



west virginia department of environmental protection

**Proposed West Virginia
State Implementation Plan Revision for
Clean Air Act Section 110(a)(2)(A)-(M) Requirements
For Ozone and Fine Particulates**

Proposed August 2009

**West Virginia Division of Air Quality
601 57th Street, SE
Charleston, W.Va. 25304**

Promoting a healthy environment

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Proposed West Virginia State Implementation Plan Revision for Clean Air Act Section 110(a)(2)(A)-(M) Requirements for Ozone and Fine Particulates

A State Implementation Plan (SIP) is a plan for each state that identifies how that state will attain and/or maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP is a complex, fluid document containing regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved by EPA on May 31, 1972. SIPs can be revised by the state with EPA approval as necessary. The federally enforceable SIP for West Virginia is compiled in 40 CFR Part 52, Subpart XX. In this proposed revision to the SIP, West Virginia is demonstrating that it has adequate resources and authority to implement the 2006 PM_{2.5} NAAQS and the 2008 8-hour ozone NAAQS. Additionally, the state is supplementing its existing Section 110(a)(2)(A)-(M) infrastructure SIP for the 1997 PM_{2.5} and 8-hour ozone NAAQS, only with respect to the enforcement authority requirements under CAA Section 110(a)(2)(C).

This SIP revision addresses requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act (CAA) many of which have been addressed in other SIP revisions. It is a compilation of elements that demonstrate how the 2006 fine particulate (PM_{2.5}) and the 2008 eight-hour ozone NAAQS (and with respect to CAA Section 110(a)(2)(C), the 1997 ozone and fine particle NAAQS) are being implemented, maintained and enforced in West Virginia. The elements of this SIP revision, once approved by EPA, will provide a federally enforceable compilation of how West Virginia will continue to comply with the Section 110(a)(2) requirements of the CAA.

In 1961, the State Legislature passed the Air Pollution Control Law of West Virginia, making West Virginia the sixteenth state to have a statewide air pollution control law. The law provided for a separate state agency composed of a seven member Commission, a Director and staff. The powers, authorities and funding of the original Commission were subsequently conveyed to the Office of Air Quality and then to the Division of Air Quality (DAQ) within the West Virginia Department of Environmental Protection (DEP). Staffing, funding and legal authorities now incorporate over 90 full time staff, with a multi-million dollar annual budget and over 40 legislative rules. DAQ has a variety of substantial funding sources, including construction/modification permit fees, Title V operating permit fees, non-Title V operating fees, general State revenue and federal grant monies. The agency has demonstrated the ability to implement state and federal requirements for nearly fifty years as most recently evidenced by federally approved 1997 ozone standard maintenance SIPs, submitted infrastructure SIPs for the 1997 ozone and fine particle standards (which EPA has found complete) and EPA approved state adoption of the federal Clean Air Interstate Rule (CAIR). Legislative authority for the West Virginia air quality program relating to the responsibilities in the Clean Air Act is codified in the West Virginia Air Pollution Control Act, W.Va. Code §22-5, more specifically §22-5-1, which gives West Virginia the primary responsibility for assuring air quality pursuant to the CAA.

Many elements of Section 110(a)(2)(A)-(M) already exist in the approved SIP or recently submitted SIP revisions for other NAAQS. This SIP revision may reiterate and/or reinforce some of these previously submitted and/or approved elements.

Some requirements, such as those for intergovernmental consultation, air quality modeling and compliance with part D of the CAA, are fulfilled during the development and submission to EPA, as a SIP revision, of attainment plans and related requirements due under Subpart 1 and, in the case of ozone, Subpart 2 of the CAA.

