

Commonwealth of Pennsylvania



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

PROPOSED
Infrastructure State Implementation Plan Revision
Clean Air Act Sections 110(a)(1) and 110(a)(2) Applicable Requirements for the
2010 1-Hour Nitrogen Dioxide (NO₂) National Ambient Air Quality Standard (NAAQS)

MAY 2014

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Commonwealth of Pennsylvania
Infrastructure State Implementation Plan Revision Clean Air Act Sections 110(a)(1) and 110(a)(2)
Applicable Requirements for the 2010 1-Hour Nitrogen Dioxide National Ambient Air Quality Standard

Background

On April 12, 2010, the U.S. Environmental Protection Agency (EPA) promulgated revisions to the primary nitrogen dioxide (NO₂) national ambient air quality standard (NAAQS). EPA established a new 1-hour standard at a level of 100 parts per billion (ppb), based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard. EPA also established requirements for an NO₂ monitoring network that includes monitors at locations where maximum NO₂ concentrations are expected to occur, including within 50 meters of major roadways, as well as monitors sited to measure the area-wide NO₂ concentrations that occur more broadly across communities. Section 110 of the Federal Clean Air Act (CAA), 42 U.S.C.A. § 7410, requires states to develop State Implementation Plan (SIP) revisions and programs to meet the NAAQS established by EPA to protect public health and welfare. Section 110 of the CAA also prescribes general elements for the implementation of SIPs. Sections 110(a)(1) and 110(a)(2) of the CAA (42 U.S.C.A. §§ 7410(a)(1) and (2)), require states to submit SIP revisions to the EPA Administrator that provide for implementation, maintenance, and enforcement of the NAAQS. This proposed SIP revision, generally referred to as the “Infrastructure SIP,” describes basic elements designed to assure attainment and maintenance of the 2010 NO₂ NAAQS including: ambient air quality monitoring, emission inventories, enforcement of control measures, modeling, monitoring, nonattainment new source review, prevention of significant deterioration and stationary source monitoring. States are required to submit these Infrastructure SIP revisions to EPA within three years from the date a new or revised NAAQS is signed by the EPA Administrator.

Sections 110(a)(1) and 110(a)(2) of the CAA (42 U.S.C. §§ 110(a)(1) and 110(a)(2)) describe how states are to implement, maintain and enforce a NAAQS. This proposed Infrastructure SIP revision fulfills the requirements of Sections 110(a)(1) and 110(a)(2) set forth herein for the 2010 NO₂ NAAQS. Once approved by EPA, the SIP revision will provide a federally enforceable plan of how the Commonwealth of Pennsylvania (Commonwealth) will comply with the applicable requirements of Sections 110(a)(1) and 110(a)(2) of the CAA set forth herein for the 2010 NO₂ NAAQS.

Statutory authority for the Pennsylvania air quality program, relating to the responsibilities in the CAA, is codified in the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 – 4015 (APCA), including in Section 4 of the APCA, which gives the Pennsylvania Department of Environmental Protection (DEP) the power and duty to implement the provisions of the CAA in the Commonwealth (35 P.S. § 4004(1)).

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Pursuant to Sections 110(a)(1) and 110(a)(2) of the CAA, the Commonwealth has reviewed applicable provisions in the Pennsylvania APCA, the implementing regulations in the Pennsylvania Code, local ordinances and regulations in Philadelphia and Allegheny Counties, and the State Implementation Plan found at 40 CFR Part 52, Subpart NN.

Based on the applicable statutory and regulatory authority, Pennsylvania's SIP provides for the implementation, maintenance, and enforcement of the applicable elements set forth in Sections 110(a)(1) and 110(a)(2), pertinent to the implementation of the 2010 NO₂ NAAQS.

Requirements for a public comment process are set forth in Section 110(a)(2) of the CAA and 40 CFR § 51.102(d). A public comment period will be provided from May 3, 2014, to June 6, 2014, with an opportunity for a public hearing.

Table 1. Pennsylvania’s Statutory and Regulatory Provisions Which Address the Clean Air Act Section 110(a)(2) Requirements for the 2010 Nitrogen Dioxide NAAQS

