

Executive Summary

A State Implementation Plan (SIP) identifies how the state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains 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. A state may revise its SIP with EPA approval as necessary. The federally enforceable SIP for New Mexico is compiled in 40 CFR Part 52 Subpart GG.

The enclosed SIP matrix outlines the requirements of section 110(a)(2)(A) through (M) of the federal Clean Air Act (CAA) and addresses how New Mexico will implement, maintain and enforce the 2008 lead NAAQS.

Legislative authority for New Mexico's air quality program is codified in Chapter 74 (Environmental Improvement) of the New Mexico Statutes, which gives the State Environmental Improvement Board and the Environment Department the authority to implement the CAA in New Mexico.

The regulatory authority to implement CAA programs is contained in the New Mexico Administrative Code (NMAC), specifically Chapter 2 of Title 20 for Air Quality. These regulations are part of the approved New Mexico SIP and cited in 40 CFR 52.1620(c) unless otherwise stated.

Those requirements of CAA § 110(a)(2) that are in the approved SIP or recently submitted SIP revisions relate to enforceable emission limits and schedules for compliance; monitoring, source testing and emissions reporting; recordkeeping and reporting requirements; and permit fees. Some requirements, such as intergovernmental consultation, air quality modeling, and compliance with Part D of Title I of the CAA, are fulfilled during the development and submission to EPA as a SIP revision of attainment plans.

State of New Mexico
110(a)(2) SIP Requirements for Lead

§ 110(a)(2)	Requirement Summary	New Mexico's Requirements
§ 110(a)(2)(A)	Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetable for compliance.	<p>The New Mexico Environment Department (NMED) has promulgated regulations to implement and enforce the NAAQS and other air quality standards. These regulations include economic incentives.</p> <p>New Mexico's enforceable emission limitations and other control measures are covered in the Air Quality Control Act and those provisions of NMAC Title 20—Environment Protection, Chapter 2—Air Quality as listed in 40 CFR 52.GG, and source specific provisions codified at 40 CFR 52.GG.</p> <p>The regulations authorized by Chapter 74-Environmental Improvement of New Mexico's state statute (1978 NMSA) are duly adopted by the Environmental Improvement Board. Where these provisions relate to Section 110 requirements, SIP revisions have been submitted to and approved by EPA. EPA-approved SIP revisions are codified at 40 CFR Part 52, Subpart GG. New Mexico has an EPA-approved air permitting program for both major and minor sources, which ensures that all applicable requirements are included in the source's permit.</p>
§ 110(a)(2)(B)	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.	New Mexico presently does not operate any lead monitors in the state due to lack of lead major sources in the state. If monitoring is required for the state in the future, all monitoring data will be measured using EPA approved methods as either Reference or Equivalent monitors. All monitors will be subjected to the quality assurance requirements of 40 CFR Part 58, Appendix A, and located at sites that have met the minimum siting requirements of Part 58, Appendix E. All data will be submitted to EPA's Air Quality System (AQS) system in accordance with the schedule prescribed by 40 CFR Part 58.
§ 110(a)(2)(C)	Include a program to	NMED has established regulations

	provide for enforcement the of measures in § 110(a)(2)(A), and regulation regulate of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D.	governing the enforcement of control measures, including attainment plans and permitting programs that regulate construction and modification of stationary sources.
§ 110(a)(2)(D)	<p>(i) Contain adequate provisions prohibiting any source or other type of emissions activity from emitting any air pollutant in amounts which will:</p> <p>(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.</p> <p>(II) Interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.</p> <p>(ii) Insure compliance with the applicable requirements CAA sections § 126 and 115 (interstate and international pollution abatement).</p>	<p>New Mexico currently does not have any lead nonattainment areas nor is the state in closed proximity to any other lead nonattainment areas. The closest lead nonattainment area to New Mexico is approximately 450 miles away in northern Texas.</p> <p>New Mexico does not have any major sources of lead in the state. Total point source emissions for lead in New Mexico equals less than .5 tons per year (tpy) and less than .05 tpy for area source emissions (based on the 2005 National Emission Inventory).</p> <p>Due to the limited amount of point and area source lead emissions in New Mexico and the lack of lead nonattainment areas in New Mexico or within close proximity, NMED has concluded that lead emissions from New Mexico:</p> <ol style="list-style-type: none"> 1) Do not significantly contribute to nonattainment in or interfere with maintenance for any other state with regards to the lead NAAQS; 2) Do not interfere with the measures required to implement prevention of significant deterioration or for the protection of visibility in any other state; and 3) Do not preclude the state from insuring compliance with CAA section § 126 and 115.
§ 110(a)(2)(E)(i)	Provide:	New Mexico Statute § 74-2-5 “Duties and