Section 110(a) element	<i>The implementation plan shall:</i>	West Virginia Implementation
§110(a)(2)(A)	<p><i>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 Act.</i></p>	<p>Enforceable Emission Limitations:</p> <p>45CSR2 - This SIP approved rule (68FR47473) establishes emission limitations for smoke and particulate matter which are discharged from fuel burning units.</p> <p>45CSR3 - The purpose of this SIP approved rule (67FR63270) is to establish particulate matter emission limitations for hot mix asphalt plants and the plant property.</p> <p>45CSR5 - The purpose of this SIP approved rule (67FR62379) is to prevent and control air pollution from the operation of coal preparation plants, coal handling operations and coal refuse disposal areas.</p> <p>45CSR6 - This SIP approved rule (74FR12560) establishes emission standards for particulate matter and requirements for activities involving incineration of refuse which are not subject to, or are exempted from regulation under a federal counterpart for specific combustion sources.</p> <p>45CSR7 - The purpose of this SIP approved rule (50FR26732) is to control particulate matter air pollution from manufacturing processes and associated operations.</p> <p>45CSR10 - The purpose of this SIP approved rule (68FR33002) is to control air pollution from the emission of sulfur oxides.</p> <p>45CSR21 - The purpose of this SIP approved rule (60FR6022) is to apply reasonably available control technology for VOC sources located in Putnam County, Kanawha County, Cabell County, Wayne County, and Wood County West Virginia.</p> <p>45CSR29 - This SIP approved rule (60FR39855) requires the submission of VOC and NO_x emissions statements for sources in Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier counties.</p>

		<p>West Virginia received approval of its CAIR SIP revision on August 4, 2009 (74FR38536) which contained three State Rules; 45CSR39, 45CSR40 and 45CSR41. These rules also contain the monitoring, recordkeeping and reporting requirements under 40 CFR Part 75.</p> <p>Pursuant to West Virginia Code, §22-5-1 declares the state’s public policy “to fulfill its primary responsibility for assuring air quality pursuant to the ‘Federal Clean Air Act’, as amended.”</p> <p>The Secretary has the authority under W.Va. Code §§22-5-4(a)(1) & (3) “to develop ways and means for the regulation and control of pollution of the air of the state” and “conduct such studies and research relating to air pollution and its control and abatement”.</p> <p>The Secretary has the authority under W.Va. Code §§22-1-3(a), 22-5-4(a)(4) and 22-5-4(a)(17) to promulgate rules in accordance with the Administrative Procedures Act (W.Va. Code §§ 29A3-1 et seq.) Approximately forty rules revised under the auspices of the APCA are currently in effect and codified at Title 45 of the Code of State Rules, including the ambient air quality standards for criteria pollutants contained in 45CSR8.</p>
<p>§110(a)(2)(B)</p>	<p><i>provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the Administrator;</i></p>	<p>Establishment of Monitoring System: Pursuant to West Virginia Code, §22-1-1(a)(1), “protecting the environment is fundamental to the health and welfare of individual citizens,” and, the state “has a duty to provide and maintain a healthful environment for our citizens.” Under §22-1-1(a)(2), “the state has the primary responsibility for protecting the environment.” §22-1-1(b) “declares that the establishment of a department of environmental protection is in the public interest” and that “It is the policy of the stateto use all practical means and measures to prevent or eliminate harm to the environment and biosphere, to create and maintain conditions under which man and nature can exist in productive harmony,</p> <p>Additionally, §22-5-1 declares the state’s public policy “to fulfill its primary responsibility for assuring air quality pursuant to the ‘Federal Clean Air Act’, as amended.”</p> <p>As set forth in §22-1-1(b)(5), the WVDEP, “insofar as federal environmental programs require state participation” must “endeavor to obtain and continue state primacy in the administration of such federally-mandated programs,.....and to cooperate with appropriate federal agencies to meet environmental goals.”</p> <p>Under §22-1-6(a), the WVDEP Cabinet Secretary “is the chief officer of the department” with the powers, duties and authority pursuant to §§22-5-2(3) and 22-5-4.</p>

§110(a)(2)(B)
(continued)

The Secretary has the authority under W.Va. Code §§22-5-4(a)(1) & (3) “to develop ways and means for the regulation and control of pollution of the air of the state” and “conduct such studies and research relating to air pollution and its control and abatement”.