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(A)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance as may be necessary or appropriate to meet the applicable requirements of this chapter.</i></p>	<p>The Commonwealth’s enforceable emission limitations and other control measures are authorized under the APCA, (35 P.S. §§ 4001-4015), and implementing regulations in Title 25 of the Pennsylvania Code (<i>Pa. Code</i>), Article III, (relating to air resources), Chapters 121-145 (25 <i>Pa. Code</i> Chapters 121-145); 67 <i>Pa. Code</i> Chapters 175-177 (codified in 40 CFR § 52.2020(c)(1)); Allegheny County Health Department (ACHD) Regulations, Parts A through I to Articles XX and XXI (codified in 40 CFR §52.2020(c)(2)); Philadelphia Title 3 Air Management Code and Philadelphia Air Management Services (Philadelphia AMS) Regulations I, II, III, IV, V, VII, VIII, XI, and XIII (codified in 40 CFR § 52.2020(c)(3)); and source specific provisions codified in 40 CFR § 52.2020(d)(1) and (2). Philadelphia and Allegheny Counties both administer local air pollution control programs approved by DEP.</p> <p>The Article III regulations in the Pennsylvania Code are duly adopted by the Pennsylvania Environmental Quality Board (EQB) and implemented and enforced by DEP. Where these provisions relate to requirements of Section 110 of the CAA, SIP revisions have been submitted to and approved by EPA. EPA-approved SIP revisions for Pennsylvania are codified in 40 CFR Part 52, Subpart NN. The Commonwealth has an EPA-approved air quality permitting program for plan approval (pre-construction and construction permits) and operating permits (for both major and minor facilities), which ensures that all applicable requirements are included in the federally enforceable plan approvals and operating permits. DEP also implements and enforces a federally enforceable general plan approval and general operating permit program.</p> <p>The regulatory provisions are approved by EPA and codified in 40 CFR §§ 52.2020(c)(1), 52.2020(c)(2), 52.2020(c)(3), 52.2020(d), 52.2061, 52.2062, 52.2063 and 40 CFR Part 70, Appendix A.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(B)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to</i></p> <p><i>(i) monitor, compile, and analyze data on ambient air quality, and</i></p> <p><i>(ii) upon request, make such data available to the Administrator;</i></p>	<p>The Commonwealth’s ambient air quality monitoring data system is authorized under Section 4(17) of the APCA, 35 P.S. § 4004(17). DEP is authorized under Section 4(17) to “determine by means of field studies and sampling the degree of air pollution existing in any part of the Commonwealth.” DEP establishes, operates, and maintains a network of ambient air monitors throughout Pennsylvania, excluding Philadelphia and Allegheny Counties. Philadelphia AMS operates its monitoring network as a Pennsylvania approved program under Section 12 of APCA, 35 P.S. § 4012, and the terms of the “Agreement for Implementation of the Philadelphia County Air Pollution Control Program,” dated October 2010. The ACHD operates its monitoring network as a Pennsylvania approved program under Section 12 of the APCA and the terms of the “Agreement for Implementation of the Allegheny County Air Pollution Control Program,” dated October 30, 1998. These agreements address data collection, data access and reporting in Philadelphia and Allegheny Counties. A copy of the APCA and a copy of the agreements with ACHD and Philadelphia AMS are provided in Appendix A.</p> <p>The NO₂ monitors in the Pennsylvania ambient monitoring network (DEP and local agencies) have been designated by EPA as either Reference or Equivalent monitors under 40 CFR Part 53. All ambient air monitors are subjected to the Quality Assurance requirements of 40 CFR Part 58, Appendix A. In addition, all samplers are located at sites that have met the minimum siting requirements of 40 CFR Part 58, Appendix E.</p> <p>An annual network design plan is required by 40 CFR § 58.10 to be submitted to the EPA Regional Administrator by July 1 of each year. The network design document informs both EPA and the public of any planned changes to the sampling network for the next year. The annual network design plan provides a description of the current monitoring network, a reason for each change, and any other information relevant to the change. DEP submits an annual network design plan to the EPA, for 65 counties in Pennsylvania. ACHD, in Allegheny County, and Philadelphia AMS, in Philadelphia County, submit annual network design plans for their respective counties. DEP provides a 30-day public comment period for the annual network design plan submitted by DEP. ACHD and Philadelphia AMS both make the annual network design plans available for public inspection, as required under</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(B) (continued)</p>		<p>40 CFR § 58.10(a)(1). The 30-day public comment period for the ACHD and Philadelphia AMS network design plans is provided by the EPA pursuant to 40 CFR § 58.10(a)(2). In addition, as required under 40 CFR § 58.14, DEP and the local air agencies provide EPA Region III with prior notification of any changes to the network between formal network design submissions. As needed, details of these changes are communicated to and approved by EPA. Copies of the most recent EPA letters approving the monitoring networks for DEP, ACHD, and Philadelphia AMS are provided in Appendix A.</p> <p>In accordance with 40 CFR Part 58, DEP and the local air pollution control agencies in Philadelphia and Allegheny Counties collect and report to EPA all ambient air quality data for sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, coarse particulate matter, and fine particulate matter. The reports comply with the federal requirements of 40 CFR § 58.35. As necessary, the submitted data is reviewed, edited, validated, and entered into the EPA Air Quality System (AQS) for updating, pursuant to prescribed AQS procedures (40 CFR § 58.16). The EPA AQS receives each report within 90 days after the end of the quarterly reporting period.</p> <p>DEP analyzes such air quality data (including data from the local agencies) to verify attainment status or progress.</p>
