RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
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26 October 2011

David Conroy
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Dear Mr. Conroy:

As you are aware, sections 110(a) (1) and (2) of the Clean Air Act (CAA) provide procedural, timing and infrastructure requirements related to compliance with National Ambient Air Quality Standards (NAAQS). On October 15, 2008, the U.S. Environmental Protection Agency (EPA) revised the primary and secondary NAAQS for lead (Pb); states are required to submit State Implementation Plan (SIP) amendments that address 110(a) (1) and (2) issues within three years of promulgation of a new or revised NAAQS. To assist states in meeting this obligation, EPA issued a guidance memo on 14 October 2011 directing states to review their existing State Implementation Plans (SIPs) and, if the existing SIP is adequate to meet the 110(a) requirements, to certify that adequacy in a letter to the EPA. This letter will serve as the required certification of adequacy for Rhode Island.

The guidance memo identifies thirteen elements of Sections 110(a)(1) and (2) that must be addressed in the certification. Those elements and the sections of the Rhode Island program that are consistent with those elements are identified in the attached table. The Rhode Island SIP, which was approved in May 1972, and its numerous subsequent revisions fulfill most of these requirements. Other Section 110(a)(2) requirements are fulfilled by Section 23-23 of the Rhode Island General Laws (RIGL) and by the Rhode Island Air Pollution Control Regulations (APCR) that have been incorporated into or submitted to the EPA for incorporation into the Rhode Island SIP.

A notice of a public comment period and the opportunity to request a public hearing on the infrastructure certification was posted on the web site of the Rhode Island Department of Environmental Management (RI DEM) and sent electronically to the RI DEM Office of Air Resource's mailing list on 20 September 2011. The only comment that was received during the public comment period, which ended on 21 October 2011, was from EPA Region 1. In that comment, EPA noted that final guidance on the development of lead infrastructure SIPs was released on 14 October 2011 and instructed RI DEM to review its proposed Pb Infrastructure SIP in light of that guidance. In response to that comment, RI DEM made minor changes to this document to ensure that all requirements of the final guidance were addressed.

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If you have any questions, please contact Barbara Morin of my staff at (401) 222-4700, extension 7012.

Very truly yours,

Douglas McVay, Acting Chief
Office of Air Resources

cc. Anne Arnold, EPA Region I

Rhode Island's Compliance with CAA Section 110(a)(1) and (2) SIP requirements

CAA Section	110(a) Requirement	Corresponding Rhode Island Requirements
110(a)(2)(A) Emission limits and other control measures	Include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance.	**RIGL § 23-23-5 "Powers and duties of the director"** authorizes the RI DEM Director "to make, issue, and amend rules and regulations … for the prevention, control, abatement, and limitation of air pollution…. . The director may prohibit emissions, discharges and/or releases and may require specific control technology ." **Specific measures that limit emissions of lead (Pb) and the framework for implementation of those measures are found in the following RI APCR regulations:** No. 9 – Air Pollution Control Permits No. 20 – Burning of Alternative Fuels No. 24 – Removal of Lead Paint from Exterior Surfaces No. 29 – Operating Permits **Specific measures that limit emissions of particulate matter, which may contain Pb, and the framework for implementation of those measures are found in the following RI APCR regulations:** No. 1 – Visible Emissions No. 3 – Particulate Emissions from Industrial Processes No. 4 – Open Fires No. 5 – Fugitive Dust No. 6 – Opacity Monitors No. 8 – Sulfur Content of Fuels No. 9 – Air Pollution Control Permits No. 12 – Incinerators No. 13 – Particulate Emissions from Fossil Fuel Fired Steam or Hot Water