	<p>(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).</p>	<p>powers; environmental improvement board; local board” gives the New Mexico environmental improvement board authority to develop, implement and enforce the SIP.</p> <p>§ 74-2-5 provides the board adequate legal authority to adopt emission standards and compliance schedules applicable to regulated entities, and to adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards.</p> <p>§ 74-2-5 also provides the board adequate legal authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief. In addition, § 74-2-5.1 provides the department legal authority to enforce applicable laws, regulations, standards, and compliance schedules.</p> <p>The resources to carry out the implementation plan are provided through General Funds, Permit Fees, and the CAA §§ 103 and 105 grant process. Permit fees are collected under the authority of § 74-2-7.</p> <p>New Mexico has adequate personnel to implement the SIP with respect to lead requirements. Should EPA determine that New Mexico lacks adequate personnel to carry out the SIP, EPA may issue a finding with respect to that deficiency, which New Mexico would have a legal obligation to correct.</p> <p>New Mexico does not anticipate the need for additional resources to implement the plan for the lead standard beyond those which have been utilized for the preparation of the plan and plan revisions submitted to EPA and other current programmatic demands.</p>
<p>§ 110(a)(2)(E)(i)(i)</p>	<p>(ii) requirements that the state comply with the requirements respecting</p>	<p>New Mexico state statute § 74-7-5 requires the state's Environmental Improvement Board to comply with the requirements of</p>

	state boards under section 128, and	the CAA and its associated standards, regulations and state implementing directives.
§ 110(a)(2)(E) (i)(i)(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.	As discussed in greater detail in the item related to § 110(a)(2)(B) above, New Mexico currently does not maintain a network for monitoring ambient lead levels due to the lack of major lead sources within the state. New Mexico does not rely on any other localities to implement any monitoring or plan provisions.
§110(a)(2)(F)	Require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (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;	Regulatory requirements have been promulgated in 20.2.72 NMAC- <i>Construction Permits</i> , 20.2.70 NMAC- <i>Operating Permits</i> , and 20.2.79 NMAC- <i>Permits-Nonattainment Areas</i> (pertaining to sampling and testing). Requirements in 20.2.7.73 NMAC– <i>Notice of Intent and Emission Inventory Requirements</i> provide for the reporting of emissions inventories in a format established by NMED on a schedule prescribed by the regulation. New Mexico's enforceable emission limitations and other control measures are addressed in the state's Air Quality Control Act and those provisions of Chapter 2 of New Mexico's Administrative Code Title 20. 20.2.5 NMAC- <i>Source Surveillance</i> establishes the general requirements for maintaining records and reporting emissions, including record keeping, data submissions, and public access to emissions data.
§110(a)(2)(G)	Provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.	Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, the New Mexico state statute, § 74-7-10 authorizes NMED to, after a reasonable attempt to give notice, declare a state of emergency and issue without hearing an emergency special order