<p>§ 110(a)(2)(C)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall include a program to provide for the enforcement of the measures described in Subparagraph (A) and regulation of the</i></p>	<p>Sections 4 and 8 of the APCA, 35 P.S. §§ 4004 and 4008, provide adequate authority for DEP to enforce appropriate emission limitations and other control measures for all NAAQS. Section 6.1(k) of the APCA, 35 P.S. § 4006.1(k), provides that DEP shall require revisions to any permit to incorporate applicable standards and regulations promulgated under the CAA after issuance of a Title V permit.</p> <p>The Commonwealth has an EPA-approved air permitting program for the preconstruction, construction and operation of both major and minor facilities, which ensures that all applicable requirements are included in federally enforceable plan approvals, operating permits and general plan approvals and general operating permits. These regulatory provisions are approved by EPA and codified in 40 CFR §§ 52.2020(c)(1), 52.2020(c)(2), 52.2020(c)(3), 52.2020(d), 52.2061, 52.2062, 52.2063 and 40 CFR Part 70, Appendix A.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(C) (continued)</p>	<p><i>modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in Parts C and D of this subchapter.</i></p>	<p>DEP adopted the requirements promulgated by the EPA under the CAA for a Prevention of Significant Deterioration (PSD) of Air Quality Program. These requirements were adopted to make the PSD requirements independently enforceable by DEP and to implement Title I, Part C of the CAA. The PSD Program is also part of the SIP and is codified in 40 CFR § 52.2020(c)(1). EPA approved a SIP revision pertaining to the PSD Program in Allegheny County, as submitted by ACHD, on February 28, 2013 (78 FR 13493). EPA stated in the Federal Register notice that the SIP revision for PSD in Allegheny County meets the statutory obligations with respect to infrastructure SIP requirements. EPA approved a SIP revision pertaining to the PSD Program in Philadelphia County, as submitted by Philadelphia AMS, on March 28, 2003 (68 FR 15060). EPA stated in the Federal Register notice that the SIP revision including Philadelphia AMS Regulation XIII meets the minimum requirements of 40 CFR Part 51 with regard to PSD programs.</p> <p>Section 9.1 of the APCA, 35 P.S. § 4009.1, provides that DEP may assess civil penalties for violations of the APCA, violations of regulations adopted under the APCA, violations of DEP orders or terms, and violations of conditions of plan approvals and operating permits. Additionally, Section 7.1 of the APCA, 35 P.S. § 4007.1, authorizes DEP to withhold plan approvals, state operating permits, or Title V permits, where an applicant or related party has shown a lack of ability or intention to comply with the APCA.</p> <p>The Commonwealth’s enforceable emission limitations and other control measures are covered in those provisions of the APCA and implementing regulations in <i>25 Pa. Code</i> Chapters 121-145; <i>67 Pa. Code</i> Chapters 175-177, codified in 40 CFR § 52.2020(c)(1); ACHD Regulations, Parts A through I to Articles XX and XXI, codified in 40 CFR § 52.2020(c)(2); Philadelphia Title 3 Air Management Code and Philadelphia AMS Regulations I, II, III, IV, V, VII, VIII, XI, and XIII, codified in 40 CFR § 52.2020(c)(3); and source specific provisions codified in 40 CFR § 52.2020(d)(1).</p> <p>Elements of the program for enforcement are found in the monitoring, recordkeeping and reporting requirements for sources in these control measures, as well as the following: those</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
§ 110(a)(2)(C) (continued)		provisions of 25 Pa. Code Chapter 127, Subchapters D and E codified in 40 CFR § 52.2020(c)(1); those provisions of ACHD Regulations, Parts H and I to Articles XX and XXI codified in 40 CFR § 52.2020(c)(2); and those provisions of the Philadelphia Title 3 Air Management Code and Philadelphia AMS Regulation I codified in 40 CFR § 52.2020(c)(3).
§ 110(a)(2)(D)(i)	<i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall contain adequate provisions prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required</i>	<p><u>Interstate Transport:</u> In accordance with the <i>EME Homer City</i> decision from the U.S. Court of Appeals for the D.C. Circuit, a state is not required to submit a SIP pursuant to Section 110(a) which addresses Section 110(a)(2)(D)(i)(I) until EPA has defined a state’s contribution to nonattainment or interference with maintenance in another state (<i>EME Homer City Generation, LP v. EPA</i>, 696 F.3d 7 (D.C. Cir. 2012), cert. granted 133 U.S. 2857 (2013)). Unless the <i>EME Homer City</i> decision is reversed or otherwise modified by the Supreme Court of the United States, states such as Pennsylvania are not required to submit Section 110(a)(2)(D)(i)(I) SIPs until the EPA has quantified their obligations under that section. At this time, EPA has not quantified Pennsylvania’s obligations.</p> <p><u>PSD:</u> See Section 110(a)(2)(C) discussion above and Section 110(a)(2)(D)(ii) discussion below for reference to PSD and NSR rules.</p> <p><u>Visibility:</u> Pennsylvania submitted its Regional Haze SIP revision under CAA Section 169 in December 2010 to address visibility related pollutants. EPA issued a limited disapproval and limited approval of Pennsylvania’s Regional Haze SIP revision on June 7, 2012, and July 13, 2012, respectively (77 FR 33642 and 77 FR 41279). The limited disapproval resulted from Pennsylvania’s reliance on the Clean Air Interstate Rule (CAIR) to address regional emission transport. The limited disapproval included a Regional Haze Federal Implementation Plan (FIP) for Pennsylvania, which replaced reliance on CAIR with reliance on the Cross-State Air Pollution Rule (CSAPR). The U.S. Court of Appeals vacated CSPAR in August 2012 and ordered EPA to continue administering CAIR. CAIR will remain in effect until the court case is resolved, as stated in then Assistant Administrator Gina McCarthy’s November 2012 memo to the EPA regional offices titled “Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule.”</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(D)(i) (continued)</p>	<p><i>to be included in the applicable implementation plan for any other state under Part C of this subchapter to prevent significant deterioration of air quality to protect visibility.