountable for the requirements of that prior Executive Order No. 10-03.

Dated this ___ day of July, 2011.

Peter Shumlin
Governor

Executive Order No. 09-11

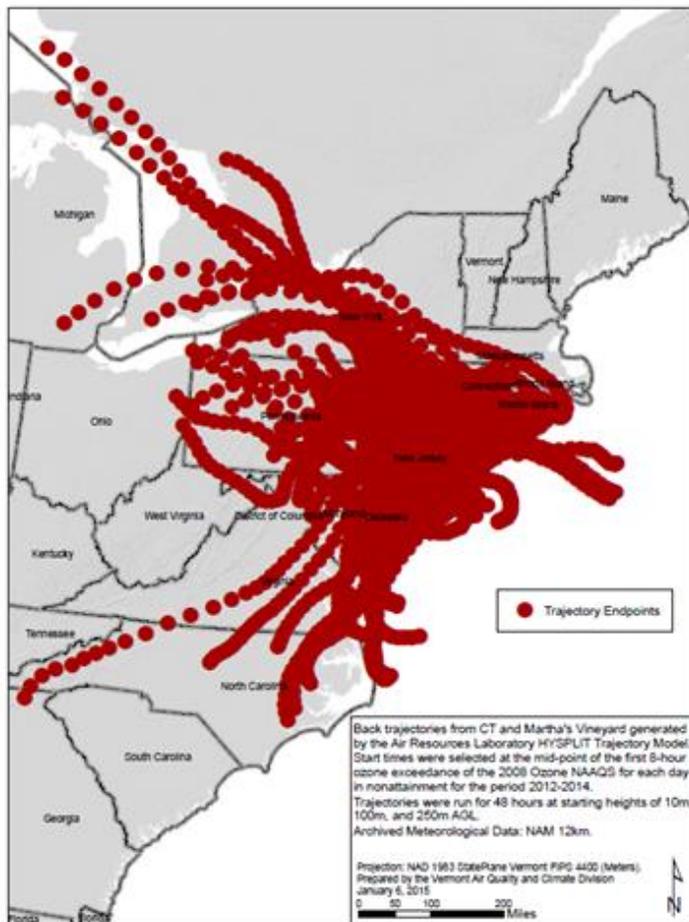
ENCLOSURE 6

**DEMONSTRATION THAT VERMONT DOES NOT CONTRIBUTE
SIGNIFICANTLY TO NON-ATTAINMENT OR MAINTENANCE OF THE 2008
OZONE NAAQS IN ANY OTHER STATE**

Vermont's Minimal Contributions to Ozone Non-Attainment Areas in Other States

Vermont was excluded from the ozone (and PM-related) requirements of the Cross State Air Pollution Rule (CSAPR) because EPA modeling in support of that rule showed that Vermont emissions contributed less than 1% of the level of the 1997 8-hour ozone NAAQS (0.08 ppm) in any area of any state projected to be in non-attainment of the 1997 ozone NAAQS, based on projected average 2012 design values. This modeling (http://www.epa.gov/crossstaterule/pdfs/CSAPR_Ozone%20and%20PM2.5_Contribution_s.xls) further showed that Vermont emissions contributed less than 1% of the 2008 ozone NAAQS (0.075 ppm) at any site projected to have 2012 attainment or maintenance problems with the 2008 ozone standard – or in any area of any other state, regardless of the projected attainment status.

Figure 1. Trajectories on 2012-2014 ozone exceedance days for MA and CT Ozone non-attainment sites nearest to VT

