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ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Benjamin H. Grumbles
Director

OCT 14 2009

Ms. Laura Yoshii, Acting Regional Administrator
U.S. Environmental Protection Agency, Region IX
Mail Code: ORA-1
75 Hawthorne Street
San Francisco, CA 94105

RE: Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2);
2006 PM_{2.5} NAAQS, 1997 PM_{2.5} NAAQS and 1997 8-hour Ozone NAAQS

Dear Ms. Yoshii:

Consistent with the provisions of Arizona Revised Statutes (ARS) Title 49, §§ 49-104, 49-106, 49-404 and 49-406 (Enclosure 1) and the Code of Federal Regulations (CFR) Title 40, §§ 51.102-51.104, the Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA) *Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 PM_{2.5} National Ambient Air Quality Standards, 1997 PM_{2.5} National Ambient Air Quality Standards, and 1997 8-hour Ozone National Ambient Air Quality Standards (September 2009)* as a revision to the Arizona State Implementation Plan (SIP).

Clean Air Act (CAA) Section 110(a)(1) requires states to submit SIPs within three years following the promulgation of new or revised National Ambient Air Quality Standards (NAAQS) to provide for implementation, maintenance, and enforcement of such standards. Each of these SIPs must address certain basic elements or the "infrastructure" of its air quality management programs under CAA Section 110(a)(2) including provisions for monitoring, emissions inventories, and modeling designed to assure attainment and maintenance of the NAAQS.

EPA promulgated revised NAAQS for PM_{2.5}, effective December 18, 2006 (71 FR 61144, October 17, 2006), which requires states to submit Section 110(a)(2) SIPs by September 21, 2009. This SIP revision demonstrates that Arizona State and local air quality management programs meet the basic program elements required under CAA Sections 110(a)(1) and (2) (with the exception of Section 110(a)(2)(G)) for implementing the 2006 PM_{2.5} NAAQS.

The analyses and information contained in this submission also fulfills outstanding obligations under CAA Sections 110(a)(2)(E)(i) and (E)(ii) for the 1997 PM_{2.5} NAAQS (see 73 FR 62902;

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October 22, 2008) and Sections 110(a)(2)(A) through (C), (E) through (F), and (H) through (M) for the 1997 8-hour ozone NAAQS (see 73 FR 16205; March 27, 2008). In addition to these required submittals, this SIP revision includes a commitment to adopt and submit Arizona's Emergency Episode Rule (R18-2-220) revision when it is developed and codified to meet the remaining requirement under CAA Section 110(a)(2)(G) for the 1997 and 2006 PM_{2.5} NAAQS and 1997 8-hour ozone NAAQS.

ADEQ requests that EPA approve this revision to the Arizona SIP. Enclosure 2 contains the SIP Completeness Checklist; Enclosure 3 contains two paper copies and one official electronic copy of the SIP revision for your review and action.

If you have any questions, please do not hesitate to contact Nancy Wrona, Director, Air Quality Division, at (602) 771-2308.

Sincerely,



Benjamin H. Grumbles
Director

Enclosures (3)

cc: Joe Crumbaker, Maricopa County Air Quality Department
Ursula Kramer, Pima County Department of Environmental Quality
Don Gabrielson, Pinal County Air Quality Control District
Nancy Wrona, ADEQ, w/o enclosures

Enclosure 1

Arizona Revised Statutes:

- (1) Title 49, chapter 1, article 1, section 49-104; and
- (2) Title 49, chapter 3, article 1, section 49-404.

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49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Assist the department of health services in recruiting and training state, local and district health department personnel.
15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies including laboratories in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
 - (a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
 - (b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.
12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.
13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:
 - (a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.
 - (b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.
 - (c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation

systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and title 26, chapter 2, article 3.

16. Approve remediation levels pursuant to article 4 of this chapter.

C. The department may charge fees to cover the costs of all permits and inspections it performs to insure compliance with rules adopted under section 49-203, subsection A, paragraph 6, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited in the water quality fee fund established by section 49-210.

D. The director may:

1. If he has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

Recent legislative year: Laws 1999, Ch. 295, § 40; Laws 2002, Ch. 251, § 1.

49-404. State implementation plan

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

Recent legislative year: Laws 1999, Ch. 295, § 42.

Enclosure 2

State Implementation Plan Checklist

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STATE IMPLEMENTATION PLAN COMPLETENESS CHECKLIST

SUBMITTAL OF STATE IMPLEMENTATION PLAN (SIP) REVISION

for Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 PM_{2.5} National Ambient Air Quality Standards, 1997 PM_{2.5} National Ambient Air Quality Standards, and 1997 8-hour Ozone National Ambient Air Quality Standards September 2009

1. SUBMITTAL LETTER FROM GOVERNOR/DESIGNEE
See Cover Letter
2. EVIDENCE OF ADOPTION
See Enclosure 3
3. STATE LEGAL AUTHORITY
See Enclosure 1
4. COMPLETE COPY OF STATUTE/REGULATION/DOCUMENT
See Enclosure 3
5. WRITTEN SUMMARY OF RULE/RULE CHANGE
Not Applicable
6. RULE CHANGES INDICATED BY UNDERLINING AND CROSS-OUTS
Not Applicable
7. EVIDENCE THAT ARIZONA ADMINISTRATIVE PROCEDURE ACT REQUIREMENTS WERE MET FOR RULE/PLAN
See Enclosure 3, Appendix D
8. EVIDENCE OF PUBLIC HEARING
See Enclosure 3, Appendix D
9. PUBLIC COMMENTS AND AGENCY RESPONSE
See Enclosure 3, Appendix D

10. IDENTIFICATION OF POLLUTANTS REGULATED BY RULE/PLAN

See Enclosure 3.

11. IDENTIFICATION OF SOURCES/ATTAINMENT STATUS

See Enclosure 3.

12. RULE'S/PLAN'S EFFECT ON EMISSIONS

Not Applicable

13. DEMONSTRATION THAT NAAQS, PSD INCREMENTS AND RFP ARE PROTECTED

See Enclosure 3

14. MODELING SUPPORT

Not Applicable

15. EVIDENCE THAT EMISSIONS LIMITATIONS ARE BASED ON CONTINUOUS EMISSIONS REDUCTION TECHNOLOGY

Not Applicable

16. IDENTIFICATION OF RULE SECTIONS CONTAINING EMISSION LIMITS, WORK PRACTICE STANDARDS, AND/OR RECORD KEEPING/REPORTING REQUIREMENTS

See Enclosure 3.

17. COMPLIANCE/ENFORCEMENT STRATEGIES

See Enclosure 3.

18. ECONOMIC TECHNICAL JUSTIFICATION FOR DEVIATION FROM EPA POLICIES

No known deviations.



**Arizona State Implementation Plan Revision under
Clean Air Act Section 110(a)(1) and (2):
Implementation of**

2006 PM_{2.5} National Ambient Air Quality Standards,

**1997 PM_{2.5} National Ambient Air Quality Standards,
and**

1997 8-Hour Ozone National Ambient Air Quality Standards

**Air Quality Division
September 2009**

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1.0 INTRODUCTION

This state implementation plan (SIP) revision demonstrates that Arizona State and local air quality management programs meet the basic program elements required under Clean Air Act (CAA) Sections 110(a)(1) and (2) for implementing the 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS). The analyses and information contained in this document also fulfill several outstanding obligations under Section 110(a)(2) for the 1997 PM_{2.5} NAAQS and the 1997 8-hour ozone NAAQS.

1.1 Regulatory Background

Clean Air Act Section 110(a)(1) requires states to submit SIPs within three years following the promulgation of new or revised NAAQS to provide for implementation, maintenance, and enforcement of such standards. Each of these SIPs must address certain basic elements or the "infrastructure" of its air quality management programs under CAA Section 110(a)(2). These elements, detailed in CAA Sections 110(a)(2)(A) through (M), include provisions for monitoring, emissions inventories, and modeling designed to assure attainment and maintenance of the NAAQS.

In July 1997, the U.S. Environmental Protection Agency (EPA) issued new National Ambient Air Quality Standards for 8-hour ozone and particulate matter 2.5 microns or less in diameter (PM_{2.5}). Subsequent litigation challenging the new standards created uncertainty on how to proceed, however, and delayed implementation.¹ On March 10, 2005, in response to a separate lawsuit over states' failure to submit Section 110(a)(1) and (2) plans for the 1997 standards, EPA entered into a Consent Decree with Earth Justice that obligated EPA to determine whether states have made the required SIP submissions.²

The Consent Decree required EPA action on state SIPs addressing interstate transport of air pollution, a required SIP component under Section 110(a)(2)(D)(i), by March 15, 2005. On April 25, 2005, EPA published "Finding of Failure To Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and PM 2.5" (70 FR 21147). The April 25, 2005, finding, effective May 25, 2005, started a 24-month clock for EPA to either issue a final Federal Implementation Plan (FIP) to address the requirements of Section 110(a)(2)(D)(i) or to approve a SIP that addresses these requirements. In response to this action, ADEQ submitted *Revision to the Arizona State Implementation Plan Under Clean Air Act Section 110(a)(2)(D)(i) – Regional Transport* on May 24, 2007. EPA approved the plan in a Direct Final Rule on July 31, 2007 (72 FR 41629).

The Consent Decree also required EPA to determine whether states have submitted SIP revisions to meet the remaining requirements of sections 110(a)(1) and (2) by December 15, 2007, for the 1997 8-hour ozone standards (later extended to March 27, 2008), and by October 5, 2008, for the 1997 PM_{2.5} standards. EPA issued *Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards, October 2, 2007*, to assist states as they develop SIPs or certify that existing SIP elements are adequate to meet their outstanding obligations (see Appendix A).

EPA published "Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS" on March 27, 2008, which included a "finding of failure to submit" for Arizona (73 FR 16205). EPA's action started a 24-month deadline by which time EPA must promulgate a FIP to address

¹ See *Whitman v. American Trucking Associations*, U.S. Supreme Court, Nos. 99-1257, 99-1426, February 27, 2001.

² See Appendix A, *Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards, October 2, 2007*.

Section 110(a)(1) and (2) requirements if the state fails to submit and obtain EPA approval of any necessary SIP revision or demonstrate existing state programs are sufficient to meet these requirements.

Arizona submitted *Analysis of Clean Air Act Section 110(a)(2) Air Quality Control Program Elements for Arizona for the 1997 PM_{2.5} National Ambient Air Quality Standards* on September 18, 2008. The analysis demonstrated that, with the exception of 110(a)(2)(E)(i) and (ii) relating to adequate funding and conflicts of interest, and 110(a)(2)(G) relating to emergency powers and contingency plans, existing Arizona SIP elements and the federal prevention of significant deterioration (PSD) permit program are adequate to meet CAA Section 110(a)(2) requirements. EPA published "Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter (PM_{2.5}) NAAQS", effective November 21, 2008, in which EPA concurred that Arizona's submission was complete for the required CAA 110(a)(2) program elements for the 1997 PM_{2.5} NAAQS except for Sections 110(a)(2)(E)(i), 110(a)(2)(E)(ii), and 110(a)(2)(G) (73 FR 62902; October 22, 2008). EPA's action started a 24-month deadline by which time EPA must approve a SIP that addresses these specific elements or to finalize a FIP.

Based on scientific studies regarding the effects of particle pollution, EPA subsequently revised the NAAQS for PM_{2.5} effective December 18, 2006, to improve the protection of public health and welfare (71 FR 61144, October 17, 2006). This action requires states to submit Section 110(a)(2) SIPs by September 21, 2009, to provide for implementation, maintenance, and enforcement of the 2006 PM_{2.5} standards.

Arizona has demonstrated that the required Section 110(a)(2) elements are met, in part, for the 1997 PM_{2.5} and 8-hour ozone NAAQS. Demonstration of Section 110(a)(2) elements for the 2006 PM_{2.5} NAAQS has not been previously submitted. In summary, the outstanding elements for the 1997 PM_{2.5} and 8-hour ozone NAAQS and the 2006 PM_{2.5} NAAQS that require a demonstration of adequacy under Section 110(a)(2) are as follows:

- 1) All elements of Section 110(a)(2) for the 2006 PM_{2.5} NAAQS,
- 2) All elements of Section 110(a)(2) except 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS, and
- 3) Sections 110(a)(2)(E)(i) and (ii) and 110(a)(2)(G) for the 1997 PM_{2.5} NAAQS.

1.2 Summary and Discussion of the Current Revision to Arizona's "Infrastructure" SIP

This document describes how the authorities and infrastructure of Arizona State and local air quality management programs meet the basic program elements required under CAA Section 110(a)(2) for the 2006 PM_{2.5} NAAQS. This SIP revision also fulfills most outstanding requirements for the 1997 8-hour ozone and PM_{2.5} NAAQS.

The statutes and programs described in Section 2.0 are adequate to meet the following requirements of the CAA for the 2006 PM_{2.5} and 1997 8-hour ozone air quality standards:

- 110(a)(2)(A), control measures and emission limits,
- 110(a)(2)(B), ambient air quality monitoring,
- 110(a)(2)(C), enforcement of all SIP measures and new source review and prevention of significant deterioration,
- 110(a)(2)(D), interstate transport (this requirement for the 1997 8-hour ozone NAAQS has already been met),
- 110(a)(2)(E)(i), adequate funding,

110(a)(2)(E)(ii), conflicts of interest,
110(a)(2)(E)(iii), State responsibility for ensuring adequate implementation of plan provisions,
110(a)(2)(F), emissions monitoring and reporting,
110(a)(2)(H), plan revisions,
110(a)(2)(I), Part D nonattainment area plan requirements,
110(a)(2)(J), consultation with government officials and public notification of any exceedance of the air quality standards and prevention of significant deterioration and visibility protection,
110(a)(2)(K), air quality modeling,
110(a)(2)(L), permit fees, and
110(a)(2)(M), consultation/participation by affected local officials.

The programs described in Section 2.0 are also adequate to meet the following requirements of the CAA for the 1997 PM_{2.5} NAAQS:

110(a)(2)(E)(i) relating to adequate funding, and
110(a)(2)(E)(ii) relating to conflicts of interest.

The only remaining obligation under CAA Section 110(a)(2) for the 1997 PM_{2.5} and 8-hour ozone NAAQS and the 2006 PM_{2.5} NAAQS is Section 110(a)(2)(G) relating to emergency episodes. Clean Air Act Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. Arizona Revised Statutes §49-465 already authorizes State actions to alleviate or prevent an emergency health risk to the public due to air pollution or likely exceedance of the NAAQS. Arizona Administrative Code R18-2-220, "Air Pollution Emergency Episodes," approved into the SIP numbered as R9-3-219 at 47 FR 42572 on September 28, 1982, prescribes procedures to prevent the occurrence of ambient air pollution concentrations which would cause significant harm to public health. The rule, however, is currently being revised to incorporate the most recent air quality standards. The revised rule will be submitted to EPA for approval as a revision to the SIP upon completion of the State rulemaking and public review process.

Although Arizona's air quality programs are sufficient at this time to assure attainment and maintenance of the 1997 8-hour ozone and PM_{2.5} NAAQS and the 2006 PM_{2.5} NAAQS in all areas of the State, certain future updates to the federally approved SIP are needed. Several of the applicable air quality sections of Arizona Revised Statutes have been amended and the numbering system has changed since the most recent approval of the SIP. These statutes, however, continue to meet the requirements of the law.

In addition, a number of air quality authorizing and implementing statutes have been added for Arizona programs but have not yet been submitted or approved into the SIP. These program improvement statutes, listed below, will be submitted to EPA for approval as a component of the SIP upon completion of the State public review process:

49-103. Department employees; legal counsel,
49-106. Statewide application of rules,
49-107. Local delegation of state authority,
49-405. Attainment area designations,
49-426.01. Permits; changes within a source; revisions,
49-435. Hearings on orders of abatement,
49-441. Suspension and revocation of conditional order,
49-458. Regional haze program; authority,
49-458.01. State implementation plan revision; regional haze; rules,

49-460. Violations; production of records,
49-461. Violations; order of abatement,
49-462. Violations; injunctive relief,
49-464. Violation; classification; penalties; definition,
49-471. Definitions,
49-476.01. Monitoring,
49-490. Hearings on orders of abatement,
49-495. Suspension and revocation of conditional order,
49-502. Violation; classification,
49-510. Violations; production of records,
49-511. Violations; order of abatement,
49-512. Violations; injunctive relief, and
49-514. Violation; classification; definition.

2.0 ANALYSIS OF CLEAN AIR ACT SECTION 110(a)(2) AIR QUALITY CONTROL PROGRAM ELEMENTS FOR ARIZONA

Arizona Revised Statutes, Title 49, "Environment," divides responsibility and encourages cooperation for meeting the requirements of the CAA among the State, county agencies, and regional planning organizations. Currently the State and three county agencies operate air quality control programs under direct or delegated authority. These air pollution control agencies are: Arizona Department of Environmental Quality (ADEQ), Maricopa County Air Quality Department (MCAQD), Pima County Department of Environmental Quality (PDEQ), and the Pinal County Air Quality Control District (PCAQCD). Figure 1 is a map showing Arizona counties with air quality control agencies.

The Arizona Department of Environmental Quality has primary responsibility for air pollution control and abatement, and as such, is required to "maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act" (ARS §49-404). ADEQ is also responsible for coordinating, along with local officials, the development, adoption, and enforcement of control measures and permits where no local air quality control agency exists. In addition, ADEQ has original jurisdiction in all areas of the State for certain stationary and portable, and all mobile sources, including petroleum refineries, coal fired electrical generating stations, and the motor vehicle emissions inspection program (ARS §49-402).