</i></p>	<p>A petition for review of EPA’s July 13, 2012, limited approval of the Pennsylvania Regional Haze SIP was filed on September 11, 2012, in the U.S. Court of Appeals for the Third Circuit. On October 22, 2013, the Third Circuit granted EPA’s request for a voluntary remand without <i>vacatur</i> of EPA’s July 13, 2012, limited approval. The October 22, 2013, Court Order provided for EPA to complete action upon the Regional Haze SIP by April 20, 2014 (<i>Nat’l Parks Conservation Ass’n v. EPA</i>, No. 12-3534 (3d Cir. Oct. 22, 2013)).</p> <p>Pennsylvania does not have a Class I area. The closest Class I areas to Pennsylvania are Brigantine Wilderness in New Jersey and Otter Creek Wilderness in West Virginia, which are approximately 70 and 73 kilometers, respectively, from the borders with Pennsylvania. Pennsylvania’s Regional Haze SIP, along with Pennsylvania’s SIP provisions to implement CAIR, adequately prevent sources in Pennsylvania from interfering with measures adopted by other states to protect visibility.</p>
<p>§ 110(a)(2)(D)(ii)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall contain adequate provisions insuring compliance with the applicable requirements of Sections 115 and 126(b) (relating to interstate and international pollution abatement).</i></p>	<p>Major stationary sources for NO₂ are currently subject to PSD and nonattainment new source review (NNSR) permitting programs, as described in this proposed SIP revision for § 110(a)(2)(C) and (J). DEP implements and enforces the PSD and NNSR in all areas of the Commonwealth, except Philadelphia and Allegheny Counties; those counties administer and enforce approved local air pollution control programs under Section 12 of the APCA.</p> <p>NNSR and PSD provisions are codified in Pennsylvania’s SIP at 40 CFR §§ 52.2020(c)(1), 52.2020(c)(2), 52.2020(c)(3), 52.2020(d), 52.2058(a) and 52.2061.</p> <p>There are no final findings under Section 115 of the CAA against Pennsylvania with respect to the 2010 NO₂ NAAQS. No source or sources within Pennsylvania are the subject of an active finding under Section 126 of the CAA with respect to the 2010 NO₂ NAAQS.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(E)(i)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof).</i></p>	<p>State Agency Legal Authority: The Commonwealth’s enforceable emission limitations and other control measures are authorized by the following: the APCA and applicable implementing provisions in 25 Pa. Code Chapters 121-145; 67 Pa. Code Chapters 175-177 codified in 40 CFR § 52.2020(c)(1); provisions of ACHD Regulations, Parts A through I to Articles XX and XXI codified in 40 CFR § 52.2020(c)(2); provisions of Philadelphia Title 3 Air Management Code and Philadelphia AMS Regulations I, II, III, IV, V, VII, VIII, XI, and XIII codified in 40 CFR § 52.2020(c)(3); and source specific provisions codified in 40 CFR § 52.2020(d)(1). The regulations in the Pennsylvania Code are adopted by the EQB and promulgated under the Commonwealth Documents Law. Section 12 of the APCA reserves powers to political subdivisions to enact air pollution control ordinances, which are not less stringent than the requirements of the CAA, the APCA, and regulations adopted under the acts. Section 12 of the APCA authorizes only two local air pollution control programs in the Commonwealth, which are administered by Philadelphia AMS and ACHD. See ‘Local Agency Legal Authority’ for further information about the Philadelphia AMS and ACHD programs.</p> <p>Local Agency Legal Authority: Section 12 of the APCA (35 P.S. § 4012) authorizes local air pollution control programs in any county of the first or second class of the Commonwealth; these are Philadelphia and Allegheny Counties. Consistent with Section 12 of the APCA and the terms of DEP’s approval of the counties’ local air pollution control programs, the local agencies continue to operate their own programs, which, at a minimum, must meet the requirements of the APCA, the CAA and the regulations adopted under the acts. The ACHD local air pollution control program is authorized under County Ordinance 16782 and implementing regulations in Article XXI. Regulations in Allegheny County are adopted by the Allegheny County Board of Health, enacted by Allegheny County Council, and approved by the Allegheny County Chief Executive. The enabling authority for Philadelphia AMS is provided by Title 3, Air Management Code. Ordinances that make up the Philadelphia Code in Philadelphia County are passed by the Philadelphia City Council and approved by the Mayor of Philadelphia. Title 3 of the Philadelphia Code authorizes the City’s Air Pollution Control Board to promulgate Air Management Regulations; Title 3 of the Philadelphia Code and the Air Management</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(E)(i) (continued)</p>		<p>Regulations are enforced by Philadelphia AMS. Where these provisions relate to requirements in Section 110 of the CAA, SIP revisions have been submitted to and approved by EPA. EPA-approved SIP revisions are codified in Pennsylvania’s SIP at 40 CFR Part 52, Subpart NN.</p> <p>State Revenue: Section 6.3 of the APCA (35 P.S. § 4006.3) authorizes the EQB to establish, by regulation, a permanent annual air emission fee, as required for regulated pollutants by Section 502(b) of the CAA (42 U.S.C.A. § 7661a(b)), to cover the reasonable direct and indirect costs of administering the operating permit program required by Title V of the CAA, other related requirements of the CAA, and the reasonable indirect and direct costs of administering the Small Business Stationary Source Technical and Environmental Compliance Assistance Programs, including the Small Business Compliance Advisory Committee and the Office of Small Business Ombudsman. The emission fee shall not apply to emissions of more than 4,000 tons of any regulated pollutant. Section 6.3 of the APCA also authorizes the EQB, by regulation, to establish fees to support the air pollution control program authorized by the APCA and not covered by fees required by Section 502(b) of the CAA.</p> <p>The implementing air quality fee provisions are codified in <i>25 Pa. Code</i> Chapter 127, Subchapter I (relating to plan approval and operating permit fees). The APCA also authorizes the establishment of fees to cover non-Title V costs. Pennsylvania’s air quality program also receives revenue from fines and civil penalties.