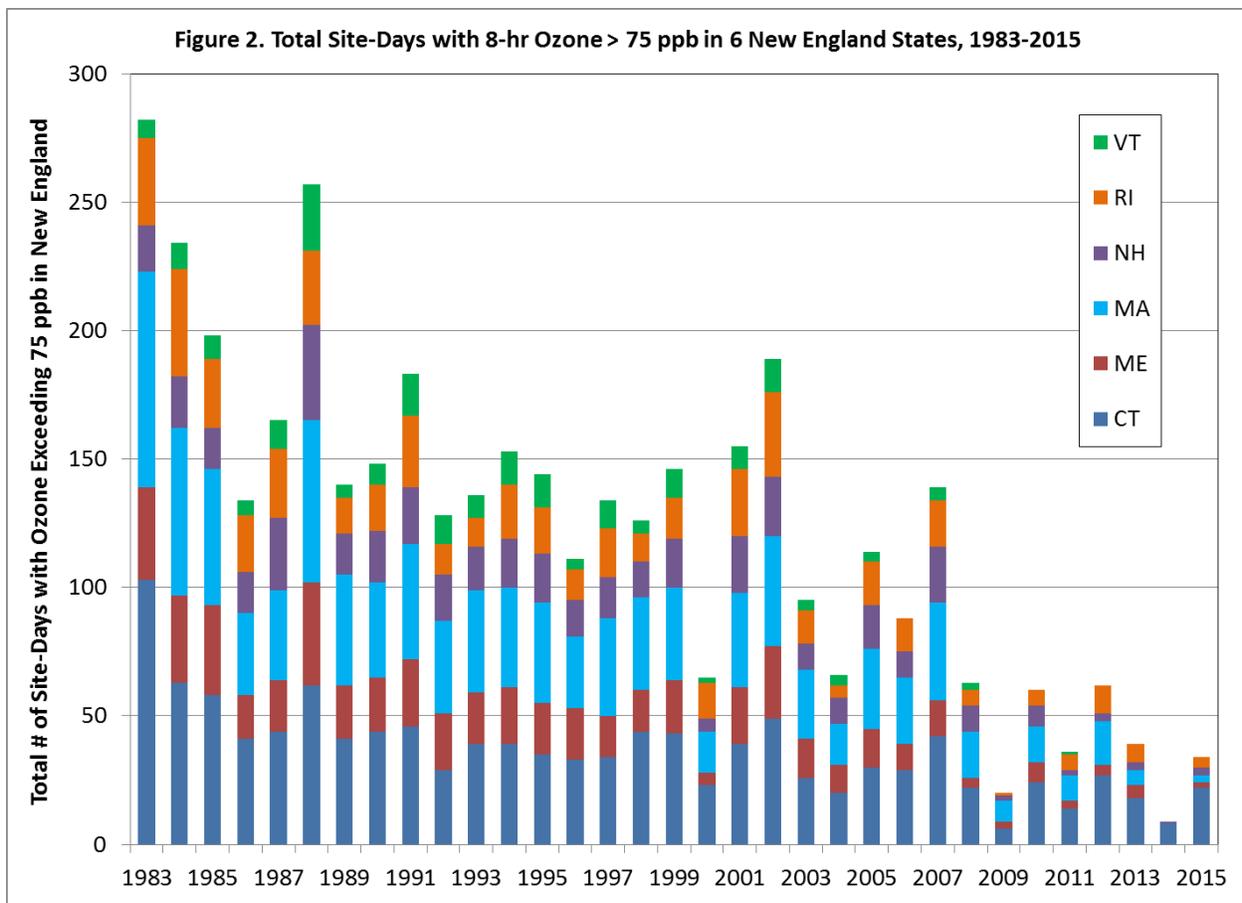


A second demonstration of Vermont's minimal contribution to ozone non-attainment is presented in Figure 1, which shows 48-hour backward air trajectories arriving on all days exceeding the ozone standard during the past 3 years (2012 – 2014) at 4 sites in areas of Connecticut and Massachusetts currently designated nonattainment for the 2008 ozone NAAQS which are closest to and/or most likely to be downwind of Vermont emissions. The trajectories were calculated using the NOAA HYSPLIT model, with start times in the middle of each 8-hour ozone exceedance period and with starting heights of 10, 100 and 250 meters AGL. HYSPLIT was run using the NAM 12 km gridded meteorological driver, and employing the model vertical velocity to determine trajectory vertical motion. It can be noted that none of these trajectories associated with recent ozone exceedances in nearby states passed over Vermont emissions.

In more recent 2015 CAMx modeling, intended to address interstate pollution transport for the 2008 ozone NAAQS, EPA estimated state contributions to 2017 ozone concentrations at sites projected to have attainment or maintenance problems with the 2008 ozone standard in 2017 (<http://www3.epa.gov/airtransport/pdfs/2017%20Ozone%20Contributions>

[Transport%20NODA.xlsx](#)). The largest modeled Vermont contribution at any downwind monitor with projected 2017 maintenance problems with the 2008 ozone standard was 0.05 ppb at Middlesex, NJ where the projected maximum 2017 design value was 76.6 ppb. The largest modeled Vermont contribution at any downwind monitor with projected 2017 attainment problems with the 2008 ozone standard was 0.01 ppb at New Haven, CT where the projected average 2017 design value was 77.2 ppb. These modeled Vermont contributions represent less than 1/10th of 1 percent of the 75 ppb level of the 2008 ozone standard at sites with projected 2017 attainment or maintenance problems.

It can further be noted (Figure 2) that the frequency of days with 8-hour ozone concentrations exceeding 75 ppb in Vermont and nearby New England states has declined steadily over the past 30 years, and that total Vermont NO_x emissions, as reported in the NEI inventory, have dropped by 1/3 in the past decade, from 30,229 tons in 2002 to 19,352 tons in 2011.



Vermont emissions have not significantly contributed to exceedances of the 2008 ozone NAAQS in any other state in the past and are highly unlikely to do so in the future.