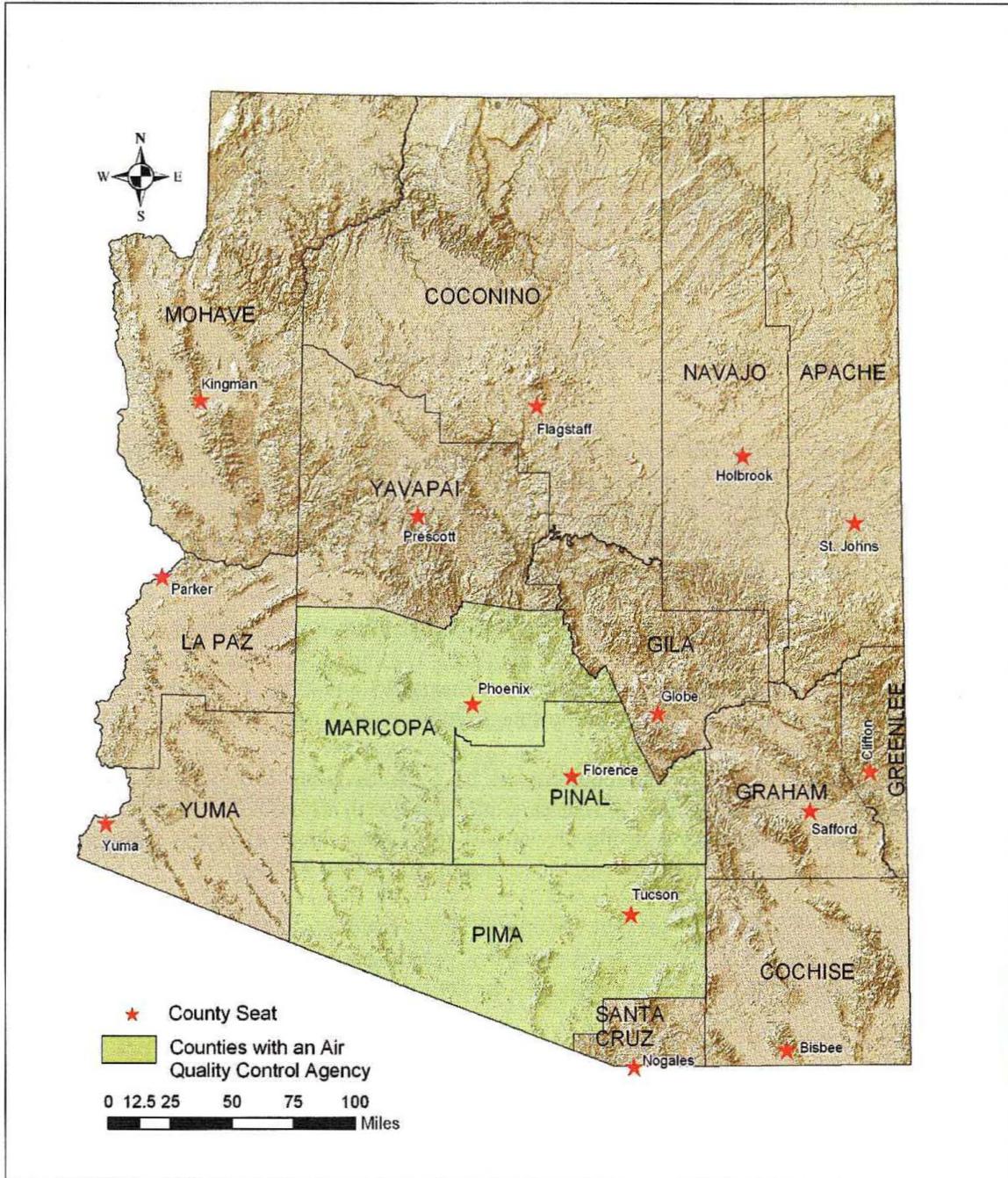
Except for the sources noted above, the county agencies have original jurisdiction for the issuance, administration, and enforcement of permits (ARS §49-402). The State may, however, assert jurisdiction where the local agency is unable to fulfill any function or duty as required. State law also provides direct county authority to adopt and enforce programs, rules, and ordinances for the prevention, control and abatement of air pollution (ARS Title 49, Chapter 3, Article 3).

Two metropolitan planning organizations, the Maricopa Association of Governments (MAG) and the Pima Association of Governments (PAG), are certified for the development of nonattainment and maintenance area plans within their respective jurisdictions (ARS §49-406). MAG and PAG submit their plans to ADEQ for adoption and inclusion in the state implementation plan pursuant to ARS §49-406.H.

The following sections summarize the requirements of CAA Sections 110(a)(2)(A) through (M) and present information that demonstrates Arizona's State and local air pollution control programs, and commitments to update emergency episode provisions, meet these basic elements and are adequate to ensure attainment and maintenance of the particulate matter and ozone NAAQS.

ADEQ is submitting ARS §49-455 [except Section (B)(1)] to address CAA section 110(a)(2)(E)(i) and Title 38, Chapter 3, Article 8 to address CAA section 110(a)(2)(E)(ii) for inclusion in the SIP. All other listed statutes and rules in Sections 2.1 through 2.13 are for informational purposes only.

Figure 1:
 Arizona Counties with
 Air Quality Control Agencies



2.1 CAA Section 110(a)(2)(A) – Control Measures and Emission Limits

Section 110(a)(2)(A) requires SIPs to include enforceable emission limitations and other control measures, means, or techniques, as well as schedules for compliance necessary to meet applicable requirements of the CAA.

The timing of submittals for specific nonattainment area control measures and plans is subject to the requirements of CAA, Title 1, Part D, "Plan Requirements for Nonattainment Areas;" therefore, the demonstration of compliance with CAA Section 110(a)(2)(A) includes the necessary authority for State and local air quality management programs to adopt and implement control measures and plans to assure attainment and maintenance of the PM_{2.5} and 8-hour ozone air quality standards in all areas of Arizona.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

- 49-106. Statewide application of rules
- 49-107. Local delegation of state authority
- 49-402. State and county control
- 49-404. State implementation plan
- 49-406. Nonattainment area plan
- 49-421. Definitions
- 49-424. Duties of department
- 49-425. Rules; hearing
- 49-426. Permits; duties of director; exceptions; applications; objections; fees

For County Programs:

- 49-471. Definitions
- 49-473. Board of supervisors
- 49-479. Rules; hearing
- 49-480. Permits; fees

2.2 CAA Section 110(a)(2)(B) – Ambient Air Quality Monitoring

Section 110(a)(2)(B) requires SIPs to include provisions for establishment and operation of ambient air quality monitors, to compile and analyze ambient air quality data, and make these data available to EPA upon request.

Arizona maintains an extensive monitoring network operated by State and county agencies designed to collect, compile, and analyze ambient air quality data in attainment and nonattainment areas of the State. Operating agencies track data recovery, quality control and quality assurance parameters for all instruments operated at various network sites. Criteria pollutant concentrations, such as PM and ozone, are measured with instruments meeting EPA certification as Federal Reference or Equivalent Methods. All data collected within the PM and ozone compliance networks are compared to the NAAQS, statistically analyzed for trends, and recorded quarterly in EPA's Air Quality System.

Per Code of Federal Regulations (CFR), Title 40, Part 58 the State and county agencies (ADEQ, MCAQD, PDEQ, and PCAQCD) annually submit to EPA network monitoring plans. These plans identify the purpose of each monitor and provide evidence that both the siting and the operation of each monitor meets the network design, quality assurance, and other federal requirements of 40 CFR Part 58.

The results of air quality monitoring conducted throughout Arizona, including ambient PM and ozone data, are contained in ADEQ's Air Quality Annual Reports available at <http://www.azdeq.gov/function/forms/reports.html>. The 2008 Report included ambient data from 15 PM_{2.5} monitoring sites and 39 8-hour ozone monitoring sites throughout Arizona.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

- 49-404. State implementation plan
- 49-406. Nonattainment area plan
- 49-422. Powers and duties; definition
- 49-424. Duties of department

For County Programs:

- 49-473. Board of supervisors

2.3 CAA Section 110(a)(2)(C) – Enforcement of Control Measures

Section 110 (a)(2)(C) requires states to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet prevention of significant deterioration (PSD) and nonattainment new source review (NSR) permitting requirements.

Arizona State and local agencies implement control and enforcement programs for permitted sources of air contaminants and those sources that are not regulated through permits programs (open uncontrolled burns, construction, vacant land, etc.). As part of the SIP enforcement program, ADEQ and local agencies track all committed SIP control measures and work with the entities responsible for those measures to provide any needed assistance and ensure timely implementation. Arizona Revised Statutes §49-406 provides additional assurance that PM and ozone nonattainment and maintenance measures will be implemented and enforced. Each agency that commits to implement any emission limitation or other control measure contained in the SIP is required to specify, in a resolution adopted by the governing body of the agency, its authority for implementing the measure and a program for enforcement of the limitation or measure. If any agency or entity fails to implement a committed measure, the county is authorized to file an action in superior court for injunction or any other relief provided by law. Similarly, if the county fails to ensure implementation of measures, the ADEQ Director is authorized, through the State Attorney General, to seek relief provided by law to ensure implementation of all measures.

Arizona Revised Statutes Title 49, Chapter 3, Articles 1, 2, and 3 establish ADEQ and local agency authority for preconstruction review and permitting. Under the air permits program, sources that emit regulated pollutants are required to obtain a permit before constructing, changing, replacing, or operating any equipment or process which may cause air pollution. This includes equipment designed to reduce air pollution. Permits are also required if an existing facility that causes air pollution transfers ownership, relocates, or otherwise changes operations.

ADEQ and county permitting agencies operate air quality permit compliance programs to ensure implementation of emission limits and other control measures for permitted sources. These programs include scheduled and unscheduled inspections conducted at major sources annually as well as compliance assistance initiatives. Permit and SIP enforcement authority is also provided in ARS §§49-460 through 464, and 49-510 through 514, under which the State or county may issue orders of abatement, and, through the Attorney General or County Attorney, seek injunctive relief for any

violations of the air quality provisions of the law.

Per the authority noted above, all new sources and modifications to existing sources in Arizona are subject to state requirements for preconstruction review and permitting pursuant to *Arizona Administrative Code* (AAC), Title 18, Chapter 2, Articles 2 and 4 or relevant county rules. All new major sources and major modifications to existing major sources in Arizona are also subject to the nonattainment New Source Review (NSR) provisions of these rules or Prevention of Significant Deterioration (PSD) for attainment areas.

ADEQ's nonattainment NSR program was approved by EPA for all pollutants and approval of the PSD program granted ADEQ authority to issue PSD permits for criteria pollutants. ADEQ currently has delegated authority to implement federal PSD provisions for PM₁₀. A new PSD delegation agreement, including provisions for PM_{2.5}, is anticipated in 2009. At this time, State and federal prevention of significant deterioration (PSD) permit programs meet CAA Section 110(a)(2)(C) requirements for PM and ozone.

In conjunction with the NSR program, ADEQ is currently revising its PSD regulations to incorporate the most recent air quality standards and other NSR requirements for PM_{2.5} and will update the rules when EPA's PM_{2.5} implementation guidance is finalized. The updated program will be submitted to EPA for approval upon completion of the State rulemaking process. Conforming county regulations will be submitted for approval as required.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

- 49-103. Department employees; legal counsel
- 49-106. Statewide application of rules
- 49-107. Local delegation of state authority
- 49-402. State and county control
- 49-404. State implementation plan
- 49-406. Nonattainment area plan
- 49-422. Powers and duties; definition
- 49-424. Duties of department
- 49-425. Rules; hearing
- 49-426. Permits; duties of director; exceptions; applications; objections; fees
- 49-426.01. Permits; changes within a source; revisions
- 49-433. Special inspection warrant
- 49-435. Hearings on orders of abatement
- 49-441. Suspension and revocation of conditional order
- 49-460. Violations; production of records
- 49-461. Violations; order of abatement
- 49-462. Violations; injunctive relief
- 49-463. Violations; civil penalties
- 49-464. Violation; classification; penalties; definition
- 49-501. Unlawful open burning; exceptions; civil penalty; definition

For County Programs:

- 49-473. Board of supervisors
- 49-480. Permits; fees
- 49-480.01. Permits; changes within a source; revisions

- 49-488. Special inspection warrant
- 49-490. Hearings on orders of abatement
- 49-495. Suspension and revocation of conditional order
- 49-501. Unlawful open burning; exceptions; civil penalty; definition
- 49-502. Violation; classification
- 49-510. Violations; production of records
- 49-511. Violations; order of abatement
- 49-512. Violations; injunctive relief
- 49-513. Violations; civil penalties
- 49-514. Violation; classification; definition

2.4 CAA Section 110(a)(2)(D) – Interstate Transport

Section 110 (a)(2)(D)(i) requires adequate provisions to ensure that any source or other emissions activity within the state does not contribute significantly to nonattainment, or interfere with maintenance, of the NAAQS in any other state, or interfere with any other state's required applicable implementation plan to prevent significant deterioration of air quality or to protect visibility.

ADEQ submitted *Revision to the Arizona State Implementation Plan Under Clean Air Act Section 110(a)(2)(D)(i) – Regional Transport* on May 24, 2007. This revision to the Arizona SIP addresses interstate transport of air pollution under CAA Section 110(a)(2)(D)(i) and contains a demonstration showing that Arizona does not significantly contribute to interstate transport of pollutants that impact nonattainment in, or interfere with maintenance by, any other state with respect to the 1997 8-hour ozone and PM_{2.5} air quality standards. The plan also demonstrates that Arizona meets the required prevention of significant deterioration of air quality and protection of visibility provisions of the law. EPA approved the plan in a Direct Final Rule on July 31, 2007 (72 FR 41629).

Appendix B of this document contains an "interstate transport" analysis under CAA Section 110(a)(2)(D)(i) for the 2006 PM_{2.5} air quality standards. The analysis demonstrates that Arizona does not significantly contribute to interstate transport of pollutants that impact nonattainment in, or interfere with maintenance by, any other state with respect to the 2006 PM_{2.5} NAAQS. The analysis also demonstrates that Arizona meets the required prevention of significant deterioration of air quality and protection of visibility provisions of the law.

2.5 CAA Section 110(a)(2)(E) – Adequate Resources

Section 110 (a)(2)(E) requires that each SIP shall provide: (i) necessary assurances that adequate personnel, funding, and legal authority are available to carry out the SIP; (ii) that any board which approves permits or enforcement orders represents the public interest and any conflict of interest by board members or an executive agency head be adequately disclosed; and (iii) necessary assurances that where the State has relied on a local or regional government agency, or instrumentality for implementation of any plan provision the state has responsibility for ensuring adequate implementation of such plan provision.

Funding to staff and administer Arizona air quality control programs consists of fees that are collected from regulated emissions sources, including fees collected to administer permitting programs and motor vehicle emissions inspection and fees collected at the time of vehicle registration and re-registration, as well as State and Federal grants. State, county, and regional agency funding levels and personnel resources are currently adequate to meet federal and State obligations to manage Arizona air resources to

protect public health and welfare and administer the air quality programs necessary to attain and maintain the PM_{2.5} and 8-hour ozone air quality standards. In addition to the previously submitted funding statutes ARS §§49-544 and 49-551, ADEQ is submitting for inclusion in the SIP ARS §49-455, Permit Administration Fund [except Section (B)(1)] to meet adequate resource requirements under Section 110(a)(2)(E)(i) (see Appendix C).

Relevant sections of Arizona Revised Statutes:

49-455. Permit administration fund (except Section (B)(1))
49-544. Emissions inspection fund; composition; authorized expenditures; exemptions; investment
49-551. Air quality fee; air quality fund; purpose

Permit approval and enforcement orders are provided by the ADEQ Director and county control officers. Arizona law, applicable to "all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards," contains provisions for adequate disclosure of any conflict of interest. To meet the conflict of interest requirements under Section 110(a)(2)(E)(ii), ADEQ is currently submitting as a revision to the SIP ARS Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees (see Appendix C).

Relevant sections of Arizona Revised Statutes:

Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees

Arizona Revised Statutes grant ADEQ primary regulatory authority for air pollution control and abatement in Arizona as well as responsibility for ensuring adequate implementation of SIP provisions.

Relevant sections of Arizona Revised Statutes:

49-402. State and county control
49-404. State implementation plan
49-406. Nonattainment area plan
49-501. Unlawful open burning; exceptions; civil penalty; definition

2.6 CAA Section 110(a)(2)(F) – Emissions Monitoring and Reporting

Section 110 (a)(2)(F) requires provision for emissions monitoring by owners or operators of stationary sources and periodic reports on the nature and amounts of emissions as well as correlation of such reports by the state agency with any emission limitations or standards.

Arizona Revised Statutes provide authority to require any sources of air contaminants to monitor, sample or perform other studies to quantify emissions of air contaminants or levels of air pollution that may be reasonably attributable to that source.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

49-422. Powers and duties; definition

49-426. Permits; duties of director; exceptions; applications; objections; fees

49-432. Classification and reporting; confidentiality of records

For County Programs:

49-476.01. Monitoring

49-480. Permits; fees

49-487. Classification and reporting; confidentiality of records

2.7 CAA Section 110(a)(2)(G) – Emergency Powers

Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

Arizona Revised Statutes §49-465 authorizes State actions to alleviate or prevent an emergency health risk to the public due to air pollution or likely exceedance of the NAAQS. The Governor "may, by proclamation, declare that an emergency exists and may prohibit, restrict, or condition" any and all activity that contributes to the emergency. Arizona Administrative Code R18-2-220, "Air Pollution Emergency Episodes" (approved into the SIP as AAC R9-3-219 at 47 FR 42572; September 28, 1982), prescribes the procedures the ADEQ Director shall implement in order to prevent the occurrence of ambient air pollution concentrations which would cause significant harm to public health. Procedures include governmental and public notification of the nature of the episode and, at the directive of the Governor's office, possible curtailment of industrial and commercial activities. ADEQ is currently revising the rule to incorporate the most recent PM and ozone NAAQS. The rule will be submitted to EPA for review and action upon completion of the State rulemaking process.