CAA Section	110(a) Requirement	Corresponding Rhode Island Requirements
		Generating Units No. 20 – Burning of Alternative Fuels No. 24 – Removal of Lead Paint from Exterior Surfaces No. 27 – Control of Nitrogen Oxides Emissions No. 29 – Operating Permits No. 34 – RI Motor Vehicle Inspection/Maintenance Program No. 42 – Heavy-Duty Diesel Engine Standards No. 43 – General Permits for Smaller-Scale Electric Generation Facilities No. 45 – Rhode Island Diesel Engine Anti-Idling Program No. 48 – Outdoor Wood Boilers
110(a)(2)(B) Ambient Air quality monitoring/data system	Provide for establishment and operation of appropriate devices, methods, systems and procedures to monitor, compile and analyze ambient air quality data, and to make these data available to the EPA	**Section VI of the 1972 RI SIP** specifies requirements for the operation of an Air Quality Surveillance Network. The latest annual air monitoring network plan for Rhode Island was submitted to EPA on July 26, 2011. As specified in that plan, Pb monitoring consistent with the requirements in the NAAQS rule[1] has been conducted in Rhode Island since May 2011. Data collected by network monitors are reviewed, validated and sent to the EPA air quality system no later than 90 days after the end of a calendar quarter. Air monitoring network plans are compiled and submitted to the EPA annually and include an explanation of proposed changes to the network.
110(a)(2)(C) Program for enforcement, PSD and NSR	Include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to assure that NAAQS are achieved The program must include permitting requirements that meet prevention of significant deterioration (PSD)	**§ 23-23-10, 23-23-11 and 23-23-14 of the RIGL** provide DEM with civil and criminal enforcement authorities, including the authority to assess penalties. **RI APCR No. 9, "Air Pollution Control Permits,"** sets forth PSD and NSR requirements for new and modified major and minor stationary sources. Section 9.5.2(b) of that regulation specifies that the "emission increases from the proposed [PSD] source or modification, in conjunction with all other

[1] "Revisions to Lead Ambient Air Monitoring Requirements," FR 75:81126, December 27, 2010.

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	and nonattainment New Source Review (NSR) requirements.	applicable emission increases or decreases (including secondary emissions), would not cause or contribute to a. air pollution in violation of any national ambient air quality standard." Section 9.5.2(a) of Regulation No. 9 requires Best Available Control Technology (BACT) for each pollutant that a new major source has the potential to emit and, for major modifications, for which there would be a net emissions increase associated with the modification. Regulation No. 9 was amended effective January 31, 2011 to include requirements for permitting greenhouse gas emissions consistent with EPA's Greenhouse Gas Tailoring Rule. The amended rule was submitted to the EPA as a SIP revision on January 18, 2011. According to EPA's Lead Infrastructure Guidance[2], EPA may amend its PSD requirements with regard to the Pb NAAQS and is planning to issue Pb modeling guidance concerning analyses necessary to fulfill PSD requirements for Pb. Rhode Island will amend Regulation No. 9 to be consistent with EPA's updated PSD requirements within 3 years of promulgation of the Federal amendments and will incorporate the updated modeling procedures into the State's "Air Quality Modeling Guidelines" when they are finalized. Regulation No. 9 requires minor source installations and modifications with the potential to increase lead emissions by at least 0.9 pounds per year to obtain a preconstruction permit. Section 9.3.3(a)(1) of that regulation requires BACT for such sources and Section 9.3.3(a)(4) specifies that emissions cannot "cause or contribute to air pollution in violation of any applicable state or national ambient air quality standard."

[2] Memorandum from Stephen D. Page, Director, OAQPS, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standard (NAAQS), October 2011.