		<p>directing the owner/operator to cease such pollution immediately.</p> <p>New Mexico adopted an Air Pollution Episode Contingency Plan (8/12/91, 56 FR 38074) that addresses air pollution episodes and the occurrence of an emergency due to the effects of the pollutants on the health of persons.</p>
§110(a)(2)(H)	<p>Provide for revision of such plan:</p> <p>(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</p> <p>(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.</p>	<p>New Mexico's SIP is a compilation of regulations, plans, and submittals that act to improve and maintain air quality in accordance with national standards. The authority to develop or revise the SIP is based on the authority to adopt new regulations, revise existing regulations, and conduct business in a manner to meet the NAAQS. New Mexico state statute § 74-7-5 gives the board authority to perform these functions. § 74-7-5 also provides the board the authority to adopt regulations to abate, control, and prohibit air pollution throughout New Mexico in accordance with the provisions of State Rules Act [Chapter 14, Article 4, NMSA 1978]. Nothing in New Mexico's statutory or regulatory authority prohibits the State from revising the SIP in the event of a revision to the NAAQS.</p>
§110(a)(2)(I)	<p>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);</p>	<p>The SIP revision pertaining to §110(a)(2)(D)(i) addresses the requirements of part D for nonattainment areas. Amendments to these requirements to fulfill recent federal requirements were submitted to EPA in September 2007. SIPs under Part D comply with all applicable requirements for each nonattainment area under CAA Sections 110, 172(c), 175A and subpart 2 to Part D.</p>

		<p>Compliance under the lead standard will be evaluated with submitted SIP revisions for any future nonattainment areas. SIP revisions related to nonattainment areas will comply with Subpart D requirements, as applicable. The currently approved nonattainment area SIP provisions listed in 40 CFR 52.1620 also meet Subpart D requirements.</p>
§110(a)(2)(J)	<p>Meet the applicable requirements of § 121 (relating to consultation), section 127 (relating to public notification), and Part C (relating to prevention of significant deterioration of air quality and visibility protection);</p>	<p>All SIP revisions undergo public notice and hearing, which provides for comment by the public, including local political subdivisions.</p> <p>Air quality data from New Mexico's monitoring network is published in real time on NMED's website. Additionally, as part of the 105 grant process New Mexico is required to submit monitoring data to the Air Quality System (AQS) in a timely manner.</p> <p>New Mexico has adopted 20.2.74 NMAC-<i>Prevention of Significant Deterioration</i> following the requirements outlined in 40 CFR 52 under section 161 of the CAA (42 U.S.C.A. § 7471) for prevention of significant deterioration. These provisions were approved by EPA as part of the SIP.</p> <p>20.2.74 NMAC includes procedures for protection of visibility in Class I areas.</p> <p>New Mexico intends to submit its Regional Haze SIP to EPA in 2010. This submittal will provide further visibility protection and improvements to federal Class I areas.</p>
§110(a)(2)(K)	<p>Provide for:</p> <p>(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</p>	<p>New Mexico has developed Air Dispersion Modeling Guidelines that follow EPA guidelines for air dispersion modeling. The New Mexico Air Dispersion Modeling Guidelines also include internal policy language.</p>

	<p>Administrator has established a national ambient air quality standard, and</p> <p>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;</p>	
§110(a)(2)(L)	<p>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—</p> <p>(i) the reasonable costs of reviewing and acting upon any application for such a permit, and</p> <p>(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;</p>	<p>The fee requirements of 20.2.71 NMAC - <i>Operating Permit Emission Fees</i> and 20.2.75 NMAC - <i>Construction Permit Fees</i> were approved by EPA as meeting the CAA requirements and were incorporated into New Mexico's SIP (11/25/97, 62 FR 50514). New Mexico's Title V operating permit program (20.2.70 NMAC) was approved by EPA in 1997 (11/25/97, 62 FR 50514).</p>
§ 110(a)(2)(M)	<p>Provide for consultation and participation by local political subdivisions affected by the plan.</p>	<p>New Mexico state statute § 74-2-5.2 "State air pollution control agency; specific duties and powers of the department," requires advising; consulting; contracting with and cooperating with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control; and initiation of cooperative action between a local authority and the department, between one local authority and another or among any</p>

		<p>combination of local authorities and the department for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions; and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate.</p> <p>The State's public participation requirements and procedures fulfill the requirements for consultation with local political subdivisions affected by the SIP.</p>
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