Similar provisions for determining air pollution emergency episodes, advisory procedures, and control actions are contained in Maricopa, Pima, and Pinal County code (Maricopa County Air Pollution Control Regulations, Regulation VI - Emergency Episodes, Rule 600, Emergency Episodes; Pima County Municipal Code, Title 17. Air Quality Control, Chapter 17.32, Emergency Episodes and Public Awareness, Article I. Emergency Episodes; Pinal County Air Quality Control District Code of Regulations, Chapter 2. Ambient Air Quality Standards, Article 7. Air Pollution Emergency Episodes). Revised county regulations will be submitted to EPA upon completion of any required updates, subsequent to ADEQ's rule revision.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

49-462. Violations; injunctive relief

49-464. Violation; classification; penalties; definition

49-465. Air pollution emergency

For County Programs:

49-512. Violations; injunctive relief

49-514. Violation; classification; definition

2.8 CAA Section 110(a)(2)(H) – Plan Revisions

Section 110(a)(2)(H) requires states to have authority to revise their SIPs in response to changes in the NAAQS or availability of improved methods for attaining the NAAQS. This Section also requires states to provide for plan revisions to ensure the adequacy of the plan to attain the air quality standards or to otherwise comply with any additional requirements established under the Clean Air Act.

Arizona Revised Statutes contain authority to revise the Arizona SIP to comply with the requirements of the CAA including changes in the NAAQS. Under ARS §49-404, ADEQ is required to "maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act."

Relevant sections of Arizona Revised Statutes:

49-404. State implementation plan

49-406. Nonattainment area plan

2.9 CAA Section 110(a)(2)(I) – CAA Title 1, Part D Nonattainment Area Requirements

Section 110(a)(2)(I) requires nonattainment area plans to meet the applicable requirements of CAA Title 1, Part D relating to nonattainment areas.

EPA's October 2, 2007, guidance (see Appendix A) notes that "the specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirement of section 172, not the timing requirement of section 110(a)(1), and also that SIPs to meet this section are not covered by the Consent Decree." Although the guidance is intended for the 1997 PM_{2.5} and 8-hour ozone NAAQS, requirements for the 2006 PM_{2.5} NAAQS under Section 110(a)(2)(I) are the same.

2.10 CAA Section 110(a)(2)(J) – Consultation with Government Officials, Public Notification, PSD and Visibility Protection

Section 110(a)(2)(J) requires states to: (1) provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to Section 121 relating to consultation, (2) notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances per Section 127 relating to public notification, and (3) meet applicable requirements of Part C related to prevention of significant deterioration of air quality and visibility protection.

Arizona agencies maintain appropriate consultation procedures with local governments, CAA Section 174 and metropolitan planning agencies, and federal land managers regarding implementation of CAA requirements. ARS §49-406 requires the State, the metropolitan planning agency on behalf of affected local governments, county agencies, and the Department of Transportation to enter into a memorandum of agreement for the purpose of coordinating the development, implementation, and enforcement of nonattainment and maintenance plans. Additionally, opportunity for comment is provided through stakeholder meetings and public hearings held to solicit testimony from the public as well as federal and local air quality planning agencies prior to adoption of any revision to the Arizona SIP.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

- 49-405. Attainment area designations
- 49-406. Nonattainment area plan
- 49-424. Duties of department
- 49-425. Rules; hearing
- 49-426. Permits; duties of director; exceptions; applications; objections; fees

For County Programs:

- 49-473. Board of supervisors
- 49-474. County control boards
- 49-479. Rules; hearing
- 49-480. Permits; fees

CAA Section 127 requires measures to notify the public of instances or areas in which any air quality standard is exceeded during the preceding calendar year, to advise the public of health hazards associated with air pollution, and to enhance public awareness of measures that can be taken to improve air quality. The results of air quality monitoring conducted throughout Arizona, including ambient PM and ozone data, are published in ADEQ's Air Quality Annual Reports. Air quality forecasts, which include actual ambient air quality data for the preceding day, are made available to the public daily. The annual reports, daily forecasts, and other air quality information including tips for reducing pollution are available on the ADEQ Web site.

Relevant sections of Arizona Revised Statutes:

- 49-424. Duties of department

Clean Air Act, Title 1, Part C includes provisions relating to prevention of significant deterioration of air quality and visibility protection. PSD provisions are discussed in Section 2.3 above.

Arizona's visibility protection program is designed to analyze the causes of visibility impairment and to develop and implement control strategies as required. Requirements include analysis of emissions from new major sources or sources making major modifications and anticipated impacts on visibility at any Class I area. Arizona submitted a Regional Haze SIP under 40 CFR 51.309 in December 2003, and a 2004 revision for its four Class I areas on the Colorado Plateau. A SIP for its remaining eight Class I areas is being developed under 40 CFR 51.309(g).

Relevant sections of Arizona Revised Statutes:

- 49-458. Regional haze program; authority
- 49-458.01 State implementation plan revision; regional haze; rules

2.11 CAA Section 110(a)(2)(K) – Air Quality Modeling

Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling for predicting the effect of emissions on ambient air quality and to submit data related to the modeling to EPA upon request.

Arizona retains authority to perform air quality modeling for predicting the effect of emissions on ambient air quality. Where applicable, all modeling analyses for demonstrating attainment and maintenance of the NAAQS meet EPA's most recent guidance on air quality models. All information and data are made available to EPA as required.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

49-406. Nonattainment area plan

49-422. Powers and duties; definition

49-424. Duties of department

49-426. Permits; duties of director; exceptions; applications; objections; fees

For County Programs:

49-473. Board of supervisors

49-474. County control boards

49-480. Permits; fees

2.12 CAA Section 110(a)(2)(L) – Permit Fees

Section 110(a)(2)(L) requires SIPs to require the owner or operator of a major stationary source to pay fees to the permitting authority to cover the cost of reviewing, approving, implementing and enforcing a permit.

Arizona permitting agencies are responsible for assessing fees sufficient to recover the costs of administering the permitting program. Assessments include fees for permit actions, administrative and emission based fees for Title V sources, inspection fees for non-Title V sources, and fees for general permits.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

49-426(E). Permits; duties of director; exceptions; applications; objections; fees

For County Programs:

49-480(D). Permits; fees

2.13 CAA Section 110(a)(2)(M) – Consultation/Participation by Affected Local Entities

Section 110(a)(2)(M) requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the plan.

Arizona air quality agencies consult with and maintain frequent and regular communication with all local and political subdivisions affected by plan revisions. Local entities participate in plan development and the review process and often provide needed data and information for analyses contained in the plan as well as implementation assistance. Opportunity for comment is also provided through stakeholder meetings and public hearings conducted to solicit testimony from the public, local planning agencies, and other local political entities prior to adoption of any plan revisions.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:

49-405. Attainment area designations

49-406. Nonattainment area plan

49-424. Duties of department

49-425. Rules; hearing

49-426. Permits; duties of director; exceptions; applications; objections; fees

For County Programs:

49-473. Board of supervisors

49-474. County control boards

49-479. Rules; hearing

49-480. Permits; fees

3.0 COMMITMENTS

ADEQ is in the process of preparing a revision to the SIP to meet the remaining requirement of CAA Section 110(a)(2)(G) relating to emergency episodes for the 1997 PM_{2.5} and 8-hour ozone NAAQS and the 2006 PM_{2.5} NAAQS.

Clean Air Act Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. Arizona Revised Statutes §49-465 authorizes State actions to alleviate or prevent an emergency health risk to the public due to air pollution or likely exceedance of the NAAQS. Arizona Administrative Code R18-2-220, "Air Pollution Emergency Episodes," which prescribes procedures to prevent the occurrence of ambient air pollution concentrations which would cause significant harm to public health is currently being revised to incorporate the most recent PM and ozone air quality standards. The revised "Emergency Episode" program will be submitted to EPA for approval as a component of the SIP upon completion of the State rulemaking and public review process.

4.0 CONCLUSION

This revision to the Arizona SIP demonstrates that, with the exception of 110(a)(2)(G), the existing authorities and infrastructure of Arizona State and local air quality management programs, in conjunction with the federal PSD program, meet the basic program elements required under CAA Section 110(a)(2) for the 2006 PM_{2.5} NAAQS.

This SIP revision also demonstrates that outstanding requirements under Sections 110(a)(2)(E)(i) and (E)(ii) for the 1997 PM_{2.5} NAAQS and Sections 110(a)(2)(A) through (M) for the 1997 8-hour ozone NAAQS are met (see the U.S. Environmental Protection Agency's "Completeness Findings" at 73 FR 62902; October 22, 2008, and 73 FR 16205; March 27, 2008).

Appendix A

Guidance on SIP Elements Required Under Section 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards, October 2, 2007

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OCT 2 2007

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards

FROM: *W. T. Harnett* William T. Harnett, Director
Air Quality Policy Division (C539-01) *Scott Mathias*

TO: Air Division Directors, Regions I-X

The purpose of this memorandum is to provide guidance on the "infrastructure" elements for State Implementation Plans (SIPs) required under section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 1997 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS). Attachment A to this memo provides a list of the basic elements that States must include in their SIPs. To the extent that existing SIPs for ozone and particulate matter already meet these requirements, States need only certify that fact to the Environmental Protection Agency (EPA). To the extent that existing SIPs for ozone and particulate matter fail to address any of these requirements for purposes of the 1997 8-hour ozone or PM_{2.5} NAAQS, States need to make timely SIP submissions to EPA to address these requirements. We anticipate that States will already have approved SIPs in place for ozone that meet the basic requirements of sections 110(a)(1) and (2). For PM_{2.5}, however, we anticipate that many States may need to make SIP revisions to ensure that their existing SIPs for prior particulate matter NAAQS are revised to include the new particle size indicator.

Background

On July 18, 1997, the EPA promulgated new and revised NAAQS for ozone and particulate matter. For ozone, EPA revised the NAAQS to provide an 8-hour averaging period (versus a 1-hour averaging period for the pre-existing NAAQS), and set the level of the standard at 0.08 ppm (versus 0.12 ppm for the pre-existing NAAQS). For PM, EPA promulgated a new 24-hour and a new

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annual NAAQS for PM_{2.5} (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers).¹

Under sections 110(a)(1) and (2) of the CAA, all States are required to submit plans to provide for the implementation, maintenance, and enforcement of the 8-hour ozone and PM_{2.5} standards. Sections 110(a)(1) and (2) require States to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by States within 3 years after promulgation of a new or revised standard. This being the case, States were required to submit such SIPs for the 1997 standards to EPA no later than July 2000. However, intervening litigation over the 1997 8-hour ozone and PM_{2.5} NAAQS, created uncertainty about how to proceed and, to date, States have not submitted SIPs to meet the basic or infrastructure requirements enumerated in sections 110(a)(1) and (2).

In March of 2004, Earth Justice initiated a lawsuit against EPA for failure to take action against States that had not made SIP submissions to meet the requirements of sections 110(a)(1) and (2), i.e., failure to make a "finding of failure to submit." On March 10, 2005, EPA entered into a Consent Decree with Earth Justice that obligates EPA to make official findings whether States have made required SIP submissions by dates certain. The Consent Decree obligates EPA to determine whether States have made SIP submissions required to meet CAA section 110(a)(2)(D)(i) relating to interstate transport by no later than March 15, 2005. The Consent Decree also obligates EPA to make a determination whether States have made submissions necessary to meet the remaining 110(a)(1) and (2) requirements by December 15, 2007, for the 8-hour ozone NAAQS, and by October 5, 2008, for the PM_{2.5} NAAQS.² It should be noted that the latter determinations pertain only to whether the submissions are complete, pursuant to section 110(k)(1)(A), and do not constitute EPA approval or disapproval of such submissions. In addition, the determinations required by the Consent Decree explicitly exclude any determinations regarding: (i)

¹ More recently, on December 18, 2006, EPA again revised the standards for particulate matter, tightening the 24-hour PM_{2.5} standard from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$, and retaining the current annual fine particle standard at 15 $\mu\text{g}/\text{m}^3$. EPA also decided to retain the existing 24-hour PM₁₀ standard of 150 $\mu\text{g}/\text{m}^3$ and to revoke the annual PM₁₀. This guidance document applies only to the SIP submission requirements for the 1997 8-hour Ozone and PM_{2.5} NAAQS. EPA will address SIP requirements for the 2006 NAAQS separately, although the Agency notes that the statutory requirements for SIPs for new or revised NAAQS are comparable.

² The dates specified in the Consent Decree reflect the anticipated dates for submission of nonattainment area SIPs for each NAAQS, plus six months for EPA evaluation. EPA presumed that States would make SIP submissions meeting the basic requirements of sections 110(a)(1) and (2) for each NAAQS contemporaneously with, or not later than, SIPs meeting the nonattainment area plan requirements. EPA notes that recent decisions by the U.S. Court of Appeals for the District of Columbia concerning the implementation rule for the 8-hour Ozone NAAQS have affected certain nonattainment area SIP requirements. These judicial decisions do not, however, affect States' obligations under the CAA or EPA's obligations under the Consent Decree concerning the infrastructure SIP requirements of sections 110(a)(1) and (2).

submissions required by section 110(a)(2)(C) to the extent that subsection pertains to a nonattainment area new source permit program in part D Title I of the CAA; and (ii) submissions required by section 110(a)(2)(I) for Part D Title I nonattainment area plans.

In accordance with the Consent Decree, EPA has already published a finding that all States had failed to submit new SIPs addressing interstate transport for the 8-hour ozone and PM_{2.5} NAAQS, as required by section 110(a)(2)(D)(i) of the CAA (70 FR 21147, April 25, 2005). That finding initiated a 2-year deadline for the promulgation of a Federal Implementation Plan (FIP) by EPA for each such State unless, prior to that time, each State makes a submission to meet the requirements of Section 110(a)(2)(D)(i) and EPA approves such submission. On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR) which identifies the degree to which emissions of SO₂ and NO_x in certain States significantly contribute to nonattainment of, or interfere with maintenance of, the 1997 8-hour ozone and PM_{2.5} NAAQS in downwind States, and the reductions that must be achieved in those States to eliminate such contributions.

On August 15, 2006, EPA issued guidance entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards." The section 110(a)(2)(D)(i) guidance indicates that States within the CAIR region can satisfy 110(a)(2)(D) by satisfying the requirements of the CAIR, and addresses what other States that are outside of the CAIR region should consider doing to meet the "significant contribution" and "interfere with maintenance" requirements of section 110(a)(2)(D)(i) for the 1997 standards. The section 110(a)(2)(D)(i) guidance also addresses what all States (whether inside or outside of the CAIR region) should consider in making SIP submissions to meet the "prevention of significant deterioration" and "protect visibility" requirements of section 110(a)(2)(D)(i). The SIP submissions addressed by the section 110(a)(2)(D)(i) guidance are those that are necessary to rectify the finding of failure to submit that EPA has already issued for all States for section 110(a)(2)(D)(i).

The guidance contained in this memorandum is intended as a reminder that States must have SIPs for the 1997 8-hour ozone and PM_{2.5} NAAQS that meet all of the requirements of sections 110(a)(1) and (2). Pursuant to the Consent Decree, EPA has an obligation to take action to determine whether States have made such submissions by the dates noted above. Because States should currently be in the process of submitting nonattainment SIPs for the 8-hour ozone standard and working on nonattainment area SIPs for the PM_{2.5} standard, we want to alert them to be sure that their SIPs also meet the basic requirements of sections 110(a)(1) and (2).

Guidance

The EPA believes that the currently-approved section 110 SIPs for ozone may already be adequate in most cases to implement the 8-hour ozone NAAQS. Many of the required section 110(a)(1) and (2) SIP elements relate to the general information and authorities that constitute the "infrastructure" of the ozone air quality management program, and these have been in place since the initial SIPs were submitted in response to the 1970 Clean Air Act. For particulate matter, however, EPA believes that some States may need to adopt language specific to the PM_{2.5} NAAQS to ensure that they have adequate SIP provisions to implement the PM_{2.5} NAAQS, e.g., existing State laws may refer to PM₁₀ specifically or to particulate matter more generally, rather than to PM_{2.5}. We believe that with one exception, the infrastructure requirements of sections 110(a)(1) and (2) are relatively self explanatory, and past experience with SIPs for other NAAQS should enable States to meet these requirements with assistance from EPA Regions. The one exception is section 110(a)(2)(G) relating to emergency episodes, for which EPA intends to take additional regulatory action to provide necessary numerical limits and concentration levels for emergency episode action plans for PM_{2.5}.

States should review and revise, as appropriate, their existing ozone and particulate matter SIPs to ensure that they are adequate to address the 8-hour ozone and PM_{2.5} NAAQS. If a State determines that its existing SIP is adequate, then the State needs to certify, via a letter to the Agency from the Governor or his/her designee, that the existing SIPs contain provisions that address the requirements for the 8-hour ozone and PM_{2.5} NAAQS. If a State determines that its existing ozone or particulate matter SIPs are inadequate, however, then the State needs to submit a SIP revision to make the appropriate changes.

With respect to PM_{2.5}, States may find it more advantageous to revise the language in their SIPs to identify "particulate matter" as the pollutant being implemented and define the size fractions as "those that EPA has currently set for the NAAQS" to the extent such an approach would be authorized by State law. This will ensure that the provisions remain adequate in the event that future changes occur to the particulate matter standards. States could also specify both PM₁₀ and PM_{2.5} as the size fractions if a State prefers to be more specific.

As an aid to the States in addressing the PM_{2.5} related requirements of Section 110(a)(2)(G) pertaining to emergency episode provisions, EPA intends to take action to revise 40 CFR, Part 51, subpart H (sections 51.150). The rule changes will establish the priority classifications which determine the emergency episode plan requirements for each area and establish a significant harm level (SHL) for PM_{2.5}. Until these changes are final, EPA recommends that States rely on relevant information contained in upcoming EPA rule proposals or other EPA-issued interim guidance to satisfy the section 110(a)(2)(G) requirements for PM_{2.5}. After EPA issues final rules, EPA will work with States to revise SIP

submissions that were based on interim information, as appropriate. States may wish to take advantage of the parallel processing mechanism for making their section 110(a)(2)(G) submittal in the interim while EPA completes rulemakings on the SHL and the emergency episode plan requirements under 40 CFR 51.150.