</p> <p>Section 9.2 of the APCA provides that all fines, civil penalties, and fees collected under the APCA shall be paid into the Treasury of the Commonwealth in a special fund known as the Clean Air Fund (CAF), which shall be administered by DEP for use in the elimination of air pollution. Section 9.2 of the APCA further provides that DEP may establish such separate accounts, as may be necessary, to implement the requirements of the APCA and the CAA.</p> <p>The fees are deposited into restricted accounts in the CAF and are used as prescribed in the statutes and implementing regulations. DEP prepares Comparative Financial Statements for</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(E)(i) (continued)</p>		<p>each account in the CAF, and projects the expenditures out five years to assure the stability of the fund. CAF Spending Plans are developed and approved for two fiscal years. DEP receives federal funds under Sections 105 and 103 of the CAA. State General Fund appropriations are used to match the Section 105 grant.</p> <p>Local Revenue: The local agencies have their own authority to collect Title V and other fees, receive Section 105 and 103 funds directly from EPA, and also receive revenue from fines and penalties, that are restricted for air quality program purposes.</p> <p>State Staffing: DEP has adequate personnel to implement the SIP with respect to the 2010 NO₂ NAAQS requirements. Should EPA determine that DEP lacks adequate personnel to implement the SIP, EPA is authorized to issue a finding with respect to that deficiency, which DEP would have a legal obligation to correct within 18 months after such finding.</p> <p>Local Staffing: DEP’s Agreement for Implementation of the Philadelphia County Air Pollution Control Program and the Agreement for Implementation of the Allegheny County Air Pollution Control Program (see § 110(a)(2)(B) element, above) assure that the two DEP-approved local agencies similarly have the necessary personnel, funding and authority to carry out their respective obligations under the SIP.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(E)(ii) and § 128</p>	<p><i>Section 110(a)(2)(E)(ii) provides that each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide requirements that the state comply with the requirements respecting state boards under Section 128, ...</i></p> <p><i>Section 128 provides that (a) ... each applicable implementation plan shall contain requirements that – (1) any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to</i></p>	<p>A SIP revision addressing the requirements of CAA §§ 110(a)(2)(E)(ii) and 128 is being submitted to EPA for approval and inclusion into the Pennsylvania SIP. Once approved by EPA, the Pennsylvania SIP will address the requirements of CAA §§ 110(a)(2)(E)(ii) and 128 for the 2010 NO₂ NAAQS.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(E)(ii) and § 128 (continued)</p>	<p><i>permits or enforcement orders under this chapter, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.</i></p>	
<p>§ 110(a)(2)(E)(iii)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision;</i></p>	<p>Section 12 of the APCA reserves powers to political subdivisions to enact air pollution control ordinances, which are not less stringent than the requirements of the CAA, the APCA, and regulations adopted under the acts. The APCA authorizes only two local air pollution control programs in the Commonwealth, which are administered by Philadelphia AMS and ACHD. DEP maintains agreements with these two local air agencies, upon whom DEP relies for implementation of the SIP in Allegheny and Philadelphia Counties. DEP has approved the local programs in the areas of financial assistance; annual workload projection; emissions reporting; source monitoring and reporting; enforcement; ambient air monitoring and reporting; and air quality permitting. DEP has responsibility for ensuring adequate implementation of SIP provisions by local authorities under Section 12 of the APCA, 35 P.S. § 4012. The submission to DEP of a description of the implementation of the local air pollution control program, along with a detailed accounting of the costs of implementation, is required on an annual basis. Section 12(e) of the APCA authorizes DEP, under certain conditions, to refuse approval, or to suspend or rescind approval, of county air pollution control agencies' air pollution control programs, in which case, authority for the delegated responsibilities would revert to DEP.</p> <p>Copies of the current agreements to implement air pollution control programs for both Philadelphia and Allegheny Counties are included in Appendix A.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(F)(i) and(ii)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall require, as may be prescribed by the Administrator:</i></p> <p><i>(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources,</i></p> <p><i>(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source,</i></p>	<p>Regulatory requirements for sampling, testing and monitoring by owners or operators of stationary sources have been codified in <i>25 Pa. Code</i> Chapter 139 (pertaining to sampling and testing). Requirements in <i>25 Pa. Code</i> § 135.3 provide for the reporting of emissions inventories by source owners and operators, in a format established by DEP, on a schedule set forth in <i>25 Pa. Code</i> § 135.3. In addition, <i>25 Pa. Code</i> § 135.21 requires the submission of emission statements, as required by the CAA. Area, mobile, and nonroad data are reported to EPA on a 3-year cycle, consistent with 40 CFR Part 51. In accordance with <i>25 Pa. Code</i> §§ 127.12b(c) and 127.441(c), plan approvals and operating permits (including Title V Operating Permits) issued by DEP incorporate the monitoring, recordkeeping and reporting provisions required by <i>25 Pa. Code</i> Chapter 139 (relating to sampling and testing) and other monitoring, recordkeeping or reporting requirements of Article III and additional requirements related to monitoring, recordkeeping and reporting required by the Clean Air Act and the regulations thereunder, including, if applicable, the enhanced monitoring requirements of 40 CFR Part 64 (relating to enhanced monitoring). These provisions, which assure compliance with applicable requirements including the Compliance Assurance Monitoring (CAM) requirements of 40 CFR Part 64 were approved by EPA as revisions to the Commonwealth’s SIP on July 30, 1996 (40 CFR § 52.2020 (c)(110)(i)(C)).