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110(a)(2)(D)(i) Interstate transport provisions	Include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state, or from interfering with PSD measures or measures to protect visibility in another state.	According to the EPA Pb Infrastructure SIP Guidance, Pb sources with annual emissions less than 0.5 tons (1,000 pounds) or that are located more than two miles from a state border are unlikely to contribute significantly to nonattainment of the Pb NAAQS in another state. According to EPA's 2008 National Emissions Inventory (NEI), the largest Pb emissions source in Rhode Island is the North Central Airport, with emissions of 0.076 tons (152 pounds) per year. Therefore, there are no sources that meet EPA's criteria for potentially significant impacts and no further analysis of interstate transport is indicated. **RI APCR No. 9, "Air Pollution Control Permits,"** sets forth PSD requirements for new and modified stationary sources. RI does not have any known outstanding permit program deficiencies. If EPA revises its PSD rules to be consistent with the revised Pb NAAQS, RI will make corresponding revisions to Regulation No. 9. **The Regional Haze SIP** demonstrates that Rhode Island sources do not significantly impact visibility in any downwind Class I area.
110(a)(2)(D)(ii) Interstate and international transport provisions	Provide adequate provisions to prevent endangerment of public health due to interstate and international transport of pollutants.	**RI APCR No. 9, "Air Pollution Control Permits,"** sets forth PSD requirements for new and modified stationary sources. Section 9.12.3 of this regulation specifies that notice must be provided to any State, Federal Land Manager or Indian Governing Body whose lands may be affected by emissions from a proposed major source
110(a)(2)(E) Adequate personnel, funding and authority	Provide for adequate personnel, funding and legal authority under state law to carry out the SIP.	**§ 23-23-5 of the RIGL** provides the Director of DEM with the legal authority to enforce air pollution control requirements. **Section III of the RI SIP** specifies the RI DEM's legal authority to implement SIP measures. No other agency or organization participates in the implementation or enforcement of those measures in Rhode Island.

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		§ 23-23-5 of the RIGL provides for the assessment of operating permit fees from air emissions sources, allows for DEM to assess preconstruction permit fees and establishes a general revenue reserve account within the general fund to finance the state clean air programs. **RIAPCR No. 28, "Operating Permit Fees,"** requires major sources to pay annual operating permit fees. **The RI DEM "Rules and Regulations Governing the Establishment of Various Fees"** sets forth permit fee requirements for air emissions sources and the legal authority to collect those fees. In addition to Federal funds and operating permit and preconstruction permit fees, RI DEM receives State funding to implement its air programs, including programs that apply to sources that are smaller than those that are required to obtain operating permits. The state air pollution budget for FY 2012 is $767,738. Note that, as discussed above, the largest Pb source in Rhode Island emits 0.076 tons per year of Pb, an amount substantially lower than both the current EPA major source threshold level of 5 tons per year and a 0.5 tons per year threshold that EPA may propose in the future. Air pollution permits and enforcement orders issued by RI DEM are not subject to review or approval of any state board.
110(a)(2)(F) Stationary source monitoring and reporting	Establish a system to require stationary sources to monitor emissions and to submit periodic emissions reports and for the state to correlate those reports with emission limits and standards.	**Section IV of the RI SIP** sets forth an emissions surveillance program. **APCR No. 6, "Continuous Emissions Monitors,"** requires stationary sources specified in Title 40 of CFR Part 51, Appendix P, parts 1-5, "Minimum Emissions Monitoring Requirements," to install, calibrate, operate, and maintain a continuous emission monitoring system and to record and report the total process operating time of the equipment for each calendar quarter to the RI DEM Office of Air Resources. Regulation No. 6 also specifies that RI DEM will use the

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		resulting CEM data to determine compliance with applicable emission limits and/or operating and maintenance requirements and that the data collected must be kept for at least two years. **APCR No. 9, "Air Pollution Control Permits,"** allows RI DEM to require emissions testing of a permitted process within 180 days of initial startup and provides that preconstruction permits issued may contain emissions testing requirements. Additionally, the regulation allows RI DEM to require the use of instrumentation to monitor and record emission data. (9.6.2(b) & (f)(4)) **APCR No. 14 "Record Keeping and Reporting"** requires emission sources to report annually emissions and other data to RI DEM. **APCR No. 29, "Operating Permits"** requires that all permits contain periodic monitoring sufficient to provide a reasonable assessment of the source's compliance status and, where applicable, compliance assurance monitoring. All records and supporting information, including "all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit" must be retained for at least five years (29.6.4(a)(2)).
110(a)(2)(G) Emergency episodes	Provide for authority to address activities causing imminent and substantial endangerment of public health, including contingency plans to implement the emergency episode provisions of the SIP.	**Section V of the RI SIP** specifies RI DEM's Emergency Episode Authority and Procedures. **§ 23-23-16 of the RIGL** allows the Director of RI DEM to order a source to cease operations if it is determined that emissions from the source pose an immediate danger to public health or safety. **§ 23-23.1-5 of the RIGL** sets forth specifications for the proclamation of air pollution episodes and issuance of orders. **RI APCR No. 10, "Air Pollution Episodes,"** specifies criteria for calling and