The SHL for the 8-hour ozone NAAQS will remain unchanged as 0.60 ppm ozone, 2-hr average, as indicated in 40 CFR Part 51.151. EPA believes that the existing ozone-related provisions of 40 CFR Subpart H remain appropriate. Therefore, EPA expects that for purposes of the 1997 8-hour ozone NAAQS, States need only to confirm that they have existing emergency episode plan provisions consistent with EPA's existing regulatory requirements.

By statute, States are required to make SIP submissions to meet the basic requirements of CAA sections 110(a)(1) and (2) within 3 years after promulgation of any new or revised standards. For the 1997 8-hour ozone and PM_{2.5} standards, this deadline was July 2000. By Consent Decree, as noted above, EPA has agreed to make a determination whether or not States have submitted SIPs to meet these requirements by a date certain. In the case of 8-hour ozone SIPs, this date is December 15, 2007. For PM_{2.5} SIPs, this date is October 15, 2008. In order for EPA to evaluate the submissions adequately, EPA requests that States make their certifications of SIP adequacy or SIP revisions as soon as possible and to the extent feasible sufficiently in advance of these dates to allow EPA time to determine whether complete submissions have been made.

If you have any questions concerning this guidance, please contact Mr. David Sanders at (919) 541-3356. Please ensure that the appropriate air agency officials for States in your Region are made aware of this guidance.

Attachments

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Attachment A: Required Section 110 SIP Elements

The SIP elements listed below are required under section 110(a)(1) and (2). Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists the basic or "infrastructure" elements that all SIPs must contain. We note that this list is not intended to constitute an interpretation of these provisions, or a change of past practice with respect to these provisions, merely a brief description of the required SIP elements.

Emission limits and other control measures: Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters. EPA notes that the specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirement of section 172, not the timing requirement of section 110(a)(1), and also that SIPs to meet this section are not covered by the Consent Decree.

Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request.

Program for enforcement of control measures: Section 110(a)(2)(C) requires States to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet prevention of significant deterioration (PSD) and nonattainment NSR requirements.

Interstate transport: Section 110(a)(2)(D) requires SIPs to 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 measures required to prevent significant deterioration of air quality or to protect visibility in another State. EPA has already issued CAIR to assist States in developing SIPs to meet this requirement for purposes of the 8-hour Ozone and PM_{2.5} NAAQS, and has issued separate guidance to all States on how to comply with each prong of this statutory provision.

Adequate resources: Section 110(a)(2)(E) requires States to provide for adequate personnel, funding, and legal authority under State law to carry out its SIP, and related issues.

Stationary source monitoring system: Section 110(a)(2)(F) requires States to establish a system to monitor emissions from stationary sources and to submit

periodic emissions reports.

Emergency power: Section 110(a)(2)(G) requires States to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

Future SIP revisions: Section 110(a)(2)(H) requires States to 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.

Consultation with government officials: Section 110(a)(2)(J) requires States to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to section 121 relating to consultation.

Public notification: Section 110(a)(2)(J) further requires States to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances.

PSD and visibility protection: Section 110(a)(2)(J) also requires States to meet applicable requirements of part C related to prevention of significant deterioration and visibility protection.

Air quality modeling/data: Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

Permitting fees: Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit.

Consultation/participation by affected local entities: Section 110(a)(2)(M) requires States to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

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Appendix B

Clean Air Act Section 110(a)(2)(D)(i) – Interstate Transport Analysis for the 2006 PM_{2.5} National Ambient Air Quality Standards

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ATTACHMENTS

ATTACHMENT B1	<i>Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards</i> , U.S. Environmental Protection Agency, August 15, 2006
ATTACHMENT B2	Arizona Nitrogen Oxides, PM _{2.5} , and Sulfur Dioxide Emissions Inventories
ATTACHMENT B3	Ambient Air Quality Data

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CHAPTER 1: INTRODUCTION

1.1 Overview

In July 1997, the U.S. Environmental Protection Agency (EPA) issued National Ambient Air Quality Standards (NAAQS) for particulate matter 2.5 microns or less in diameter (PM_{2.5}) (62 FR 38652). In October 2006, EPA published revised 24-hour PM_{2.5} standards that became effective on December 18, 2006 (71 FR 61144). With the 2006 PM_{2.5} NAAQS revision, EPA tightened the primary and secondary 24-hour PM_{2.5} standards from 65 µg/m³ to 35 µg/m³ and retained the current primary and secondary annual PM_{2.5} standards (15 µg/m³). The State of Arizona submitted recommendations for unclassifiable/attainment or nonattainment 2006 PM_{2.5} NAAQS area designations December 19, 2007. EPA accepted the Arizona recommended designations on August 18, 2008, and opened the designation decision for public comment on August 21, 2008. On December 22, 2008, EPA issued a final *Federal Register* notice for Arizona unclassifiable/attainment and nonattainment designations; the final boundary designations, however, are under review and will only be effective ninety days after publication in the *Federal Register*.

Section 110(a)(1) of the Clean Air Act (CAA) requires states to submit state implementation plans (SIPs) within three years following the promulgation of new standards. This document is part of the revision to the *Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2)* and specifically addresses interstate transport of air pollution under CAA Section 110(a)(2)(D)(i). It contains a demonstration showing Arizona does not significantly contribute to interstate transport of pollutants that impact nonattainment in, or interfere with maintenance by, any other state with respect to the 2006 24-hour PM_{2.5} NAAQS and demonstrates Arizona meets the required prevention of significant deterioration of air quality and protection of visibility provisions of the law.

1.2 General SIP Requirements

Section 110(a)(2)(D)(i) of the Clean Air Act requires each state to submit a SIP that prohibits emissions which adversely affect another state. The SIPs must contain adequate provisions –

“prohibiting...any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will –

- (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any...national primary or secondary air quality standard, or*
- (II) interfere with measures required to be included in the applicable implementation plan for any other state... to prevent significant deterioration of air quality or to protect visibility.”*

On August 15, 2006, EPA issued guidance for states to use in development of SIPs to meet outstanding obligations under CAA Section 110(a)(2)(D)(i) for the 1997 8-hour ozone and PM_{2.5} NAAQS (see Attachment B1). Arizona used this guidance for the 2006 24-hour PM_{2.5} NAAQS, as recommended by EPA. The guidance outlines the four elements states should address in their SIPs:

- 1) “significant contribution to nonattainment,”
- 2) “interference with maintenance,”
- 3) “prevention of significant deterioration,” and
- 4) “protection of visibility.”

The following Chapters include discussion of the elements outlined in the guidance: Chapter 2 is a discussion of attainment/unclassifiable and nonattainment areas; including information about Arizona's PM_{2.5} sources, monitoring network and data, as well as meteorological and topographical information related to transport; Chapter 3 is a discussion of Arizona requirements for prevention of significant deterioration; and Chapter 4 presents information regarding Arizona's ongoing efforts to protect visibility.

CHAPTER 2: ANALYSIS OF NONATTAINMENT AND MAINTENANCE AREA IMPACTS

PM_{2.5} aerosol consists of crustal particles, elemental carbon, organic carbon, nitrate, and sulfate; the last two of which are secondary pollutants, formed in the atmosphere from gaseous nitrogen oxides (NO_x) and sulfur oxides emissions. A small portion of the organic carbon is also secondary, formed from gaseous and semi-volatile hydrocarbon emissions. Emission inventories for PM_{2.5} typically account for the primary species: crustal, elemental carbon, and the directly emitted organic carbon.

Discussion included in this chapter begins with the State's PM_{2.5} emissions areas and receptors (including Maricopa, Navajo, Santa Cruz and Pinal Counties), followed by a presentation of Arizona's meteorological and topographical climate. Lastly, in support of the State of Arizona's negative declaration regarding the transport of PM_{2.5}, distance and relationship to other EPA recommended 2006 24-hour PM_{2.5} nonattainment designations are presented.

In the preamble to its *Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone* or Clean Air Interstate Rule (CAIR) (69 FR 4581, January 30, 2004), EPA provided the following rationale for the exclusion of the Western U.S., including Arizona, from further consideration of transport for both 8-hour ozone and PM_{2.5}.

"In analyzing significant contribution to nonattainment, we determined it was reasonable to exclude the Western U.S., including the States of Washington, Idaho, Oregon, California, Nevada, Utah and Arizona from further analysis due to geography, meteorology, and topography. Based on these factors, we concluded that the PM_{2.5} and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across these States' boundaries. Therefore, for the purpose of assessing State's contributions to nonattainment in other States, we have only analyzed the nonattainment counties located in the rest of the U.S."

EPA's August 15, 2006, guidance states, "the EPA anticipates, based upon existing information developed in connection with the CAIR, that emissions from sources in states not covered by the CAIR do not contribute significantly to nonattainment or interfere with maintenance of the 8-hour ozone or PM_{2.5} NAAQS in any other State." The guidance indicates that to satisfy the requirements of Section 110(a)(2)(D)(i), non-CAIR states may submit a negative declaration that the state does not significantly contribute to interstate transport of emissions impacting nonattainment or interfere with maintenance of the NAAQS in another state. Information to support a negative declaration may include but is not limited to the following:

- emission inventories for sources that contribute to ambient ozone and PM_{2.5} levels;
- meteorological data;
- information about the distance to the nearest 8-hour ozone or PM_{2.5} nonattainment area in another state; and
- air quality modeling.³

As detailed in the following sections, ADEQ used this guidance and the aforementioned discussion factors in developing its demonstration of noninterference for the 2006 24-hour PM_{2.5} air quality standard.

³ EPA updated the *Federal Register* to clarify Arizona was not included in CAIR modeled states and that, "(w)ith respect to the [1997] PM_{2.5} NAAQS... ADEQ has presented sufficient support for the negative declaration in its discussion of the other factors and need not rely on CAIR modeling results" (72 FR 41629, July 31, 2007).

Emissions & Ambient Monitoring

The most recently available PM_{2.5} emissions inventories from EPA's National Emission Inventory (NEI) for Arizona counties show that sources in Maricopa County, the State's most populous county, generate nearly two and a half times the primary PM_{2.5} emissions of any other county in the State (Excluding Navajo County which had elevated emissions due to wildfires. See notes for Table B2-1). The only recommended nonattainment designation in the State, the Nogales Planning Area, is included in Santa Cruz County. While the Nogales Planning Area is recommended nonattainment, Santa Cruz County is a PM_{2.5} receptor of emissions transported from Nogales, Sonora (Mexico). Santa Cruz County total primary PM_{2.5} emissions are only 14 percent of those generated by Maricopa County sources (see Attachment B2).

In further discussion of Arizona PM_{2.5} emissions sources, as previously noted, gaseous emissions that contribute to fine particulate formation include nitrogen oxides (NOx) and sulfur oxides (SOx) emissions. Emissions inventories from EPA's NEI for Arizona show that Maricopa County sources emit approximately 34 percent of total NOx emissions. The inventories confirm that no other county totals for these pollutants equate to the level of emissions generated by Maricopa County (see Attachment B2). Maricopa County, however, has a recommended designation of attainment/unclassifiable for NOx as well as SOx. Apache, Gila, and Navajo Counties are the largest emitters of sulfur dioxide in Arizona. Emissions in these counties are dominated by point sources rather than area and mobile sources. Further, those Counties demonstrating secondary pollutant contribution to PM_{2.5} are all currently recommended attainment/unclassifiable for the 2006 24-hour PM_{2.5} NAAQS.

ADEQ and county agencies maintain an ambient monitoring network for measuring PM_{2.5} concentrations across the State of Arizona. Attachment B3, Tables B3-1 through B3-4, summarize the latest available monitored air quality data for Arizona monitoring locations by county. These data show 2006 24-hour PM_{2.5} NAAQS violations at the Nogales Post Office Federal Reference Monitor and at the Cowtown Federal Reference Monitor in Pinal County. At this time, Pinal County is a recommended attainment/unclassifiable area. The violations registered at the Cowtown monitoring location appear to be localized emissions, given the lower concentrations recorded at other monitors in the area at this time. Figure 2.1 is a map of the State of Arizona air quality monitoring network.

Boundary Recommendations for 2006 24-hour PM_{2.5} NAAQS in Arizona

On December 19, 2007, Arizona submitted recommendations designating a portion of Santa Cruz County, referred to as the Nogales Planning Area, nonattainment and all other areas of the state as attainment (See Figure 2.2 for a map of the Nogales Planning area recommendation). EPA accepted the Arizona recommended designations on August 18, 2008, and opened the designation decision for public comment on August 21, 2008. On December 22, 2008, EPA signed a final *Federal Register* notice for Arizona unclassifiable/attainment and nonattainment designations; however the final boundary designations are under review and the final designations will be effective ninety days after publication in the *Federal Register*. The December 19, 2007, submission to EPA included discussion of regional emissions for the Nogales Planning area and identifies the recommended nonattainment area as an emissions receptor rather than an emitter.

Figure 2.1 State of Arizona PM_{2.5} Monitoring Network

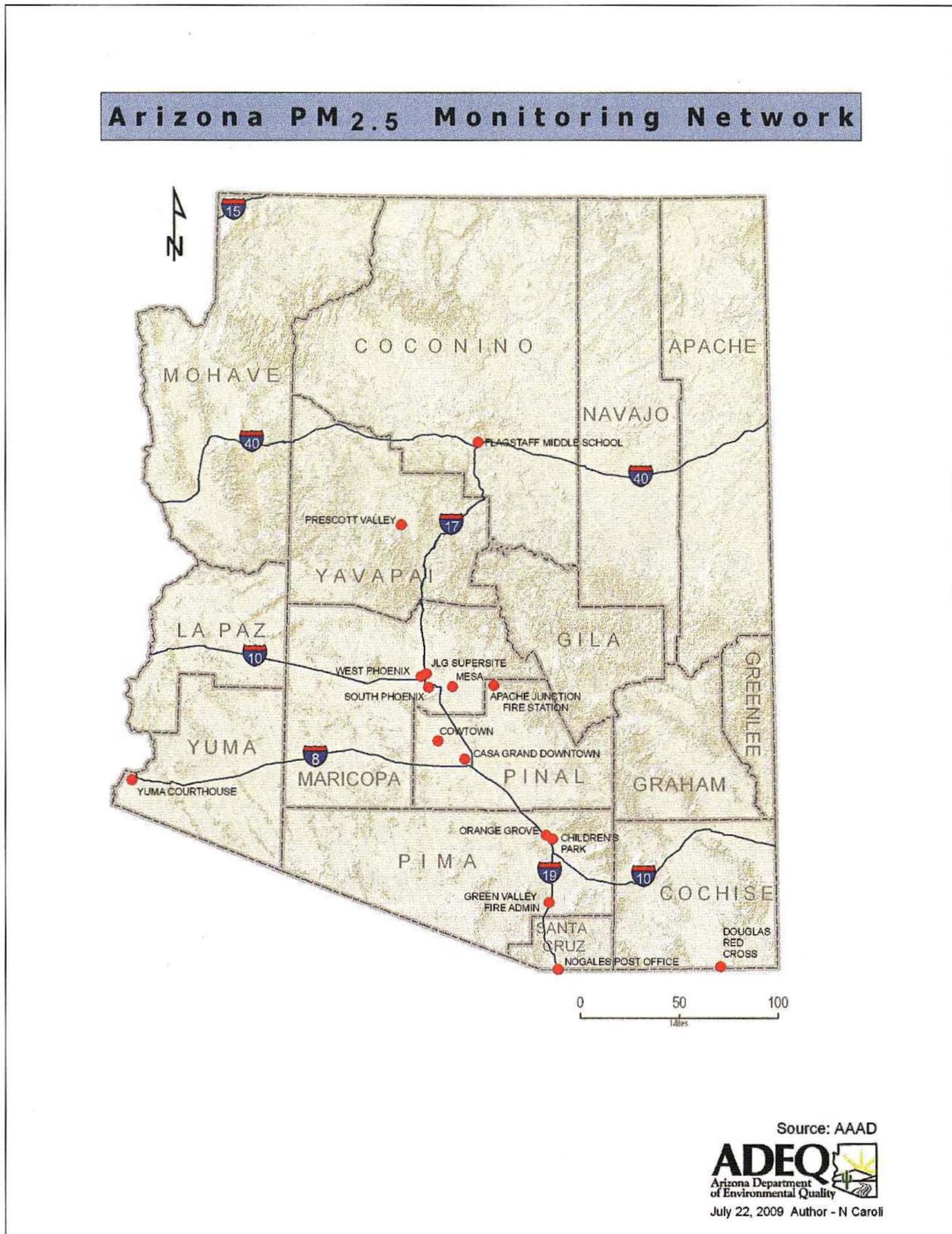
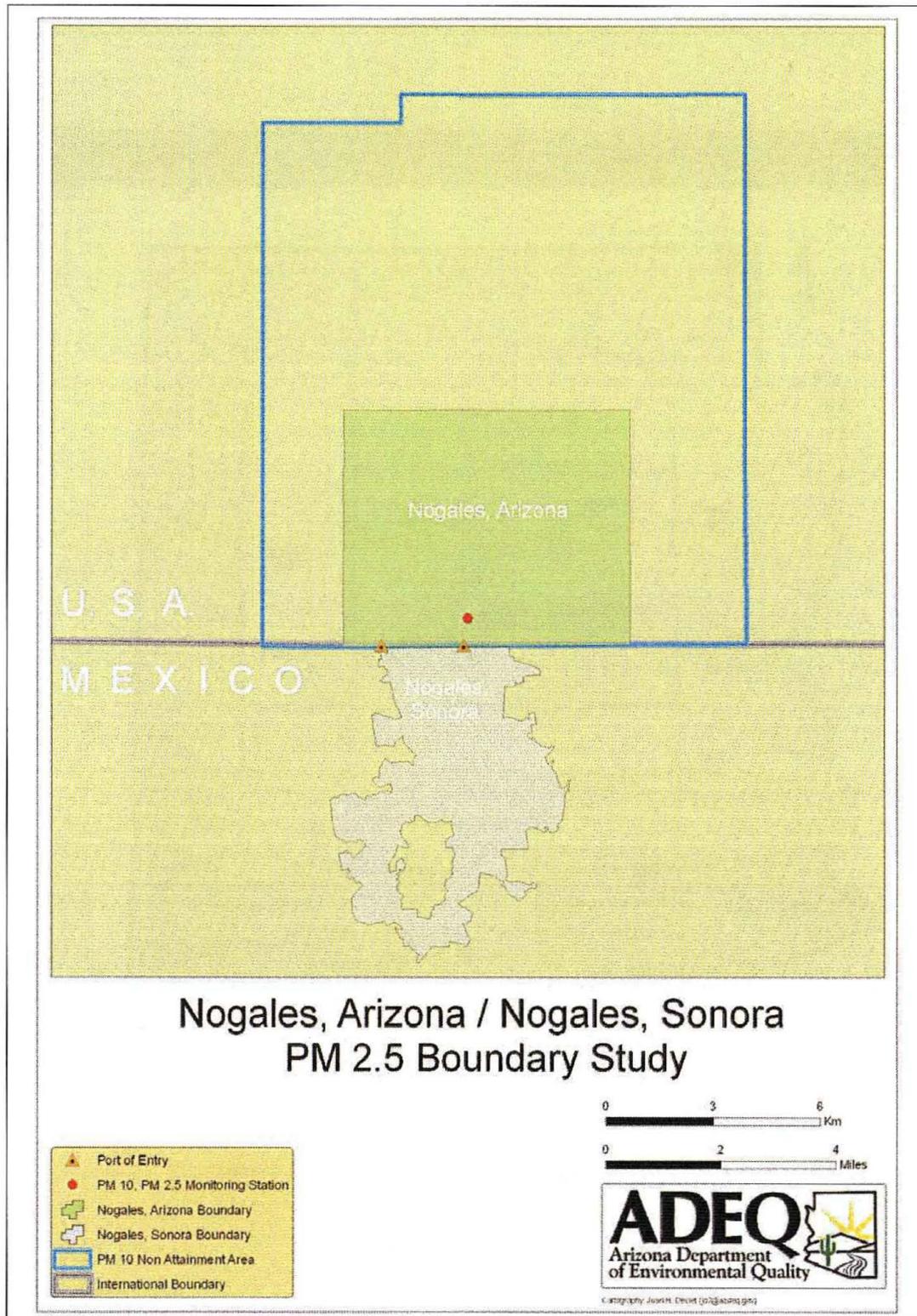