</p> <p>The Pennsylvania SIP, applicable laws and regulations do not contain any provisions that prevent the use of any credible evidence (including continuous emissions monitoring data) to establish violations of applicable requirements.</p> <p>The Commonwealth’s enforceable emission limitations and other control measures are authorized by and contained in the following: the APCA provisions of <i>25 Pa. Code</i> Chapters 121-145 codified in 40 CFR § 52.2020(c)(1); <i>67 Pa. Code</i> Chapters 175-177 codified in 40 CFR § 52.2020(c)(1); ACHD Regulations, Parts A through I to Articles XX and XXI, codified in 40 CFR § 52.2020(c)(2); Philadelphia Title 3 Air Management Code and Philadelphia AMS Regulations I, II, III, IV, V, VII, VIII, XI, and XIII codified in 40 CFR § 52.2020(c)(3); and source specific provisions codified in 40 CFR § 52.2020(d)(1) and (2). Elements of the program for enforcement are found in the monitoring, recordkeeping and reporting requirements for sources in these control</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(F)(i) and(ii) (continued)</p>		<p>measures, as well as 25 Pa. Code Chapter 127, Subchapters D and E; ACHD Regulations, Parts H and I to Articles XX and XXI; and Philadelphia AMS Regulation I.</p> <p>These regulatory provisions are approved by EPA and codified in the SIP at 40 CFR §§ 52.2020(c)(1), 52.2020(c)(2), 52.2020(c)(3) and 52.2020(d).</p>
<p>§ 110(a)(2)(F)(iii)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall require, as may be prescribed by the Administrator:</i></p> <p><i>(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.</i></p>	<p>Regulatory requirements for reporting and recordkeeping by owners or operators of stationary sources have been codified in 25 Pa. Code Chapter 135 (relating to reporting of sources) and regulatory requirements for sampling, testing and monitoring by owners or operators of stationary sources have been codified in 25 Pa. Code Chapter 139 (pertaining to sampling and testing). Requirements of 25 Pa. Code Chapter 135 and 25 Pa. Code Chapter 139 are codified in 49 CFR § 52.2020(c)(1). DEP correlates emissions reports by sources with applicable emissions limitations or standards through periodic inspections and record reviews of the sources. The Commonwealth is responsible for making all records, reports or information obtained by DEP, or referred to at public hearings under the provisions of the APCA, available to the public, except to the extent the records, reports or information are determined by DEP to be confidential under Section 13.2 of the APCA, 35 P.S. § 4013.2. The types of records DEP routinely provides access to include notifications, inspection reports, notices of violation, enforcement orders, applications, permit review letters, sample results, monitoring reports, permits, approvals and denials that would relate to § 110(a)(2)(F) of the CAA. All emissions data to which DEP has access is not considered confidential information. DEP makes information available for public access through its Web site (www.depweb.state.pa.us), but also makes hard copy reports available upon written request. DEP also supplies EPA with an annual stationary source inventory for major emitters of NO_x (2,500 tons per year or more) and VOC (250 tons per year or more) in the Commonwealth, which is available to the public on the website, http://epa.gov/ttn/chief.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(G)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide for authority comparable to that in Section 303 and adequate contingency plans to implement such authority.</i></p>	<p>Emergency Powers: Pennsylvania has adequate general emergency powers to address NO₂-related air pollution episodes, as appropriate and necessary. Enabling authority for “Emergency Powers” is contained in Sections 4, 5(a)(5) and 6.2 of the APCA (35 P.S. §§ 4004, 4005(a)(5) and 4006.2). Criteria for Emergency Episodes and related plans are found in 25 Pa. Code Chapter 137 which are codified at 40 CFR Part 52, Subpart NN.</p> <p>The ACHD has adopted Part F to Article XXI and Philadelphia AMS has adopted Regulation IV, both of which cover air pollution episodes and the occurrence of an emergency due to the effects of pollutants on public health.</p> <p>The state and local requirements included in 25 Pa. Code Chapter 137, ACHD’s Part F to Article XXI, and Philadelphia AMS Regulation IV are codified in Pennsylvania’s SIP at 40 CFR § 52.2020(c).</p>
<p>§ 110(a)(2)(H)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide for revision of such plan —</i></p> <p><i>(i) from time to time as may be necessary to take account of revisions of such primary or secondary NAAQS or the availability of improved or more</i></p>	<p>Section 4(1) of the APCA, 35 P.S. § 4004(1), empowers DEP to implement the provisions of the CAA. Section 5 of the APCA, 35 P.S. § 4005, authorizes the EQB to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution. In addition, 25 Pa. Code § 131.2 adopts and incorporates the federal NAAQS by reference. The effective date for a new or revised NAAQS is the same in Pennsylvania as the effective date set forth in the <i>Federal Register</i>. DEP has revised, and will continue to revise, the SIP, as may be necessary when EPA revises the primary or secondary NAAQS and when, if ever, EPA finds that any part of the Pennsylvania SIP is substantially inadequate to attain the NAAQS which it implements, or otherwise to comply with the CAA. DEP has revised, and will continue to revise, the SIP to take advantage of improved or more expeditious methods to attain the NAAQS.</p> <p>The regulatory requirements are approved by EPA in Pennsylvania’s SIP and codified in 40 CFR Part 52, Subpart NN.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(H) (continued)</p>	<p><i>expeditious methods of attaining such standard, and</i></p> <p><i>(ii) except as provided in Paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements, or to otherwise comply with any additional requirements established under this chapter (CAA).</i></p>	