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		measures to be implemented during air pollution alerts, warnings and episodes. Pb is not specifically addressed in that regulation. However, Regulation No. 10 specifies that air pollution warning or air pollution emergency exists "whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons." Note that, since the largest source of Pb emissions in Rhode Island has emissions (0.076 tons per year) that are only 15% of the emissions level that the Pb NAAQS considers significant (0.5 tons per year), there are no sources for which an emergency plan for lead is required at this time. If EPA amends its emergency episode rules to be consistent with the revised Pb NAAQS, RI DEM will make corresponding changes to Regulation No. 10.
110(a)(2)(H) Future SIP revisions	States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate.	**§ 23-23-5 of the RIGL** allows the Director of RI DEM to "make, issue, and amend rules and regulations ….. for the prevention, control, abatement, and limitation of air pollution."
110(a)(2)(J) Consultation with government officials, public notifications, PSD and visibility protection	Provide a process for consultation with local governments and Federal Land Managers concerning implementation of requirements necessary to attain the NAAQS and to ensure the prevention of significant deterioration of air quality and visibility protection. States must implement procedures to notify the public if a NAAQS is exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.	**§ 23-23-5 of the RIGL** specifies that the RI DEM Director shall "advise and consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in furtherance of the purposes of this chapter." **RI APCR No. 9, "Air Pollution Control Permits,"** sets for a procedure for public comment on proposed major source permits. That regulation specifies that notices of public comment periods must be, at a minimum, distributed to: the permit applicant, the Regional Administrator of the EPA, the chief executives of the city or town where the source would be located, any comprehensive regional land use planning agency, and any State, Federal Land Manager or Indian Governing Body whose lands may be affected by emissions from the proposed source.

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		RI APCR No. 10, "Air Pollution Episodes," specifies criteria for and measures to be implemented during air pollution alerts, warnings and episodes. **RI DEM's website** includes near real-time air quality data, air quality predictions and a record of historical data. Hourly data are also sent to EPA's AIRNOW database and are used to prepare regional and national air quality maps. Alerts are sent by email to a large number of affected parties – emissions sources, concerned individuals, schools, health and environmental agencies and the media. Alerts include information about the health implications of elevated pollutant levels and list actions that reduce emissions. **Air Quality Data Summaries** summarizing the year's air quality monitoring results are issued annually. The summaries are sent to a mailing list of interested parties and posted on the RI DEM website. **APCR No. 9, "Air Pollution Control Permits,"** specifies requirements for PSD and visibility protection.
110(a)(2)(K) Air quality modeling/data	Provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.	**APCR No. 9, "Air Pollution Control Permits,"** requires the submittal of air quality modeling to demonstrate impacts of new and modified major sources and specifies that the EPA must receive notice of the public comment period that is mandated prior to issuance of a major source permit.
110(a)(2)(L) Permitting fees	Require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.	**§ 23-23-5 of the RIGL** provides for the assessment of operating permit fees and preconstruction permit fees for air emissions sources. **RIAPCR No. 28, "Operating Permit Fees,"** requires major sources to pay annual operating permit fees.

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		The RI DEM "Rules and Regulations Governing the Establishment of Various Fees" sets forth permit fee requirements for air emissions sources and the legal authority to collect those fees.
110(a)(2)(M) Consultation/ Participation by affected local entities	Provide for consultation and participation in SIP development by local political subdivisions affected by the SIP	**§ 23-23-5 of the RIGL** provides for the RI DEM Director to consult and cooperate with the cities and towns.