Figure 2.2 Arizona 2006 24-hour PM_{2.5} Recommended Nonattainment Area Designation⁴



⁴ Retrieved from December 19, 2007 letter from Governor Napolitano to Administrator Nastri, Re: Boundary Recommendations for PM_{2.5} NAAQS

Topography

One of the factors affecting interstate transport of pollutants is topography. Arizona has three main topographical areas: 1) a high plateau in the northeast; 2) a mountainous region in the central part of the state, oriented southeast to northwest; and 3) broad desert valleys separated by narrow mountain ranges in the southwestern portion of the state. Elevations range from near sea level in the southwest to more than 11,000 feet in the north and east. This complex terrain divides the state into 11 distinct airsheds which impact the dispersion of emissions within and outside local areas (see meteorology/climatology discussion below). As demonstrated in the previous discussion, Arizona has no significant emissions sources contributing to nonattainment within the State. This, in addition to the topographical makeup of the State, supports low PM_{2.5} transport and Arizona's negative declaration.

Meteorology/Climatology

Large scale airflow over Arizona is generally from the west to the east. This circulation pattern, most pronounced in winter, brings occasional storm systems that progress eastward on the westerly flow. In the warmer months, the region is dominated by high pressure which produces a more southerly component to the air flow over the state. Localized complex terrain windflow patterns also occur and impact the dispersion of emissions from sources in Arizona.

Arizona is divided into a number of airsheds. Airshed refers to areas with common weather or meteorological conditions and sources of air pollution. Generally speaking, an airshed includes source and receptor areas. Most often airsheds are defined by topographical features that affect meteorology, as in Arizona, where interconnected mountain ranges form barriers between areas of lower elevation. This differential topography helps create discrete atmospheric conditions or characteristics within a particular airshed where air pollutants from sources within the area are emitted and dispersed. Individual airsheds can also contain local areas of complex terrain responsible for more complicated wind patterns.

Both the larger scale synoptic or regional flows and local topographically driven surface winds can influence the speed and direction of transport of emissions. However, because the atmosphere within an airshed acts in a more cohesive and uniform way with respect to the dispersion of emissions, local wind patterns and flow within an individual airshed are most influential in affecting the impact of local emissions.

Stronger regional flow can at times override local patterns and overcome elevation differences. Under these conditions direction of flow can vary. However, mixing, dispersion, and dilution of emissions are increased, especially with distance. Therefore, added to the previous assertions that Arizona has no significant emissions sources and a topographical makeup that makes transport more difficult, the meteorological and climatic conditions support the State of Arizona's negative declaration regarding interstate transport.

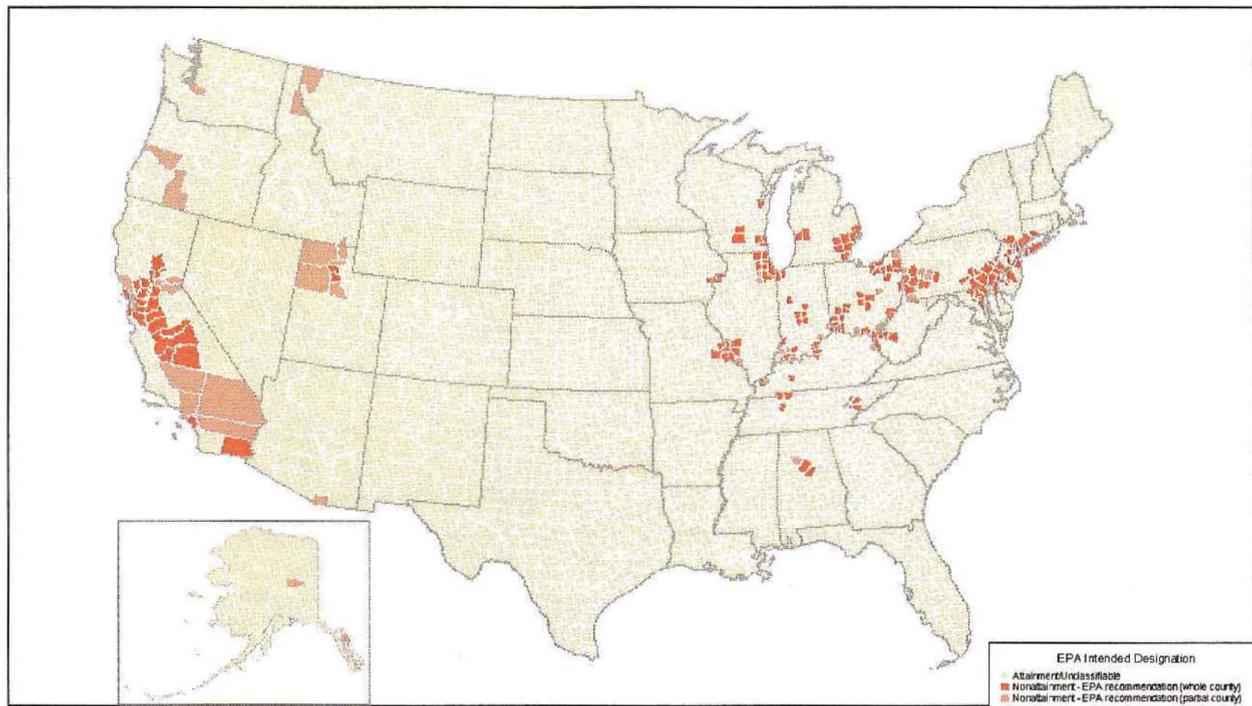
Location of PM_{2.5} Nonattainment Areas in States Neighboring Arizona

There are several recommended PM_{2.5} nonattainment designations for California, including the counties that share a border with Arizona: Riverside County, San Bernardino County, and Imperial County. At this time, these recommendations are under review. Based on regional and local air flow patterns, California nonattainment areas are upwind of Arizona emissions sources. To the north, Utah has several recommended nonattainment counties (either in whole, or part) in the northwestern part of the state. These counties are, however, approximately 200 miles from the northern Arizona border and over 500

miles from the only recommended nonattainment designation in the state.

All other states that border Arizona have designated unclassifiable/attainment designations for the 24-hour $PM_{2.5}$ NAAQS (40 CFR 81.332 – New Mexico; 40 CFR 81.306 – Colorado; 40 CFR 81.329 – Nevada). The closest recommended nonattainment area to the east, downwind of Arizona, is the St. Louis area in Missouri more than 800 miles from the eastern Arizona border.

Figure 2-2: EPA Intended Designations - 2006 24 hour $PM_{2.5}$ Nonattainment Areas⁵



As discussed in the meteorological section of this submission, generally dominant air flows across the State are from the west to the east and there are seasonal flows from Gulf of Mexico to the Southeast across Arizona to the northwest. Natural mountain ranges in the eastern portion of the State prevent western flows from reaching New Mexico and other topographical features generally prevent Arizona generated pollutants from having significant transport capability into other nonattainment and maintenance areas. Given prevailing wind flows through the State of Arizona neither $PM_{2.5}$ affected areas in Utah or Missouri are significantly affected by Arizona generated $PM_{2.5}$.

Conclusion

As presented in this SIP revision, monitored air quality data, the location of emissions sources, topography and meteorology, and distance to downwind nonattainment areas all demonstrate 24-hour $PM_{2.5}$ and $PM_{2.5}$ precursor emissions from Arizona do not significantly contribute to nonattainment or interfere with maintenance of the 24-hour $PM_{2.5}$ standards in any other state⁶. The State commits to

⁵ Retrieved from: <http://www.epa.gov/pmdesignations/2006standards/documents/2008-08-21/recmap.htm>, July 14, 2009

⁶ EPA updated the *Federal Register* to clarify Arizona was not included in CAIR modeled states and that, “(w)ith respect to the [1997] $PM_{2.5}$ NAAQS... ADEQ has presented sufficient support for the negative declaration in its discussion of the other factors and need not rely on CAIR modeling results” (72 FR 41629, July 31, 2007).

continue to review available information regarding monitored air quality, existing and projected emissions and to take whatever actions may be necessary to ensure that emissions activities within the State do not contribute significantly to nonattainment in, or interfere with maintenance by, other states with respect to any primary or secondary NAAQS.

CHAPTER 3: PREVENTION OF SIGNIFICANT DETERIORATION

Section 110(a)(2)(D)(i)(II) of the CAA requires states to prohibit emissions within the state from interfering with implementation plans from other states falling under Part C of Section 110 to prevent significant deterioration of air quality.

All new sources and modifications to existing sources in Arizona are subject to state requirements for preconstruction review and permitting pursuant to *Arizona Administrative Code (AAC)*, Title 18, Chapter 2, Articles 2 and 4 or relevant county rules. All new major sources and major modifications to existing major sources in Arizona are subject to the nonattainment New Source Review (NSR) provisions of these rules (including ozone nonattainment areas) or Prevention of Significant Deterioration (PSD) for attainment areas.

Arizona will update the NSR rules when EPA's PM_{2.5} implementation guidance is finalized. The State commits to continue to review new information regarding monitored air quality, existing and projected emissions, and modeled air quality, and to take whatever actions may be necessary to ensure that emissions activities within the State do not interfere with measures required to be included in the applicable implementation plan for any other state to prevent significant deterioration.

CHAPTER 4: PROTECTION OF VISIBILITY

Section 110(a)(2)(D)(i)(II) contains a requirement for states to prohibit emissions that interfere with plans from other states that protect visibility. In 1980, EPA issued regulations requiring states to address reasonably attributable visibility impairment (RAVI). EPA's guidance for section 110(a)(2)(D)(i) issued on August 15, 2006, states the following regarding RAVI:

“At this point in time, EPA has made no determination that emissions from any State interfere with measures required to be included in a plan to address reasonably attributable visibility impairment. Further, EPA is not aware of any certification of existing reasonably attributable impairment of visibility by a Federal Land manager that has not already been resolved. The EPA accordingly believes that States should be able to make a relatively simple SIP submission verifying that no source within the State emits pollutants that interfere with measures included in the visibility SIPs under the 1980 regulations.”

The State of Arizona promulgated a RAVI rule, effective December 2003, to address visibility impairment from existing stationary sources. *Arizona Administrative Code* Sections R18-2-1601 through R18-2-1606 require Arizona to analyze and implement control strategies where applicable should a source be certified and found attributable for causing or contributing to visibility impairment.

Arizona Administrative Code Section R18-2-410 further provides protection of visibility by requiring new major sources or sources making major modifications to complete an analysis of the anticipated impacts on visibility to any Class I area that may be affected by the emissions from the source. Federal Land Managers (FLMs) may also submit a visibility impact analysis for additional consideration during the permitting process.

Regional haze regulations require all states to consider the impact of visibility impairing emissions from sources in their state to the Class I areas of another state as well as the impact to Arizona Class I areas from other states' sources. Consultation on the impacts is a specific requirement of the federal regional haze rule; consultation involving current or projected strategies to decrease visibility impairing emissions has already occurred with the “Transport Region States” under 40 CFR 51.309 and will continue under 40 CFR 51.309(g). Arizona submitted a Regional Haze SIP under 40 CFR 51.309 in December 2003 for its four Class I areas on the Colorado Plateau and will be submitting a SIP for its remaining eight Class I areas under 40 CFR 51.309(g) in December 2009; the 2003 SIP will be updated in 2009.

CHAPTER 5: CONCLUSION

Designation of areas for new or revised air quality standards under Section 107 of the Clean Air Act requires that nonattainment areas include any area that does not meet or that contributes to ambient air quality in a nearby area that does not meet the air quality standards. Designations for PM_{2.5} areas in Arizona were based primarily on monitored ambient air quality. Using the information and conclusions presented in this SIP submission, the Arizona Department of Environmental Quality determined that the State of Arizona does not significantly contribute to nonattainment or interfere with maintenance of PM_{2.5} NAAQS in any other state. In addition, Arizona meets the PSD and protection of visibility requirements under CAA Section 110(a)(2)(D)(i).

Attachment B1

***Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations
Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} National Ambient Air Quality
Standards, U.S. Environmental Protection Agency, August 15, 2006***

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

AUG 15 2006

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards

FROM: William T. Harnett, Director *William T. Harnett*
Air Quality Policy Division, OAQPS (C539-01)

TO: Regional Air Division Director, Regions I-X

The purpose of this memorandum is to provide guidance concerning the State implementation plan (SIP) submissions States should make to meet their currently outstanding obligations under section 110(a)(2)(D)(i).

The Environmental Protection Agency (EPA) has previously indicated through rulemaking what States affected by the Clean Air Interstate Rule (CAIR) must do concerning emissions that significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or fine particulates (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) in another State. This guidance, therefore, addresses what States that are not affected by the CAIR should consider in meeting the "significant contribution" and "interfere with maintenance" requirements of section 110(a)(2)(D)(i), and what all States (inside or outside the CAIR region) should consider with respect to making submissions to meet the "prevention of significant deterioration" and "protect visibility" requirements of section 110(a)(2)(D)(i). Because the CAIR region differs for purposes of 8-hour ozone and PM_{2.5}, some States may be within the CAIR region for purposes of one NAAQS, but not the other, and should make section 110(a)(2)(D)(i) SIP submissions that account for this distinction.

On July 18, 1997, EPA promulgated NAAQS for ozone and for fine particulate matter. Section 110(a)(1) of the Clean Air Act requires States to submit new SIPs to provide for the implementation, maintenance, and enforcement of new or revised NAAQS. Section 110(a)(2) lists the elements that the new SIP submissions must contain. Among other things, SIPs for new or revised NAAQS must contain adequate provisions to address interstate transport of air pollution, pursuant to section 110(a)(2)(D)(i).

Section 110(a)(1) explicitly provides that States must adopt and submit to the EPA Administrator new SIP submissions within 3 years after the promulgation of a new or revised NAAQS, meeting the provisions of 110(a)(2), as applicable. Therefore, States should have submitted SIPs to EPA for the 8-hour ozone NAAQS and the PM_{2.5} NAAQS by no later than July 2000. However, at this time no State has submitted a new SIP. We recognize that litigation over both the 8-hour ozone NAAQS and the PM_{2.5} NAAQS created substantial uncertainty as to how to proceed. Moreover, in the case of PM_{2.5}, additional time was needed for creation of a monitoring network, collection of at least three years of data, and analysis of those data.

On April 25, 2005, EPA published an action in the Federal Register making a finding that States had failed to make statutorily required SIP submissions for the 8-hour ozone and PM_{2.5} NAAQS. The EPA explicitly limited this finding of failure to submit to the requirements of section 110(a)(2)(D)(i) pertaining to interstate transport. The finding of failure to submit action started a 24-month clock for EPA to issue a final Federal Implementation Plan (FIP) to meet the requirements of section 110(a)(2)(D)(i), for both the 8-hour ozone and PM_{2.5} standards, unless EPA instead approves a State SIP submission to meet those requirements in advance of that date.

The finding of failure to submit SIPs addressing section 110(a)(2)(D)(i) is the first action required under a Consent Decree between EPA and plaintiffs who sued the Agency for failure to take action to require the submission of new SIPs for the 8-hour ozone and PM_{2.5} NAAQS, or to issue FIPs in lieu thereof. The EPA has also committed in the Consent Decree to take later actions to determine whether States have submitted the remaining SIP elements required by section 110(a)(1) and (2) for the 8-hour ozone and PM_{2.5} NAAQS by no later than December 15, 2007, for ozone, and by no later than October 5, 2008, for PM_{2.5}. The Agency intends to provide States with additional information concerning the remaining section 110(a)(1) and (2) SIP elements, in separate regulations or guidance documents.

We emphasize that this document is merely guidance and that States or EPA may elect to follow or deviate from this guidance, as appropriate. The ultimate determination of whether a given SIP submission by a State meets the statutory requirements of section 110(a)(2)(D)(i) will be accomplished through case by case notice and comment rulemaking in which the facts and circumstances of each State submission will be evaluated by EPA. We ask that the EPA Regional Offices work with their respective States in the development of their SIP submissions.