<p>§ 110(a)(2)(J)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall meet the applicable requirements</i></p>	<p>The APCA provides general enabling authority for interaction with the public and local government. Section 4, 35 P.S. § 4004, provides adequate authority for DEP’s public participation process for the review of proposed SIP revisions, as required under CAA Section 121, and notification of NAAQS violations, as required in CAA Section 127. The APCA also provides authority for the public education efforts described in CAA Section 127. Section 4 of the APCA provides general enabling authority for interaction with the public and local government. See § 110(a)(2)(M) discussion below related to consultation and public notification.</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(J) (continued)</p>	<p><i>of Section 121 of this title (relating to consultation), Section 127 of this title (relating to public notification), and Part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection);</i></p>	<p>DEP uses its website to fulfill the requirement for public notification under CAA Section 127. DEP makes real-time NO₂ monitoring data available at http://www.ahs2.dep.state.pa.us/aq_apps/aadata/. ACHD makes NO₂ monitoring data available to the public on its website at http://www.achd.net/air/monitor-data.html. Philadelphia AMS makes NO₂ monitoring data available on its website at http://www.phila.gov/aqi/realtime.aspx.</p> <p>The federal PSD provisions in 40 CFR Part 52 under Section 161 of the CAA (42 U.S.C.A. § 7471) are adopted and incorporated by reference in 25 Pa. Code Chapter 127, Subchapter D. Whenever EPA promulgates any PSD amendments for the 2010 NO₂ NAAQS, the provisions will automatically be adopted and incorporated in the Pennsylvania Code. DEP submitted an ACHD SIP revision for PSD, which was approved by EPA on February 28, 2013 (78 FR 13493), and a Philadelphia AMS SIP Revision for PSD, which was approved by EPA on March 28, 2003 (68 FR 15060). Both SIP revisions are codified in 40 CFR Part 52, Subpart NN.</p> <p>This proposed SIP revision does not address requirements under the CAA Section 110(a)(2)(J), relating to the visibility sub-element. EPA has stated, in guidance issued September 2013, that air agencies do not need to address the visibility sub-element of Section 110(a)(2)(J) in this infrastructure SIP submission, because there are no new applicable visibility protection obligations under Section 110(a)(2)(J) as a result of the 2010 NO₂ NAAQS.</p> <p>The regulatory provisions are approved by EPA and codified at 40 CFR §§ 52.2020(c)(1), 52.2020(c)(2), and 52.2020(c)(3).</p>
<p>§ 110(a)(2)(K)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing.</i></p>	<p>Air Quality Modeling: Section 4(1) of the APCA obligates DEP to implement the provisions of the CAA in this Commonwealth (35 P.S. § 4004 (1)). Inherent in this grant of power and duty is the obligation to meet the NAAQS established under the CAA.</p> <p>Section 4(15) of the APCA provides that DEP has the power and duty to conduct or cause to be conducted studies and research with respect to air contaminants, their nature, causes</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(K) (continued)</p>	<p><i>Each plan shall provide for —</i></p> <p><i>(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and</i></p> <p><i>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;</i></p>	<p>and effects, and with respect to the control, prevention, abatement and reduction of air pollution and air contamination (35 P.S. § 4004(15)). This enabling legislation empowers DEP to perform air quality modeling and to make data submissions prescribed by the Administrator of EPA, in accordance with Section 110(a)(2)(K) of the CAA. Additionally, DEP has incorporated by reference, in its entirety, 40 CFR § 52.2058 (relating to prevention of significant air quality deterioration) in <i>25 Pa. Code</i> §§ 127.81-83, which applies statewide except for Allegheny and Philadelphia Counties. The adoption of the federal PSD program authorizes DEP to require any modeling required by the federal PSD program. ACHD administers a PSD program in Allegheny County, which was approved by EPA as a SIP revision on February 28, 2013 (78 FR 13493), and Philadelphia AMS administers a PSD program, which was approved by EPA as a SIP revision on March 28, 2003 (68 FR 15060).</p> <p>Pennsylvania will continue to perform modeling as required under the CAA to demonstrate attainment. Pennsylvania will continue to submit the air quality modeling data to EPA as part of its relevant SIP submissions and through federal grant commitments, as appropriate. Pennsylvania will also continue to provide air quality modeling data to the EPA Administrator upon request.</p>
<p>§ 110(a)(2)(L)</p>	<p><i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall require the owner or operator of</i></p>	<p>Permitting Fees: The fee requirements of <i>25 Pa. Code</i> Chapter 127, Subchapter I, were approved by EPA as meeting the CAA requirements and were incorporated into the Commonwealth’s SIP. The Commonwealth’s Title V operating permit program, implemented in accordance with <i>25 Pa. Code</i> Chapter 127, Subchapters F and G, was approved by EPA on July 30, 1996 (61 FR 39597). While permit fees are standardized for the entire Commonwealth, collection of fees and Title V permitting activities are shared by DEP, ACHD and Philadelphia AMS. ACHD and Philadelphia AMS collect Title V fees within their respective jurisdictions, and use the fees to fund the Title V permitting program</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
<p>§ 110(a)(2)(L) (Continued)</p>	<p><i>each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover —</i></p> <p><i>(i) the reasonable costs of reviewing and acting upon any application for such a permit, and</i></p> <p><i>(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such</i></p>	<p>for each agency. DEP collects permit fees and administers the Title V permitting program for the rest of the state. DEP is also authorized by 25 Pa. Code § 127.706 to transfer additional funds to the local agencies, if needed, to operate the Title V permitting program. Permitting fees cover reasonable costs of reviewing and acting upon permit applications and reasonable costs of implementing and enforcing permit terms.</p> <p>Codified in 40 CFR § 52.2020(c)(1) and 40 CFR Part 70, Appendix A – Approval Status of State and Local Operating Permits Programs (61 FR 39597; July 30, 1996).</p>