Therefore, under manifold statute authority, West Virginia operates and maintains an established network of ambient air monitors in West Virginia for the purpose of assessing compliance with the National Ambient Air Quality Standards, which Congress provided for in the CAA, and such standards promulgated by EPA to protect the health and welfare of individual citizens.

West Virginia has committed within the 103 grant document to various PM_{2.5} monitoring and reporting requirements. Additionally, the state has committed within the 105 grant document to monitoring and reporting data for SO₂, CO, O₃, PM₁₀, and PM_{2.5}.

In general, the existing network and procedures for the 1997 ozone NAAQS are considered adequate for the revised 2008 ozone NAAQS, as the pollutant is unchanged; only the standard (or level) is different.

Similarly, the existing network and procedures for the PM_{2.5} NAAQS are considered adequate for the revised 2006 PM_{2.5} NAAQS, as the pollutant is unchanged; only the standard is different.

Monitoring System Operation: To assess NAAQS compliance, DAQ operates a network of monitors in West Virginia that have been designated by EPA as either Federal Reference or Federal Equivalent monitors. All ambient air monitors are subjected to the Quality Assurance requirements of 40 CFR Part 58, Appendix A. Additionally all monitors have met the minimum siting requirements of Part 58, Appendix E.

Availability of Data: In order to keep EPA informed of planned changes to the monitoring network, WVDEP provides EPA Region III with adequate prior notification. Details of these changes and anticipated approvals of the changes are communicated to EPA. On an annual basis, WVDEP submits to EPA a network design plan required under 40 CFR §58.10, of any changes to the network. This plan also provides for a description of each change, the reason for each change, and any other information relevant to the change.

As provided in West Virginia Code, §§22-5-4(a)(2) and 22-5-10, WVDEP collects and reports to EPA ambient air quality data for SO₂, CO, O₃, PM₁₀, and PM_{2.5}. The reports comply with the federal requirements of 40 CFR §58.16. The data is reviewed, edited,

		<p>validated, and entered into the EPA air quality system (AQS) for updating pursuant to prescribed AQS procedures. The EPA AQS receives each report within 90 days after the end of the quarterly reporting period. Data is certified annually as required under 40 CFR §58.15.</p> <p>WVDEP analyzes such air quality data to determine attainment status or progress, as demonstrated by the 8-hour ozone redesignation and maintenance plan requests submitted and approved during calendar years 2006, 2007, 2008 and first quarter of 2009.</p>
<p>§110(a)(2)(C)</p>	<p><i>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;</i></p>	<p>Enforcement of Emission Limitations and Control Measures for the 1997 PM_{2.5} and 8-hour ozone NAAQS, the 2006 PM_{2.5} NAAQS, and the 2008 8-hour ozone NAAQS: Pursuant to §22-1-6(a), the WVDEP Cabinet Secretary “is the chief officer of the department” with the powers, duties and authority pursuant to §§22-5-2(3) and 22-5-4.</p> <p>The Secretary has the authority under W.Va. Code §§22-1-3(a), 22-5-4(a)(4) and 22-5-4(a)(17) to promulgate rules in accordance with the Administrative Procedures Act (W.Va. Code §§ 29A3-1 et seq.)</p> <p>The Secretary has the authority under W.Va. Code §22-5-4(a)(5) “to enter orders requiring compliance with the provisions of this article and the rules lawfully promulgated hereunder.”</p> <p>The Secretary has the authority under W.Va. Code §22-5-4(a)(9) “to enter and inspect any property, premise or place for the purpose of ascertaining the state of compliance with this article and the rules promulgated under the provisions of this article.”</p> <p>The Secretary has the authority under W.Va. Code §22-5-4(a)(16) “to do all things necessary and convenient to prepare and submit a plan or plans for the implementation, maintenance and <i>enforcement</i> of the Federal Clean Air Act</p> <p>The Secretary also has the authority under W.Va. Code §22-5-5 to enter an order directing a person to cease and desist activity which violates the provisions of §22-5-1 et seq and the rules promulgated pursuant thereto.</p> <p>Pursuant to W.Va. Code §22-5-6, violators of the provisions of §22-5-1 et seq and the rules promulgated pursuant thereto are subject to civil penalty.</p> <p>The federally approved provisions of West Virginia's VOC control regulations under</p>