If you have questions concerning this guidance, please contact Mr. Larry D. Wallace (919) 541-0906. Please ensure that the appropriate air agency officials for the States in your Region are made aware of this guidance.

Attachment

cc: Margo Oge, OTAQ
Steve Page, OAQPS
Brian McLean, OAP
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**Guidance for State Implementation Plan Submissions to Meet Current Outstanding
Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5}
National Ambient Air Quality Standards**

1. Introduction:

This document provides guidance to States concerning State Implementation Plan (SIP) submissions that States must make pursuant to section 110(a)(2)(D)(i). The Environmental Protection Agency (EPA) emphasizes that this guidance document merely provides suggestions and that States or EPA may elect to follow or deviate from this guidance, as appropriate. The ultimate determination of whether a given SIP submission by a State meets the requirements of section 110(a)(2)(D)(i) will be accomplished by area specific notice and comment rulemaking in which the facts and circumstances of each State submission will be evaluated by EPA. Sections 110(a)(1) and (2) of the Clean Air Act (CAA), require States to submit SIPs that implement, maintain, and enforce a new or revised national ambient air quality standard (NAAQS) within 3 years following the promulgation of the standard.

In July 1997, EPA issued the 8-hour ozone and PM_{2.5} NAAQS. States were thus required to submit SIPs that satisfy the applicable CAA requirements under section 110(a)(1) and (2) for these NAAQS by July 2000. Among the SIP elements identified in section 110(a)(2) is the requirement to address interstate transport of pollutants pursuant to section 110(a)(2)(D)(i). The EPA has determined that section 110(a)(2)(D)(i) is among the SIP requirements with which States must comply in accordance with the schedule of section 110(a)(1).¹

On April 25, 2005, EPA notified States of their failure to make the required SIP submission addressing interstate transport of pollutants related to ozone and PM_{2.5} in downwind States.²

Pursuant to section 110(c), EPA's April 25, 2005 finding of failure to submit started a 24-month clock for EPA to issue a final Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D)(i), unless a State makes the required submission and EPA approves such submission within that 24-month period. The 24-month FIP clock began on

¹See, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_x SIP Call; Final Rule," 70 FR 25,162 at 25,263-69 (May 12, 2005).

²See, "Finding of Failure to Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and PM 2.5," 70 FR 21,147 (April 25, 2005).

May 25, 2005, the effective date of the finding of failure to submit, and will end on May 25, 2007.

The EPA's finding of failure to submit SIPs that address section 110(a)(2)(D)(i) is the first action required under a Consent Decree.³ Under the Consent Decree, EPA is also obligated to make later determinations as to whether States have made the required SIP submissions to meet the remaining applicable requirements of section 110(a)(1) and (2). The EPA is obligated to make these later determinations by December 15, 2007, for SIP submissions for the 8-hour ozone NAAQS, and by October 5, 2008, for SIP submissions pertaining to the PM_{2.5} NAAQS.

The EPA believes that Section 110(a)(2)(D)(i) provides an important tool for attainment and maintenance of the NAAQS by addressing the problem of interstate transport of air pollutants. This provision applies to each pollutant covered by a NAAQS and to all areas of each State regardless of the attainment or nonattainment designation of such areas. Section 110(a)(2)(D)(i) specifically provides that each State's SIP must contain adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment of the NAAQS, or that interfere with maintenance of the NAAQS, in any other State. In addition, this section requires that each State's SIP must contain adequate provisions to prohibit emissions of air pollutants within the State that interfere with measures required to prevent significant deterioration of air quality or to protect visibility in any other State.

The EPA intends to provide additional information to States concerning the remaining section 110(a)(1) and (2) SIP elements, either in regulations implementing the 8-hour ozone or PM_{2.5} NAAQS, or in later guidance documents.

2. What is required under section 110(a)(2)(D)(i):

Section 110(a)(1) requires States to make a SIP submission for a new or revised NAAQS within 3 years of promulgation of such new or revised NAAQS.

Section 110(a)(2) lists the elements those SIPs must contain. For example, this section lists certain SIP infrastructure elements related to the new or revised standards such as requirements for provisions pertaining to modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the standards. An important SIP element

³The Consent Decree is between Environmental Defense and American Lung Association, as plaintiffs, and EPA, as defendant, signed March 10, 2005. The Consent Decree resolved the case entitled "Environmental Defense, et al. v. Johnson," No. 1:05CV00493(D.D.C.). EPA gave notice of, and took comment on, the proposed consent decree in accordance with CAA section 113(g). See, 70 FR 15,623 (March 28, 2005).

listed in section 110(a)(2) is the requirement that States address emissions that impact other States through interstate transport.

The "good neighbor" provisions in section 110(a)(2)(D)(i) require each State to submit a SIP that prohibits emissions that adversely affect another State in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. Each State must submit a SIP which contains adequate provisions:

prohibiting ... any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will -

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any ... national primary or secondary air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State to prevent significant deterioration of air quality or to protect visibility.

The EPA's April 25, 2005 finding of failure to submit reflected EPA's determination that States had not yet made SIP submissions for the 8-hour ozone and PM_{2.5} NAAQS necessary to meet the requirements of section 110(a)(2)(D)(i).

The precise nature and contents of such a submission is not stipulated in the statute. EPA believes that the contents of the SIP submission required by section 110(a)(2)(D)(i) may vary depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the content of the required submission. In some instances, this submission may be more detailed and substantive, as when existing data and analyses already provide the requisite information. In other instances, the submission may be more preliminary and simplified, as when there is currently insufficient information to support a determination that there are interstate transport impacts, or when other later regulatory actions are prerequisites to making such a determination.

The sections below provide guidance concerning the types of SIP submissions that EPA believes would be appropriate in response to the April 25, 2005, finding of failure to submit.

3. States subject to the Clean Air Interstate Rule:

In March of 2005, EPA promulgated the Clean Air Interstate Rule (CAIR).⁴ Based upon the requirements of section 110(a)(2)(D)(i), EPA determined in the CAIR that NO_x emissions from sources in 25 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the 8-hour ozone standard in other downwind States. The EPA also determined that SO₂ and NO_x emissions from sources in 23 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the PM_{2.5} standards in other downwind States. Subsequently, EPA determined that two additional States contribute to nonattainment and interfere with maintenance of the PM_{2.5} NAAQS.⁵ (See Attachment A listing the States subject to the CAIR).

In the CAIR, EPA concluded that the States will meet their section 110(a)(2)(D)(i) obligations to address the "significant contribution" and "interference with maintenance" requirements by complying with the CAIR requirements. Consequently, States within the CAIR region need not submit a separate SIP revision to satisfy the section 110(a)(2)(D)(i) requirements provided that they submit a SIP revision to satisfy CAIR.

Pursuant to section 110(a)(1), those States not within the CAIR region must also make a submission with respect to those two requirements. Also in accordance with the statute, all States, both inside and outside the CAIR region must make a submission with respect to the "prevention of significant deterioration" and "protect visibility" requirements of section 110(a)(2)(D)(i). It should be noted that because the CAIR region differs for purposes of ozone and PM_{2.5}, some States may be inside the CAIR region for purposes of one NAAQS, but outside the CAIR region for the other, and should make section 110(a)(2)(D)(i) SIP submissions that account for this distinction.

Accordingly, EPA has structured this guidance to address the different types of considerations that States may need to evaluate in making their respective submissions.

4. SIP Submissions from States pertaining to the "significant contribution" and "interfere with maintenance" requirements of section 110(a)(2)(D)(i):

States not covered by the CAIR must make a section 110(a)(2)(D)(i) SIP submission addressing significant contribution to nonattainment and interference with maintenance of the 8-hour ozone and PM_{2.5} NAAQS in any other States.

⁴See, *supra* note 1.

⁵See, Inclusion of Delaware and New Jersey in Clean Air Interstate Rule, 71 FR 25288 (April 28, 2006).

The EPA anticipates, based upon existing information developed in connection with the CAIR, that emissions from sources in States not covered by the CAIR do not contribute significantly to nonattainment or interfere with maintenance of the 8-hour ozone or PM_{2.5} NAAQS in any other State. Unless a State excluded from the CAIR has contrary information or analysis, EPA believes that such State should be able to make a relatively simple SIP submission verifying that the State does not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or PM_{2.5} in another State. EPA believes that a negative declaration from each of the non-CAIR States, which certifies that the State in question does not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another State, should be adequate to satisfy the requirements of section 110(a)(2)(D)(i).

States should submit a technical demonstration to support a negative declaration. EPA believes that this demonstration should contain the information which the State deems appropriate to support its claim that it does not significantly contribute to nonattainment or interfere with maintenance of the standards in another State. Suitable information might include, but is not be limited to, information concerning emissions in the State, meteorological conditions in the State, the distance to the nearest nonattainment area in another State, reliance on modeling conducted by EPA in determining that such State should not be included within the ambit of the CAIR, or such other information as the State considers probative on the issue of significant contribution and interference with maintenance. The EPA believes that it would be appropriate for States to make this assessment using considerations comparable to those used by EPA in evaluating significant contribution in the CAIR, e.g., assessing the impacts of emissions on nearby nonattainment areas as of the year 2010, and evaluating mitigation strategies based upon emissions reductions achievable through highly cost effective controls.

In addition, States that are not subject to the CAIR, but are subject to the NO_x SIP Call, may wish to indicate that SIPs submitted to meet the NO_x SIP Call should be sufficient to satisfy the section 110(a)(2)(D)(i) obligation for the 8-hour ozone NAAQS. EPA initially addressed interstate transport for ozone in the NO_x SIP Call rule published in 1998.⁶ The NO_x SIP Call is substantially reducing ozone transport, and is helping downwind areas meet the 8-hour ozone standards. The EPA believes that states outside the CAIR region that are meeting the NO_x SIP Call should not significantly be contributing to nonattainment or interfering with maintenance in any down wind state.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i).

⁶ "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for the Purposes of Reducing Regional Transport of Ozone Rule, (63 FR 57356, October 27, 1998).

EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

5. SIP Submissions from States pertaining to the "prevention of significant deterioration" requirement of section 110(a)(2)(D)(i):

Section 110(a)(2)(D)(i)(II) also contains a requirement for all States to submit SIPs that contain adequate provisions prohibiting "... any source or other type of emission activity within the State from emitting any air pollutant in amounts which will - interfere with measures required to be included in the applicable implementation plan for any other State to prevent significant deterioration of air quality ..."

Under EPA regulations, each SIP must include a preconstruction review program for major sources to satisfy the requirements of section 110(a)(2)(D)(i) of the Act. 40 C.F.R. § 51.165(b)(1). In nonattainment areas, the preconstruction review program is known as Nonattainment New Source Review (NNSR) and in attainment areas, preconstruction review is part of the Prevention of Significant Deterioration (PSD) program. These programs require preconstruction permits to protect the air quality within each state and also serve to prohibit construction of new major sources and major modifications at existing major sources from contributing to nonattainment in adjacent states. The PSD permitting program is also the primary measure that each SIP must include to prevent significant deterioration of air quality in accordance with Title I, Part C and section 110(a)(2)(D)(i)(II) of the Act. See, 40 CFR § 51.166. Section 110(a)(2)(D)(i)(II) requires that SIPs contain adequate provisions prohibiting sources or emissions activity within each state "from emitting any air pollutant in amounts which will -- ... interfere with measures required 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" 42 U.S.C. § 7410(a)(2)(D)(i)(II).

Because all areas are currently subject to some form of preconstruction permitting program for ozone and PM_{2.5}, it is not necessary, at this time, for States to make a SIP submission containing rule changes or modeling demonstrations in order to address section 110(a)(2)(D)(i)(II) for the 8-hour ozone and PM_{2.5} NAAQS. EPA has established or will establish schedules for SIP submissions that incorporate revisions to EPA's preconstruction permitting regulations that are specific to the 8-hour ozone and PM_{2.5} NAAQS. Areas will need to revise their SIPs consistent with such schedules.

Each area of the country is currently subject to an equivalent PSD or NNSR permitting program for the 8-hour ozone standard and an interim PSD or NNSR permitting program for PM_{2.5}. If a particular state SIP lacks an approved PSD program, the PSD permitting requirements must be implemented in that state or local area through a federal PSD program that can be administered by the state or local permitting authority under a delegation agreement with EPA. Where a state lacks an approved NNSR program, the state may issue NNSR permits

pursuant to an EPA regulation at 40 CFR Part 51, Appendix S. If such a state lacks authority to issue permits consistent with appendix S, EPA is the permitting authority.

In April 2004 and November 2005, EPA promulgated regulations in two phases that addressed (among other topics) the implementation of the PSD and NNSR programs under the 8-hour ozone NAAQS. See 69 FR 23951 (Apr. 30, 2004); 70 Fed. Reg. 71612 (Nov. 29, 2005). The first phase of these rules requires implementation of NNSR in accordance with an area's 8-hour ozone classification after revocation of the 1-hour ozone NAAQS. See 69 FR at 23985. The EPA revoked the 1-hour ozone NAAQS on June 15, 2005. Thus, new and modified major sources of volatile organic compound and NO_x are currently subject to NNSR based on the designation and classification of the area in which they are located under the 8-hour ozone NAAQS. In an 8-hour ozone nonattainment area that currently has no approved nonattainment plan or otherwise lacks authority to implement nonattainment NSR for the 8-hour ozone NAAQS through a SIP-approved permitting program, permits for new and modified major stationary sources in such areas must be consistent with the requirements in appendix S of 40 CFR Part 51. IEPA determined that states did not need to submit any revisions of their existing PSD programs to implement of the 8-hour ozone NAAQS, but the Agency simultaneously promulgated new rules to establish NO_x as a precursor for ozone under the PSD program. See 68 FR. 32802, 32843-44 (Jun. 2, 2003); 70 FR at 71679. The EPA established June 15, 2007 as the deadline for states to provide SIP submissions that incorporate the requirements of the phase II ozone implementation rule into their PSD and NNSR programs. See 70 FR at 71683.

For PM_{2.5}, EPA has recommended that states employ an interim PM_{2.5} program that involves implementing existing PSD and NNSR programs for PM₁₀ as a surrogate for the PM_{2.5} requirements until the necessary tools are in place for states to adopt PSD and NNSR programs for PM_{2.5}. See, Memorandum from John Seitz, EPA OAQPS, "Interim Implementation for the New Source Review Requirements for PM_{2.5}," (October 23, 1997); Memorandum from Steve Page, EPA OAQPS, "Implementation of New Source Review Requirements in PM_{2.5} Nonattainment Areas." (April 5, 2005). In November 2005, EPA has proposed regulations that establish the minimum requirements for PSD and NNSR programs for PM_{2.5}, 70 FR 65984, 66033 (Nov. 1, 2005), but the Agency has not promulgated final regulations on this subject. States are not required to submit PSD and NNSR program SIPs for PM_{2.5} until EPA completes these regulations and finalizes the submission schedule, which we have proposed to be April 5, 2008. Until the submission date is established in EPA's final PM_{2.5} implementation rule for NSR, states may continue to implement interim programs based on PM₁₀ and need not provide PSD or NNSR program submissions containing rule changes for PM_{2.5}.

The air quality demonstrations required for issuance of a PSD and NNSR permit must be made for all areas that are potentially impacted by the emissions from a proposed source or modification requiring a permit. As a result, the implementation of a PSD and NNSR permitting program in each state serves to prevent significant deterioration in neighboring states and thus largely satisfies the requirements of section 110(a)(2)(D)(i)(II) of the CAA. A PSD permit may not be issued unless the new or modified source demonstrates that emissions from the

construction or operation of the facility will not cause or contribute to air pollution in any area that exceeds of any NAAQS or any maximum allowable increase (known as the PSD increment), 42 U.S.C. § 7475(a)(3); 40 CFR § 51.166(k). A NNSR permit may not be issued unless the new or modified source shows it has obtained sufficient emissions reductions to offset increases in emissions of the pollutants for which an area is in nonattainment, consistent with reasonable further program toward attainment. These offsetting reductions could also help serve to prevent significant deterioration in any instance where the emissions of a nonattainment pollutant from a source in a nonattainment area would impact a nearby attainment area for that pollutant.

In addition to PSD permitting program, a SIP may include additional measures as necessary to prevent air pollution in excess of the PSD increment that defines significant deterioration for each area. 40 CFR § 51.166(a). The EPA has not established PSD increments for ozone or PM_{2.5}. Without these components of a PSD program, it is difficult for states to determine if additional measures are needed to prevent significant deterioration within the state. Likewise, a neighboring state cannot determine whether its SIP would interfere with such additional measures in another state's SIP. However, notwithstanding the absence of PSD increments for ozone and PM_{2.5}, states may continue to rely on their existing PSD and NNSR permitting programs to prevent significant deterioration of air quality within their own boundaries and in adjacent states.

Because the PSD and NNSR permitting programs currently applicable in each area require a demonstration that new or modified sources will not cause or contribute to air pollution in excess of the NAAQS in neighboring states or that sources in nonattainment areas procure offsets, EPA believes that states need not make an additional SIP submission containing rule changes or modeling demonstrations to address the "prevent significant deterioration" requirement of section 110(a)(2)(D)(i)(II) for the 8-hour ozone and PM_{2.5} NAAQS. For 8-hour ozone, each state only needs to make a SIP submission confirming that major sources in the state are currently subject to PSD and NNSR permitting programs that implement the 8-hour ozone standard and that SIP-approved states are on track to meet the June 15, 2007 deadline for SIP submissions adopting the requirements of the Phase II ozone implementation rule. For PM_{2.5}, states need only provide a SIP submission confirming that major sources in the state are subject to PSD and NNSR permitting programs implemented in accordance with EPA's interim guidance calling for use of PM₁₀ as a surrogate for PM_{2.5} in the PSD and NNSR programs. Additional SIP submissions will be due after the final NSR implementation rules for PM_{2.5} are promulgated.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i). The EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

6. SIP Submissions from States pertaining to the "protect visibility" requirement of section 110(a)(2)(D)(i):

Section 110(a)(2)(D)(i)(II) also contains a requirement for all States to submit SIPs that contain adequate provisions prohibiting "... any source or other type of emission activity within the State from emitting any air pollutant in amounts which will - interfere with measures required to be included in the applicable implementation plan for any other State....to protect visibility."