Clean Air Act Section	SIP Requirement	Applicable Pennsylvania Statutes and Regulations
§ 110(a)(2)(L) (Continued)	<i>sources by the Administrator's approval of a fee program under Subchapter (Title) V of this chapter.</i>	
§ 110(a)(2)(M)	<i>Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each plan shall provide for consultation and participation by local political subdivisions affected by the plan.</i>	Section 7 of the APCA (relating to public hearings), 35 P.S. § 4007, requires the EQB, or DEP, acting on behalf of the EQB, to conduct public hearings in any region of the Commonwealth affected before any rules or regulations with regard to the control, abatement, prevention or reduction of air pollution are adopted for that region. Section 7 also requires notice to the public, published in newspapers of general circulation, of the time and place of any public hearing at least thirty days prior to the scheduled date of the hearing. Section 7.5 of the APCA (relating to public review of state implementation plans), 35 P.S. § 4007.5, requires notice of a proposed SIP to be published in the <i>Pennsylvania Bulletin</i> and in newspapers of general circulation for the area affected by the proposed SIP. Pennsylvania does not have any laws and DEP does not have any regulations, applicable to DEP's Bureau of Air Quality, that specifically require direct consultation and participation by local political subdivisions affected by a SIP. Local political subdivisions affected by a SIP are provided with the same opportunity as all other members of the public to review and comment on a SIP during the public comment period. Also see § 110(a)(2)(J) discussion above related to consultation and public notification.