		<p>State Rules 45CSR21 (60FR6022).</p> <p>SIP approved rule 45CSR29 (60FR39855) requires the submission of VOC and NO_x emissions statements for sources in Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier counties.</p> <p>West Virginia received approval of its CAIR SIP revision on August 4, 2009 (74FR38536) which contained three State Rules; 45CSR39, 45CSR40 and 45CSR41. These rules also contain the monitoring, recordkeeping and reporting requirements under 40 CFR Part 75.</p> <p>Regulation of the Modification and Construction of Stationary Sources: West Virginia's current permitting program includes three SIP approved rules: NSR rule 45CSR13 (68FR9559) which provides a permitting program for construction and modification of minor sources; PSD rule 45CSR14 (71FR64470) which satisfies the prevention of significant deterioration permit program requirements in Part C of the CAA; and major NNSR rule 45CSR19 (71FR64468) which satisfies the nonattainment area new source review permit program requirements in Part D.</p> <p>West Virginia submitted 45CSR14 to EPA as a final PSD SIP revision on July 20, 2009. This fully-adopted rule includes NO_x as a precursor to ozone.</p>
<p>§110(a)(2)(D)</p>	<p><i>contain adequate provisions -</i></p> <p><i>(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will-</i></p> <p><i>(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or</i></p> <p><i>(II) interfere with measures required to be included in the applicable implementation plan</i></p>	<p>Prohibiting Interference with Measures for PSD or Visibility: under SIP rule 45CSR14 (71FR64470), “.....all applications filed by any person to construct major new or modified stationary air pollution sources, intending to locate in areas with air quality worse than the levels set to protect the public health and welfare, or that might impact those areas, must adequately meet the pre-construction review procedures and conditions of the Clean Air Act as amended”. This rule includes specific federal requirements which ensure that new or modified sources do not interfere with measures to prevent significant deterioration of air quality.</p> <p>West Virginia’s Regional Haze SIP was submitted on June 18, 2008. By operation of law, it became technically and administratively complete on or about December 18, 2008.</p> <p>Ensuring Compliance with Sections 126 and 115: West Virginia is not currently subject to requirements under sections 115 and 126.</p>

	<p><i>for any other State under part C to prevent significant deterioration of air quality or to protect visibility,</i></p> <p><i>(ii) ensuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);</i></p>	
<p>§110(a)(2)(E)(i)</p>	<p><i>provide</i></p> <p><i>(i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof);</i></p>	<p>Legal Authority: The West Virginia Air Pollution Control Act (APCA), W.Va. Code §22-5-1, declares the state's policy "to fulfill its primary responsibility for assuring air quality" pursuant to the CAA. The WVDEP Cabinet Secretary is authorized under W.Va. Code §§22-1-6(c)(1) and 22-5-4(a)(12) to carry out and represent the state in any and all matters pertaining to the implementation plan. The Secretary is also authorized under W.Va. Code §22-5-4(a)(16) to do all things necessary and convenient to prepare and submit a plan. The Secretary is not prohibited by any provision of federal or state law from carrying out the implementation plan or portion thereof.</p> <p>The Secretary has the authority under W.Va. Code §§22-1-3(a), 22-5-4(a)(4) and 22-5-4(a)(17) to promulgate rules in accordance with the Administrative Procedures Act (W.Va. Code §§ 29A3-1 et seq.) Approximately forty rules revised under the auspices of the APCA are currently in effect and codified at Title 45 of the Code of State Rules, including the ambient air quality standards for criteria pollutants contained in 45CSR8.</p> <p>Statutory permitting requirements are set forth in W.Va. Code §§22-5-11 & 12. West Virginia has an EPA-approved air permitting program for both major and minor facilities, under state rules 45CSR13, 45CSR14, 45CSR19 and 45CSR30 (as applicable).</p> <p>Personnel: WVDEP has demonstrated adequate personnel to carry out the implementation plan with respect to 8-hour ozone and PM_{2.5} NAAQS requirements. The Secretary employs adequate personnel and retains specialists under W.Va. Code §22-5-4(a)(8) that are "necessary, incident or convenient" to accomplish the statutory mandate to carry out the implementation plan.</p> <p>Funding: The APCA provides adequate funding under W.Va. Code §§22-1-10(a) and 2-5-4(a)(17) to carry out the implementation plan. W.Va. Code §22-5-12 sets forth the statutory operating permit requirements for stationary sources under Title V of the CAA. 45CSR30 establishes fees sufficient to cover the direct and indirect costs of</p>