The EPA adopted a phased approach to visibility protection, issuing regulations in 1980 to address reasonably attributable visibility impairment, i.e., visibility impairment that is caused by the emissions of air pollutants from one, or a small number of sources, and issuing regulations in 1999 to address regional haze, i.e., "visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area."⁷ Under the 1980 regulations, 33 States and the Virgin Islands were required to submit SIPs to address reasonably attributable visibility impairment. At this point in time, EPA has made no determination that emissions from any State interfere with measures required to be included in a plan to address reasonably attributable visibility impairment. Further, EPA is not aware of any certification of existing reasonably attributable impairment of visibility by a Federal Land Manager that has not already been resolved. The EPA accordingly believes that States should be able to make a relatively simple SIP submission verifying that no source within the State emits pollutants that interfere with measures included in the visibility SIPs under the 1980 regulations.

In 1999, EPA found that all States contain sources whose emissions are reasonably anticipated to contribute to regional haze in one or more Class I areas.⁸ Pursuant to this finding, States are currently under an obligation to submit SIPs that contain measures to address regional haze, including a long-term strategy to address visibility impairment for each Class I area which may be affected by emissions from a State.⁹ The States and Regional Planning Organizations are currently engaged in the task of identifying those Class I areas impacted by each State's emissions and developing strategies for addressing regional haze to be included in the States' regional haze SIPs. These SIP submissions are due no later than December 17, 2007.

As a result, EPA believes that it is currently premature to determine whether or not State SIPs for 8-hour ozone or PM_{2.5} contain adequate provisions to prohibit emissions that interfere with measures in other States' SIPs designed to address regional haze. Accordingly, EPA believes that States may make a simple SIP submission confirming that it is not possible at this time to assess whether there is any interference with measures in the applicable SIP for another

⁷ See, 40 CFR section 51.300-308.

⁸ See, "Regional Haze Regulations," 64 FR 35,714, 35,721 (July 1, 1999).

⁹ 40 CFR 51.308(d)(3).

State designed to "protect visibility" for the 8-hour ozone and PM_{2.5} NAAQS until regional haze SIPs are submitted and approved.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i). EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

7. When should States make section 110(a)(2)(D)(i) SIP submissions?

The EPA made the finding of failure to submit in April of 2005, with an effective date of May 25, 2005. As a result of the finding of failure to submit, the CAA imposes a 24-month clock for EPA to issue a FIP, unless a State has made the required submission to cure the failure to submit and EPA has acted to approve such submission fully in advance of the end of the 24-month period.

In conjunction with the CAIR, EPA has promulgated a FIP for all jurisdictions in the CAIR region to provide a federal backstop to insure timely and effective reductions of emissions from those States in accordance with section 110(a)(2)(D)(i)(I). The EPA has not, however, promulgated a FIP addressing section 110(a)(2)(D)(i) for any States outside of the CAIR region. States outside the CAIR region must therefore make submissions to meet the significant contribution and interference with maintenance requirements of section 110(a)(2)(D)(i)(I) to avoid a FIP addressing those requirements. In addition, all States have an outstanding statutory obligation to make a SIP submission to meet the requirements of section 110(a)(2)(D)(i)(II) in avoid a FIP for those requirements.

The EPA is currently under an obligation to issue a FIP by May 25, 2007, for any State that does not make a submission that cures the outstanding elements of section 110(a)(2)(D)(i) for that State. Unless the State makes the necessary SIP submission sufficiently in advance of that date for EPA to evaluate the submission and to take the necessary rulemaking action to approve or disapprove it, EPA may need to initiate the FIP rulemaking process in order to meet the May 2007 FIP deadline. For this reason, EPA believes that it would be appropriate for each State to make the SIP submission necessary to meet its outstanding obligations under section 110(a)(2)(D)(i) well in advance of the May 25, 2007 FIP deadline. The EPA therefore suggests that States should make their SIP submission by no later than November 25, 2006, in order to allow adequate time for the necessary Agency action on the submission.

The EPA recognizes that this target SIP submission date is only 18 months after the effective date of the finding of failure to submit, and that the Agency is issuing this guidance concerning the necessary SIP submissions only shortly in advance of the target date. As a result, EPA intends to be as flexible as possible with respect to the target SIP submission date and will work with States to insure that they can make appropriate SIP submissions as close to

November 25, 2006, as possible. However, in the event of submissions significantly later than this date, EPA may need to initiate the FIP process to meet its own statutory obligations to implement FIPs where States fail to submit SIPs that the Agency can approve in advance of the May 25, 2007 FIP deadline.

Attachment A: States subject to the CAIR

Alabama	Mississippi
Arkansas (ozone only)	Missouri
Connecticut (ozone only)	New York
Florida	New Jersey
Delaware	North Carolina
Georgia (PM 2.5 only)	Ohio
Illinois	Pennsylvania
Indiana	South Carolina
Iowa	Tennessee
Kentucky	Texas (PM 2.5 only)
Louisiana	Virginia
Maryland	West Virginia
Massachusetts (ozone only)	Wisconsin
Michigan	District of Columbia
Minnesota (PM 2.5 only)	

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Attachment B2

**Arizona Nitrogen Oxides, PM_{2.5}, and
Sulfur Dioxide Emissions Inventories**

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Table B2-1

2005 Arizona State and County Point, Area, and Mobile Source Nitrogen Oxides, Sulfur Dioxide and PM _{2.5} Emissions (tons)					
County	Size Ranking	Area (square miles)	Nitrogen Oxides (NO _x)	Sulfur Dioxide	PM _{2.5}
Apache	3	11,216	26,345	20,724	3,613
Cochise	8	6,215	16,271	3,778	2,806
Coconino	1	18,608	46,080	4,583	5,519
Gila	11	4,752	1,661	18,601	1,345
Graham	12	4,630	997	54	824
Greenlee	14	1,837	432	78	1,634
LaPaz	13	4,518	3,003	142	531
Maricopa	5	9,222	108,088	5,176	13,520
Mohave	2	13,479	13,013	743	2,369
Navajo*	4	9,949	30,808	29,026	81,976
Pima	6	9,184	30,674	6,318	6,953
Pinal	10	5,371	12,493	721	4,919
Santa Cruz	15	1,236	1,702	211	1,879
Yavapai	7	8,125	12,656	1,431	3,248
Yuma	9	5,522	9,262	553	1,726
Arizona Total		113,864	313,486	92,138	132,862

Source: U.S. Environmental Protection Agency, National Emission Inventory (NEI) databases for 2005

* In 2002, the Rodeo-Chediski wildfire, the largest forest fire recorded in Arizona's history, burned more than 467,000 acres of woodland across east-central Arizona (most of the acres burned were in Navajo County, with some damage occurring in contiguous Coconino, Apache, and Gila Counties). The effect of this extraordinary event is evidenced by its impact on the Navajo County emission inventory. In 2002 forest fires comprised more than 94 percent of the entire primary PM_{2.5} inventory for Navajo County (77,388 tons of the 82,062 tons Navajo County total were attributed to wildfire emissions in 2002). While the 2002 NEI emission estimates were based on spatially and temporally detailed wildfire data, the 2005 inventory is based on growth factor assumptions applied to the 2002 data set. Consequently, elevated 2005 PM_{2.5} emission estimates for Navajo County are likely the result of the projection of extreme emissions levels due to one-time wildfire in 2002 (77,388 tons of the 81,976 tons Navajo County total were attributed to wildfire emissions for 2005). Elevated 2005 emissions estimates for NO_x and SO_x are also likely impacted by the projection of 2002 "extreme fire" inventories.

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Attachment B3

Ambient Air Quality Data

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Table B3-1: 2006 to 2008 24-Hour Average PM_{2.5} Compliance (in µg/m³, local conditions)

NAAQS: The three-year average of the 98th percentile values is less than or equal to 35 µg/m³.

Note: The three-year average is rounded to the nearest 1 µg/m³ for comparison to the standard.

2006 to 2008 PM _{2.5} 24-Hour Average NAAQS Compliance Values, By County				
County	Sites with Exceedances			Sites in Violation
	2006	2007	2008	
Cochise	0	0	0	0
Coconino	0	0	0	0
Gila	0	0	0	0
Maricopa	1	0	0	0
Pima	0	0	0	0
Pinal	1	1	1	1
Santa Cruz	1	0	0	1
Summary: 12 of 14 federal reference monitors in compliance				

Table B3-2. 2006 to 2008 24-Hour Average PM _{2.5} Compliance (in µg/m ³)				
Bold denotes a value above the standard.				
Site or City Federal Reference Monitors	98th Percentile Samples **			Three-Year Average
	2006	2007	2008	
Cochise County				
Douglas Red Cross ²	14.0	16.9	13.6	15
Coconino County				
Flagstaff Middle School ²	13.7	30.2	10.3	18
Gila County				
Payson ² (closed 12/31/2007)	23.4	21.9	N/A	N/A
Maricopa County				
JLG Supersite ³	24.6	23.5	17.8	22
Mesa (opened 4/28/2005) ³	20.1	18.3	14.5	18
South Phoenix ³	28.8	29.2	22.7	27
West Phoenix ³	28.8	27.2	24.3	27
Pima County				
Children's Park ³	12.1	12.0	11.7	12
Orange Grove ¹	11.2	13.6	11.7	12
Pinal County				
Apache Junction Fire Station ³	9.3	14.6	15.4	13
Casa Grande Downtown ²	15.4	22.4	22.0	20
Cowtown ²	48.9	53.9	40.7	48
Santa Cruz County				
Nogales Post Office ²	56.2	28.2	35.8	40
Yavapai County				
Prescott Valley (opened 1/1/2008)	N/A	N/A	12.4	N/A
Yuma County				
Yuma Courthouse opened 1/1/2008)	N/A	N/A	21.1	N/A

** The 98th percentile value will be the second highest value for sites on an every 6th day sample schedule. The 98th percentile value will be the 3rd highest value for sites on an every 3rd day sample schedule.

¹ Samples collected every day - 365 sample days in non leap years

² Samples collected every sixth day - 61 sample days in non leap years.

³ Samples collected every third day - 122 sample days in non leap years.

Table B3-3: 2006 to 2008 Annual Average PM_{2.5} Compliance (in µg/m³, local conditions)

NAAQS: The three-year average of annual means is less than or equal to 15 µg/m³

2006 to 2008 PM _{2.5} Annual Average NAAQS Compliance Values, By County				
County	Sites with Exceedances			Sites in Violation
	2006	2007	2008	
Cochise	0	0	0	0
Coconino	0	0	0	0
Gila	0	0	0	0
Maricopa	0	0	0	0
Pima	0	0	0	0
Pinal	1	1	1	1
Santa Cruz	1	0	0	0
<i>Summary: 13 of 14 federal reference monitors in compliance</i>				

Table B3-4: 2006 to 2008 Annual Average PM_{2.5} Compliance (in µg/m³)
Bold denotes a value above the standard.

Site or City Federal Reference Monitors	2006	2007	2008	Three-Year Average
Cochise County				
Douglas Red Cross	6.78	6.79	6.98	6.85
Coconino County				
Flagstaff Middle School	6.61	8.00	5.92	6.84
Gila County				
Payson Well Site (closed 12/31/2007)	9.04	9.38	N/A	N/A
Maricopa County				
JLG Supersite	10.22	9.48	8.88	9.53
Mesa	9.66	9.72	8.45	9.28
South Phoenix	12.69	12.27	10.93	11.96
West Phoenix	13.52	10.89	10.62	11.68
Pima County				
Children's Park	5.79	5.71	5.38	5.63
Orange Grove	5.80	5.84	5.72	5.79
Pinal County				
Apache Junction Fire Station	5.31	6.96	7.52	6.60
Casa Grande Downtown	7.55	10.25	10.61	9.47
Cowtown	22.74	22.50	19.63	21.62
Santa Cruz County				
Nogales Post Office	15.59	12.30	13.08	13.66
Yavapai County				
Prescott Valley (opened 1/1/2008)	N/A	N/A	5.91	N/A
Yuma County				
Yuma Courthouse opened 1/1/2008)	N/A	N/A	9.93	N/A

Appendix C

Arizona Revised Statutes

**§49-455. Permit administration fund (except Section §49-455(B)(1))
and**

Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees

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49-455. Permit administration fund

A. A permit administration fund is established consisting of fees and interest collected pursuant to this article. The director shall administer the fund subject to annual legislative appropriation. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided in section 35-313, and monies earned from investment shall be credited to the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. Monies in the fund collected pursuant to sections 49-426 and 49-426.01 shall be used for the following:

1. [ADEQ is not submitting Section §49-455(B)(1) for inclusion in the SIP] In the case of fees collected pursuant to section 49-426, subsection E, paragraph 1, all reasonable direct and indirect costs required to develop and administer the permit program requirements of title V of the clean air act.

2. In the case of other fees, administering permits or revisions issued pursuant to section 49-426 or 49-426.01 or conducting inspections.

C. No more than five per cent of the monies in the fund may be used for the collection of monies, unless otherwise provided under title V of the clean air act.

D. No more than five per cent of the monies in the fund may be used for general administration of the fund unless otherwise provided under title V of the clean air act.

38-501. Application of article

A. This article shall apply to all public officers and employees of incorporated cities or towns, of political subdivisions and of the state and any of its departments, commissions, agencies, bodies or boards.

B. Notwithstanding the provisions of any other law, or the provisions of any charter or ordinance of any incorporated city or town to the contrary, the provisions of this article shall be exclusively applicable to all officers and employees of every incorporated city or town or political subdivision or the state and any of its departments, commissions, agencies, bodies or boards and shall supersede the provisions of any other such law, charter provision or ordinance.

C. Other prohibitions in the state statutes against any specific conflict of interests shall be in addition to this article if consistent with the intent and provisions of this article.

38-502. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.

2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.

3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.

4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.

5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.

6. "Public agency" means:

(a) All courts.

(b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.

(c) The state, county and incorporated cities or towns and any other political subdivisions.

7. "Public competitive bidding" means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.
8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.
9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.
10. "Remote interest" means:
- (a) That of a nonsalaried officer of a nonprofit corporation.
 - (b) That of a landlord or tenant of the contracting party.
 - (c) That of an attorney of a contracting party.
 - (d) That of a member of a nonprofit cooperative marketing association.
 - (e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.
 - (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
 - (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
 - (h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
 - (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:
 - (i) Another political subdivision.
 - (ii) A public agency of another political subdivision.
 - (iii) A public agency except if it is the same governmental entity.
 - (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

38-503. Conflict of interest; exemptions; employment prohibition

- A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.
- C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.

2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

38-504. Prohibited acts

A. A public officer or employee shall not represent another person for compensation before a public agency by which the officer or employee is or was employed within the preceding twelve months or on which the officer or employee serves or served within the preceding twelve months concerning any matter with which the officer or employee was directly concerned and in which the officer or employee personally participated during the officer's or employee's employment or service by a substantial and material exercise of administrative discretion.

B. During the period of a public officer's or employee's employment or service and for two years thereafter, a public officer or employee shall not disclose or use for the officer's or employee's personal profit, without appropriate authorization, any information acquired by the officer or employee in the course of the officer's or employee's official duties which has been clearly designated to the officer or employee as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary for the proper conduct of government business. A public officer or employee shall not disclose or use, without appropriate authorization, any information that is acquired by the officer or employee in the course of the officer's or employee's official duties and that is declared confidential by law.

C. A public officer or employee shall not use or attempt to use the officer's or employee's official position to secure any valuable thing or valuable benefit for the officer or employee that would not ordinarily accrue to the officer or employee in the performance of the officer's or employee's official duties if the thing or benefit is of such character as to manifest a substantial and improper influence on the officer or employee with respect to the officer's or employee's duties.

38-505. Additional income prohibited for services

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

38-506. Remedies

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

38-507. Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee

Requests for opinions from either the attorney general, a county attorney, a city or town attorney, the senate ethics committee or the house of representatives ethics committee concerning violations of this article shall be confidential, but the final opinions shall be a matter of public record. The county attorneys shall file opinions with the county recorder, the city or town attorneys shall file opinions with the city or town clerk, the senate ethics committee shall file opinions with the senate secretary and the house of representatives ethics committee shall file opinions with the chief clerk of the house of representatives.

38-508. Authority of public officers and employees to act

A. If the provisions of section 38-503 prevent an appointed public officer or a public employee from acting as required by law in his official capacity, such public officer or employee shall notify his superior authority of the conflicting interest. The superior authority may empower another to act or such authority may act in the capacity of the public officer or employee on the conflicting matter.

B. If the provisions of section 38-503 prevent a public agency from acting as required by law in its official capacity, such action shall not be prevented if members of the agency who have apparent conflicts make known their substantial interests in the official records of their public agency.

38-509. Filing of disclosures

Every political subdivision and public agency subject to this article shall maintain for public inspection in a special file all documents necessary to memorialize all disclosures of substantial interest made known pursuant to this article.

38-510. Penalties

A. A person who:

1. Intentionally or knowingly violates any provision of sections 38-503 through 38-505 is guilty of a class 6 felony.
2. Recklessly or negligently violates any provision of sections 38-503 through 38-505 is guilty of a class 1 misdemeanor.

B. A person found guilty of an offense described in subsection A of this section shall forfeit his public office or employment if any.

C. It is no defense to a prosecution for a violation of sections 38-503 through 38-505 that the public officer or employee to whom a benefit is offered, conferred or agreed to be conferred was not qualified or authorized to act in the desired way.

D. It is a defense to a prosecution for a violation of sections 38-503 through 38-505 that the interest charged to be substantial was a remote interest.

38-511. Cancellation of political subdivision and state contracts; definition

A. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any

other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

B. Leases of state trust land for terms longer than ten years cancelled under this section shall respect those rights given to mortgagees of the lessee by section 37-289 and other lawful provisions of the lease.