		administering the air pollution control planning process, Title V operating permit program, and support the air pollution control program authorized by statute. The APCA also authorizes the establishment of fees to cover non-Title V permitting costs under 45CSR22. The air quality program also receives revenue from fines and penalties (Air Pollution Control Fund) and federal funds under Section 105 and 103 of the CAA, special federal funds for PM _{2.5} , and state general appropriations.
§110(a)(2)(E)(ii)	<i>(ii) requirements that the state comply with the requirements respecting state boards under section 128, and</i>	State Boards Under Section 128: Because West Virginia does not have a board which approves permits or enforcement orders, this element is not applicable.
§110(a)(2)(E)(iii)	<i>(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision;</i>	Responsibility for Implementation of Assured Local Plan Provision: Because the modeling and consequent determination regarding the attainment status of the Eastern Panhandle counties relied on federal interstate transport programs only rather than the measures contained in the EAC (70FR48287), West Virginia did not rely on local or regional entities for the reductions required for attainment. The state will retain primacy for future plans that rely local or regional governments, agencies or instrumentalities.
§110(a)(2)(F)	<i>require, as may be prescribed by the Administrator -</i> <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> <i>(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and</i>	Monitoring: W.Va. Code §22-5-4(a)(15) authorizes the Secretary to require 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 as the Secretary may prescribe. Under this authority, West Virginia requires the installation, maintenance, and replacement of monitoring equipment at stationary sources through permits issued under 45CSR13, 45CSR14, 45CSR19, 45CSR30, and via compliance orders. The state's NOx SIP Call (45CSR1 & 45CSR26) and CAIR rules (45CSR39, 45CSR40 & 45CSR41) also require the installation, maintenance, and replacement of monitoring equipment. Reporting: W.Va. Code §§22-5-4(a)(15) authorizes the Secretary to require periodic reports on the nature and amounts of emissions and emissions-related data from owners or operators of stationary sources (monitoring data). Pursuant to W.Va. Code §§22-5-4(a)(14), the Secretary is authorized to require such information as the Secretary may require in a form or manner prescribed by the Secretary (emissions inventory program). Under this authority, West Virginia requires periodic reports on the nature and amounts of emissions and emissions-related data from stationary sources