C. The cancellation under this section by the state or its political subdivisions shall be effective when written notice from the governor or the chief executive officer or governing body of the political subdivision is received by all other parties to the contract unless the notice specifies a later time.

D. The cancellation under this section by any department or agency of the state or its political subdivisions shall be effective when written notice from such party is received by all other parties to the contract unless the notice specifies a later time.

E. In addition to the right to cancel a contract as provided in subsection A of this section, the state, its political subdivisions or any department or agency of either may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any department or agency of either from any other party to the contract arising as the result of the contract.

F. Notice of this section shall be included in every contract to which the state, its political subdivisions, or any of the departments or agencies of either is a party.

G. For purposes of this section, "political subdivisions" do not include entities formed or operating under title 48, chapter 11, 12, 13, 17, 18, 19 or 22.

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Appendix D

State Implementation Plan Revision Public Comment and Hearing Documentation

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Appendix D.1

Notice of Public Hearing

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AFFIDAVIT OF PUBLICATION

ADE
AIR QUALITY DIVISION
09 AUG 24 11:27

THE ARIZONA REPUBLIC

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

Mark Gilmore, being first duly sworn, upon oath deposes and says: That he is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

August 17, 2009.

Mark Gilmore

Sworn to before me this
18TH day of
August A.D. 2009



Marilyn Greenwood
Notary Public

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) PUBLIC HEARING ON THE ARIZONA STATE IMPLEMENTATION PLAN (SIP) REVISION UNDER CLEAN AIR ACT SECTION 171(b)(1)(C) FOR THE 2009 PHOENIX NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) AND THE 1997 NAAQS. This revision will demonstrate State provision for implementation, maintenance, and enforcement of such standards, including provisions for monitoring, emissions inventories, and modeling designed to assure attainment and maintenance of the NAAQS. A public hearing on the SIP revision will be held on Wednesday, September 16, 2009 at 10:00 a.m. at the Arizona Department of Environmental Quality, Room 149, 110 West Washington Street, Phoenix, AZ 85007. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views orally and in writing. The public comment period for this SIP revision will end at the conclusion of the public hearing or 600 days on September 18, 2009, whichever is later. All written comments should be addressed, faxed, or e-mailed to: John J. Englander, Air Quality Planning Section, Arizona Department of Environmental Quality, 110 W. Washington St., Phoenix, AZ 85007. PHONE: (602) 771-4781 FAX: (602) 771-2396 E-Mail: englanderjohn@adeq.state.az.us A copy of the proposal available for review on the ADEQ web site Events and Notices Calendar at the following Web address: <http://www.azdeq.gov/cgibin/webcal.pl> or at the following locations: ADEQ Library, 110 W. Washington St., Phoenix, AZ 85007. Attn: Lisa Cona. (602) 771-2317. 110 West Washington Street, 13th Floor, Phoenix, August 17, 2009.

AFFIDAVIT OF PUBLICATION

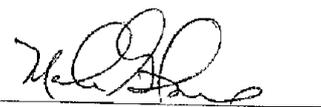
THE ARIZONA REPUBLIC

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

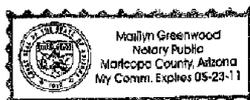
Mark Gilmore, being first duly sworn, upon oath deposes and says: That he is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

August 20, 2009.



Sworn to before me this
20th day of
August A.D. 2009



Mallim Greenwood
Notary Public

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) PUBLIC HEARING ON THE ARIZONA STATE IMPLEMENTATION PLAN (SIP) REVISION UNDER CLEAN AIR ACT SECTION 105 (1) AND (2) ADEQ will hold a public hearing to receive comments on a proposed SIP Revision for Section 105 and 105(A) through (M) for the 2008 PM2.5 National Ambient Air Quality Standards (NAQS) and the 1997 PM2.5 and Ozone NAQS. This revision will incorporate state provisions for implementation, maintenance, and enforcement of such standards, including provisions for monitoring, emissions, penalties, and modeling designed to ensure attainment and maintenance of the NAQS. A public hearing on this SIP Revision will be held on Tuesday, September 15, 2009 at 8:00 am at the Arizona Department of Environmental Quality, Room 140, 110 West Washington Street, Phoenix, AZ 85007. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. The public comments received for this SIP Revision will be at the conclusion of the public hearing on 9/15/09. On September 16, 2009, whichever is later. All written comments should be addressed, faxed, or emailed to: John Engelder, Air Quality Planning Section, Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007. PHONE: (602) 754-7811 FAX: (602) 754-7860. If you are unable to attend, you may send a copy of the proposal available for review to the ADEQ website. E-mail address: john.engelder@adeq.state.az.us or website: www.azadeq.gov. For additional information, please contact the following locations: ADEQ Liaison: 1110 West Washington Street, Phoenix, AZ 85007, First Floor, Attn: Liaison, (602) 754-7811. Published: August 20, 2009.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ)
PUBLIC HEARING

ON THE ARIZONA STATE IMPLEMENTATION PLAN (SIP) REVISION UNDER CLEAN
AIR ACT SECTION 110(a)(1) and (2):

ADEQ will hold a public hearing to receive comments on a proposed SIP Revision for Clean Air Act (CAA) Section 110(a)(1) and (2)(A) through (M) for the 2006 PM_{2.5} National Ambient Air Quality Standards (NAAQS) and the 1997 PM_{2.5} and 8-hour Ozone NAAQS. This revision will demonstrate State provision for implementation, maintenance, and enforcement of such standards, including provisions for monitoring, emissions inventories, and modeling designed to assure attainment and maintenance of the NAAQS.

A public hearing on the SIP Revision will be held on Wednesday, September 16, 2009, at 4:30 p.m., at the Arizona Department of Environmental Quality, Room 145, 1110 West Washington Street, Phoenix, AZ 85007. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. The public comment period for this SIP Revision will end at the conclusion of the public hearing or 6:00 p.m. on September 16, 2009, whichever is later.

All written comments should be addressed, faxed, or e-mailed to:

John J. Englander
Air Quality Planning Section
Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
PHONE: (602) 771-4781
FAX: (602) 771-2366
E-Mail: englander.john@azdeq.gov

A copy of the proposal is available for review on the ADEQ web site Events and Notices Calendar at the following Web address <http://www.azdeq.gov/cgi-bin/vertical.pl> or at the following locations:

ADEQ Library
1110 W. Washington St
Phoenix, AZ 85007
Attn: Lori Cona, (602) 771-2217
First Floor

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Appendix D.2

Public Hearing Agenda

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Public Hearing Agenda

AIR QUALITY DIVISION

PUBLIC HEARING ON THE PROPOSED ARIZONA AIR QUALITY STATE IMPLEMENTATION PLAN (SIP) REVISION UNDER CLEAN AIR ACT SECTION 110(a)(1) AND (2):

**2006 PM_{2.5} NATIONAL AMBIENT AIR QUALITY STANDARDS,
1997 PM_{2.5} NATIONAL AMBIENT AIR QUALITY STANDARDS, AND
1997 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS**

PLEASE NOTE THE MEETING LOCATION AND TIME:

ADEQ Building, Hearing Room 145
1110 West Washington Street, Phoenix, AZ 85007
Wednesday, August 26, 2009, 4:30 pm

Pursuant to 40 CFR § 51.102 notice is hereby given that the above referenced meeting is open to the public.

1. Welcome and Introductions
2. Purposes of the Oral Proceeding
3. Procedure for Making Public Comment
4. Brief Overview of the proposed SIP revision
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Oral Proceeding

Copies of the proposal are available for review at the Arizona Department of Environmental Quality (ADEQ) Library, 1110 W. Washington St., Phoenix, Arizona. For additional information regarding the hearing please call John Englander, ADEQ Air Quality Division, at (602) 771-4781 or toll-free at 1-800-234-5677, Ext. 771-4781.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Dan Flukas at (602) 771-4795 or 1-800-234-5677, Ext. 771-4795. Requests should be made as early as possible to allow sufficient time to make the arrangements for the accommodation. This document is available in alternative formats by contacting ADEQ TDD phone number at (602) 771-4829.

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Appendix D.3

Public Hearing Sign In Sheet

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Air Quality Division Sign-In Sheet

Please Sign In

SUBJECT 110(a)(1)(2) "Infrastructure" SIP DATE 9/16/09
Public Hearing

	<u>NAME</u>	<u>ORGANIZATION</u>	<u>PHONE</u>	<u>FAX</u>	<u>E-MAIL</u>
1.	Juan Velasco	Drake Cement	928-6366004		jvelasco@drakecement.com
2.	Darcy Anderson	Kleinfelder	480-763-1200	480-763-1212	djanderson@kleinfelder.com
3.	Carly Martinkovic	ADEQ-AS	(602) 771-2372	1-2366	dam@azdeq.gov
4.					
5.					
6.					
7.					
8.					

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Appendix D.4

Public Hearing Officer Certification and Transcript

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Air Quality Division

Public Hearing Presiding Officer Certification

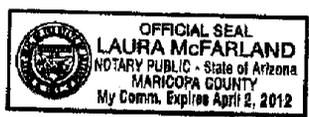
I, Eric Massey, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on September 16, 2009, at the Arizona Department of Environmental Quality Building, Room 145, 1110 West Washington Street, Phoenix, AZ 85007, in accordance with public notice requirements by publication in the Arizona Republic and other locations beginning August 17, 2009. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

Dated this 17 day of September 2009.

[Signature of Eric Massey]
Eric Massey

State of Arizona)
) ss.
County of Maricopa)

Subscribed and sworn to before me on this 17 day of Sept 2009



[Signature of Laura McFarland]
Notary Public

My commission expires: 4/2/12

1 The purposes of this proceeding are to provide the public with an opportunity to:
2 (1) hear about the substance of the proposed SIP revision,
3 (2) ask questions regarding the revision, and
4 (3) present oral argument, data and views regarding the revision in the form of
5 comments on the public record.

6
7 Representing the Department today are: John Englander, Bruce Friedl, Deborahah
8 "Corky" Martinkovic and myself.

9
10 Public notice appeared in the Arizona Republic and on ADEQ's website. Copies
11 of the proposal titled, *PROPOSED Arizona State Implementation Plan Revision*
12 *under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 PM_{2.5}*
13 *National Ambient Air Quality Standards, 1997 PM_{2.5} National Ambient Air Quality*
14 *Standards, and 1997 8-Hour Ozone National Ambient Air Quality Standards,* were
15 made available at the ADEQ Phoenix office and on the ADEQ website.

16
17 The procedure for making a public comment on the record is straightforward. If
18 you wish to comment, you just need to fill out a speaker slip, which is available at
19 the sign-in table, and give it to me. Using speaker slips allows everyone an
20 opportunity to be heard and allows us to match up the name on the official record
21 with the comments. You may also submit written comments to me today. Please
22 note that the comment period for the proposed SIP Revision ends today, August
23 26, 2009. Actually I think that should say September 16, 2009. Excuse me. All
24 written comments must be postmarked if sent via U.S. mail or received if sent via
25 e-mail at ADEQ by September 16, 2009. Written comments can be mailed to John
26 Englander, Air Quality Planning Section, Arizona Department of Environmental

1 Quality, 1110 W. Washington Street, Phoenix, Arizona 85007 or
2 englander.john@azdeq.gov. Comments may also be faxed to (602) 771-2366.

3
4 Comments made during the formal comment period are required by law to be
5 considered by the Department when preparing the final state implementation plan.
6 This is done through the preparation of a responsiveness summary in which the
7 Department responds in writing to written and oral comments made during the
8 formal comment period.

9
10 The agenda for this hearing is simple. First, we will present a brief overview of the
11 proposed revision to the state implementation plan.

12
13 Second, I will conduct a question and answer period. The purpose of the question
14 and answer period is to provide information that may help you in making
15 comments on the proposed revision.

16
17 Third, I will conduct the oral comment period. At that time, I will begin to call
18 speakers in the order that I have received speaker slips.

19
20 Please be aware that any comments at today's hearing that you want the
21 Department to formally consider must be given either in writing or on the record at
22 today's hearing during the oral comment period of this proceeding.

23
24 At this time, John Englander will give a brief overview of the proposal.

25
26 * * * * *

27
3

1 Mr. Englander: Clean Air Act Section 110(a) (1) requires states to submit SIPs
2 within three years following the promulgation of new or revised NAAQS to
3 provide for implementation, maintenance, and enforcement of such standards.
4 Each of these SIPs must address certain basic elements or the "infrastructure" of its
5 air quality management programs under Clean Air Act Section 110(a) (2). These
6 elements, detailed in Clean Air Act Sections 110(a) (2) (A) through (M), include
7 provisions for monitoring, emissions inventories, and modeling designed to assure
8 attainment and maintenance of the NAAQS.

9

10 In July 1997, the U.S. Environmental Protection Agency (EPA) issued new
11 NAAQS for 8-hour ozone as well as particulate matter 2.5 microns or less in
12 diameter (PM_{2.5}). Subsequent litigation challenging the new standards created
13 uncertainty on how to proceed and delayed submittal of the required Section
14 110(a) (1) and (2) or "infrastructure" SIPs. On March 10, 2005, in response to a
15 lawsuit over states' failure to submit infrastructure SIPs for the 1997 standards,
16 EPA entered into a Consent Decree with Earth Justice that obligated EPA to
17 require states to submit infrastructure SIPs.

18

19 Arizona did submit a SIP for Section 110(a)(2)(D) – interstate transport for both 8-
20 Hour Ozone and PM_{2.5}, but was unable to meet the deadline for the remaining
21 requirements for the 1997 8-Hour Ozone Standard, and on March 27, 2008, EPA
22 published a "finding of failure to submit" for Arizona. Arizona was able, however,
23 to submit by the September 18, 2008, deadline an *Analysis of Clean Air Act*
24 *Section 110(a)(2) Air Quality Control Program Elements for Arizona for the 1997*
25 *PM_{2.5} National Ambient Air Quality Standards*. The analysis demonstrated that,
26 with minor exceptions, existing Arizona SIP elements and the federal prevention of
27 significant deterioration (PSD) permit program were adequate to meet Clean Air

4

1 Act Section 110(a)(2) requirements. This proposed submittal corrects all but the
2 emergency powers portion, and also satisfies the infrastructure requirements for the
3 1997 8-Hour Ozone Standard.

4
5 In December 2006, based on scientific studies regarding the effects of particle
6 pollution, EPA subsequently revised the 1997 NAAQS for PM_{2.5}. This action
7 required states to submit Section 110(a) (1) and (2) SIPs by September 21, 2009, to
8 provide for implementation, maintenance, and enforcement of the 2006 PM_{2.5}
9 standards. This proposed submittal satisfies this requirement as well.

10
11 This concludes the explanation period of this proceeding on the proposed revision
12 to the state implementation plan.

13
14 * * * * *

15
16 Mr. Massey: Thank you John. Are there any questions before we move to the oral
17 comment period?

18
19 Seeing none, this concludes the question and answer period of this proceeding on
20 the proposed state implementation plan revision.

21
22 * * * * *

23
24 I now open this proceeding for oral comments.

25
26 I have no speaker slips. Are there any oral comments?

27
5

1 Hearing none, this concludes the oral comment period of this proceeding.

2

3

* * * * *

4

5 If you have not already submitted written comments, you may submit them to me
6 at this time. Again, the comment period for this proposed revision to the state
7 implementation plan ends September 16, 2009.

8

9 Thank you very much for attending.

10 The time is now approximately 4:42 p.m. I now close this oral proceeding.

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Appendix D.5

Responsiveness Summary

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RESPONSIVENESS SUMMARY

to

Testimony Taken at Oral Proceedings and Written Comments Received on Arizona State Implementation Plan (SIP) Revision under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 PM_{2.5} National Ambient Air Quality Standards, 1997 PM_{2.5} National Ambient Air Quality Standards, and 1997 8-Hour Ozone National Ambient Air Quality Standards

The oral proceeding on the *Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2): Implementation of 2006 PM_{2.5} National Ambient Air Quality Standards, 1997 PM_{2.5} National Ambient Air Quality Standards, and 1997 8-Hour Ozone National Ambient Air Quality Standards* was held on Wednesday, September 16, 2009, at 4:30 p.m., at the Arizona Department of Environmental Quality, Conference Room 145, 1110 West Washington Street, Phoenix, Arizona. The public comment period began on August 17, 2009, and closed on Wednesday, September 16, 2009, at 6:00 p.m. No oral or written comments were received from the public. During its final review of the proposed SIP, ADEQ, in consultation with the Environmental Protection Agency, determined some further clarifications were appropriate. These clarifications are described below.

- 1) On Page 10, Section 2.5, the summary of Clean Air Act (CAA) Section 110(a)(2)(E), Adequate Resources, has been corrected to more accurately reflect the requirements of the CAA.
- 2) On Page 11, a more detailed description of the applicability of Arizona Revised Statute (ARS), Title 38, Chapter 3, Article 8 conflict of interest provisions to meet the requirements of CAA Section 110(a)(2)(E)(ii) has been added to Section 2.5.
- 3) On Page 12, citations to specific county "Emergency Episode" regulations have been added to Section 2.7 for clarity.
- 4) On Page 15, ARS §49-406 has been added to Section 2.11 as a relevant statute to help meet the requirements of CAA Section 110(a)(2)(K) regarding air quality modeling.
- 5) All references to ARS §49-401 have been removed from Section 2 because these statutory provisions are not appropriate for inclusion in the federally enforceable SIP.
- 6) In Appendix B, Page 4, the date reference for EPA acceptance of Arizona recommendations for the 2006 24-hour PM_{2.5} attainment/nonattainment designations has been corrected.
- 7) In Appendix B, Page 5, the draft PM_{2.5} Monitor Map has been replaced with a finalized map. No changes are made to the monitors/locations previously identified.
- 8) In Appendix B, Pages 10 and 11, reference to the August 15, 2006 interim guidance has been removed.
- 9) In Appendix B, Page 11, reference to regional haze and the protection of visibility has been revised for clarity purposes.
- 10) Language has been added to Appendix C to clarify ARS §49-455(B)(1) is not referenced for inclusion in the SIP.
- 11) ADEQ has made minor corrections for grammar and formatting.