	<p><i>(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;</i></p>	<p>through permits issued under 45CSR13, 45CSR14, 45CSR19, 45CSR30, and via compliance orders. The state’s CAIR rules (45CSR39, 45CSR40 & 45CSR41) also require periodic reporting of emissions data.</p> <p>Correlation of Reports: W.Va. Code §22-1-6(d)(3) authorizes the Secretary to “investigate for violations of statutes or rules which the department is charged with enforcing.” §22-5-4(a)(3) authorizes the Secretary to correlate periodic emissions reports with any emission limitations or standards established pursuant to 45CSR13, 45CSR14, 45CSR19, 45CSR30 or the CAA. As set forth in W.Va. Code §22-5-10, the Secretary makes available at reasonable times for public inspection the periodic emissions reported under §§22-5-4(a)(14) & (15). The Secretary has the responsibility of making all records, reports or information obtained by the Department 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 protected by confidentiality pursuant to 45CSR31. 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). WVDEP generally makes information available for public access through its website, but also makes hard copy reports available upon written request.</p>
<p>§110(a)(2)(G)</p>	<p><i>provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;</i></p>	<p>Comparable Authority: W.Va. Code §22-5-5 authorizes the Secretary to issue an order to cease and desist any activity that violates the Air Pollution Control Act. The Secretary may also suspend, modify or revoke a source’s permit. Under §22-5-6, the Secretary may also institute lawsuits for civil penalties. §22-5-7 authorizes the Secretary to seek applications for injunctive relief. §22-5-8 authorizes the Secretary, with the written authorization of the governor, to shut down a source, thereby preventing the emission of air pollutants which substantially contributes to an emergency that requires immediate action to protect public health. As provided in West Virginia Code, §§22-5-4(a)(2) and 22-5-10, the Secretary may consult with EPA to affirm accuracy of any information considered while executing authority under §§22-5-5, -6, -7 or -8.</p> <p>Contingency Plans: SIP approved rule 45CSR11 (58FR34526) provides a mechanism to prevent the buildup of ozone and PM₁₀ concentrations during periods of adverse meteorological conditions in which air pollutants may accumulate, thereby preventing the occurrence of an emergency due to the effects of these pollutants on health. To achieve this purpose, three (3) stages of criteria (pollutant concentration levels) have been established and specific emission reduction plans will be developed which will be initiated at each criteria stage to prevent further deterioration of the air supply to any air quality region or substantial portion thereof.</p>

		<p>West Virginia satisfies the criteria to be classified a Priority III Region under 40 CFR §51.150(f) for particulate matter. As set forth in 40 CFR §51.1520(c), areas classified as Priority III do not need to develop episode (contingency) plans. To date, EPA has not promulgated a classification system under the current 8 hour ozone and PM_{2.5} NAAQS.</p>
§110(a)(2)(H)	<p><i>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 national primary or secondary ambient air quality standard or the availability of improved or more 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 Act;</i></p>	<p>Revision of NAAQS: W.Va. Code §22-5-4(a)(16) authorizes the Secretary to do all things necessary and convenient to prepare and submit a plan. WVDEP has historically revised, and will continue to revise its NAAQS rules as necessary to take account of revisions of the national primary or secondary ambient air quality standards or improved or more expeditious methods of attaining the standards.</p> <p>West Virginia submitted a NAAQS SIP revision on April 25, 2008. On February 8, 2009, West Virginia received full SIP approval of its NAAQS rule 45CSR8 (74FR6552). This rule contains ambient air quality standards for all criteria pollutants, including the 2006 PM_{2.5} NAAQS, equivalent to the national primary and secondary ambient air quality standards established under Section 109 of the Clean Air Act, and promulgated by the United States Environmental Protection Agency under 40 CFR Part 50 through June 1, 2007.</p> <p>West Virginia submitted a NAAQS SIP revision (45CSR8) on July 20, 2009 which adopts the 2008 8-hour ozone standard.</p> <p>Inadequate Plan: When, if ever, EPA finds the SIP is substantially inadequate to attain the NAAQS which it implements or otherwise to comply with the CAA, West Virginia will revise the plan as necessary for adequacy.</p>
§110(a)(2)(I)	<p><i>In the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);</i></p>	<p>Non-Attainment Area SIPs: The Secretary is also authorized under W.Va. Code §22-5-4(a)(16) to do all things necessary and convenient to prepare and submit a plan under the CAA. In the case of a implementation plan or plan revision for an area designated as a non-attainment area, the Secretary shall ensure that the implementation plan or plan revision meets the applicable requirements Subchapter I, Part D of the CAA.</p>
§110(a)(2)(J)	<p><i>meet the applicable requirements of section 121 (relating to consultation) and section 127</i></p>	<p>Consultation: The APCA provides adequate authority under W.Va. Code §22-5-4(a)(2) for West Virginia's practices of consultation with local governments, organizations and Land Managers with respect to SIP development. WVDEP also consults with such</p>

	<p><i>(relating to public notification)</i></p>	<p>entities regarding implementation plans for air quality maintenance requirements, preconstruction review of direct sources, nonattainment requirements, and prevention of significant deterioration. As an example, WVDEP consulted with federal Land Managers on the development of West Virginia's Regional Haze SIP revision, and provided an additional 30-day review and comment period beyond the general public review period.</p> <p>Notification: W.Va. Code §22-1-12 provides authority for the public notification of NAAQS violations and education efforts as required by CAA Section 127. Each year, WVDEP issues a comprehensive <i>Air Quality Annual Report</i>, which compares monitored air quality data with the NAAQS, and tracks the <i>Air Quality Index</i>. The Report contains emissions information and air quality highlights from the previous year, and provides public awareness of criteria pollutants and their effects on health; educational website links to tips that improve air quality, links to technical websites and outreach efforts. West Virginia has also implemented an anti-idling program to reduce pollutants from school buses and vehicles at public schools.</p> <p>Measures for PSD or Visibility: under SIP rule 45CSR14 (71FR64470), ".....all applications filed by any person to construct major new or modified stationary air pollution sources, intending to locate in areas with air quality worse than the levels set to protect the public health and welfare, or that might impact those areas, must adequately meet the pre-construction review procedures and conditions of the Clean Air Act as amended". This rule includes specific federal requirements which ensure that new or modified sources do not interfere with measures to prevent significant deterioration of air quality.</p> <p>West Virginia's Regional Haze SIP was submitted on June 18, 2008. By operation of law, it became technically and administratively complete on or about December 18, 2008.</p>
<p>§110(a)(2)(K)</p>	<p><i>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>Air Quality Modeling: West Virginia Code, §§22-5-4(a)(1) & (3), authorizes the Secretary to "develop ways and means for the regulation and control of pollution of the air of the state" and "conduct such studies and research relating to air pollution and its control and abatement". Inherent in West Virginia's authority to meet the NAAQS and to conduct studies and research is the obligation for WVDEP to perform modeling as required under the CAA to demonstrate attainment of the NAAQS, as prescribed by the Administrator. WVDEP participates in regional planning organizations such as the Association for Southeastern Integrated Planning (ASIP), which performs NAAQS modeling for member states. West Virginia will continue to perform modeling, as required under the CAA to demonstrate attainment of the NAAQS.</p>

	<p><i>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;</i></p>	<p>Submission of Data: W.Va. Code §§22-5-4(a)(2), 22-5-10 and 22-5-4(a)(16) authorizes the Secretary to submit, upon request by the Administrator, modeling data 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. West Virginia will continue to submit the air quality modeling data as part of its relevant SIP submissions and through Federal grant commitments or in other ways that EPA may request.</p>
<p>§110(a)(2)(L)</p>	<p><i>require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover-</i></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 sources by the Administrator's approval of a fee program under title V;</i></p>	<p>Permit Fees for Review Cost: EPA has SIP approved PSD rule 45CSR14 (71FR64470) and major NSR rule 45CSR19 (71FR64468) (construction permits). Program permit fees are contained in the rules.</p> <p>Permit Fees for Implementing and Enforcing Permit Conditions: West Virginia has an approved Title V operating permit program under 45CSR30 (66FR50325). Program permit fees are contained in the rule.</p>
<p>§110(a)(2)(M)</p>	<p><i>provide for consultation and participation by local political subdivisions affected by the plan;</i></p>	<p>Consultation: W.Va. Code §22-5-4(a)(2), authorizes the Secretary to advise, consult and cooperate with local political subdivisions affected by the implementation plan. West Virginia consults with local governments, organizations and Land Managers with respect to SIP development. WVDEP also consults with such entities regarding implementation plans for air quality maintenance requirements, preconstruction review of direct sources, nonattainment requirements, and prevention of significant</p>

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