ARIZONA DEPARTMENT
OF
ENVIRONMENTAL QUALITY

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(602) 771-2300 • www.azdeq.gov

Janice K. Brewer
Governor

Henry R. Darwin
Director

DEC 27 2012

Mr. Jared Blumenfeld, 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 the Clean Air Act Section 110(a)(1) and (2); 2008 8-hour Ozone NAAQS

Dear Mr. Blumenfeld:

Consistent with the provisions of Arizona Revised Statutes §§ 49-104, 49-106, 49-404, 49-406 and 49-425 and the Code of Federal Regulations (CFR) Title 40, §§ 51.102 through 51.104, and pursuant to the attached delegation agreement, the Arizona Department of Environmental Quality (ADEQ) hereby submits to the U.S. Environmental Protection Agency (EPA) a revision to the *Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and (2): Implementation of 2008 8-hour Ozone National Ambient Air Quality Standards* 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.

The SIP revision incorporates by reference both existing statutes and rules, a document demonstrating that the requirements of 40 C.F.R. Part 51 Appendix V are satisfied, copies of the authorizing statutes cited above (Appendix A), and copies of the required public process documents (Appendix B).

Between proposed and final SIP submittals, ADEQ fixed a typographical error under Section 5.2, Section 110(a)(2)(B). Under County Programs, ADEQ had listed A.R.S. § 49-473. Board of supervisors, but should have listed A.R.S. § 49-476.01. Monitoring. The statute was correctly cited in the tables in Section 4.0, Table 4-2, of the proposed document.

Southern Regional Office
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ADEQ requests the EPA to approve this revision to the Arizona SIP. A hard copy of the SIP and an electronic exact duplicate of the hard copy on CD are included with this letter.

Sincerely,

Eric C. Massey
Director, Air Quality

cc: Bill Wiley, Maricopa County Air Quality Department, w/o enclosures
Ursula Kramer, Pima County Department of Environmental Quality, w/o enclosures
Don Gabrielson, Pinal County Air Quality Department, w/o enclosures
Colleen McKaughan, EPA Region IX, w/o enclosures
Rory Mays, EPA Region IX, w/o enclosures

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Janice K. Brewer
Governor

Henry R. Darwin
Director

February 25, 2011

TO: Eric Massey
Division Director
Air Quality Division

Under A.R.S. §49-104(D)(2), I authorize you, Eric Massey, Division Director, Air Quality Division, Arizona Department of Environmental Quality, to perform any act, including execution of any pertinent documents, which I as Director of the Arizona Department of Environmental Quality am authorized or required to do by law with respect to A.R.S. Title 49, chapters 1 and 3 and any other acts relating to air quality including personnel actions. This authority shall remain in effect until it is revoked or you resign. You may further delegate this authority in the best interest of the agency, however, those delegations must be in writing and you must forward a copy of any further delegations to me.

This delegation is effective February 25, 2011. I ratify all acts performed by you as Air Quality Division Director concerning the duties and functions in this delegation letter.

Henry R. Darwin
Director

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ADEQ
Arizona Department
of Environmental Quality

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

2008 8-Hour Ozone National Ambient Air Quality Standards

Air Quality Division
December 2012

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1.0 INTRODUCTION

This revision to the Arizona SIP incorporates by reference the statutes and rules, which have already been submitted and approved by the EPA in order to demonstrate 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 2008 8-hour ozone NAAQS.

ADEQ sought parallel processing of this revision to the SIP under 40 C.F.R. Part 51, Appendix V, § 2.3.1. ADEQ has completed the State's public notice and public hearing requirements and has attached documentation as Appendix D.

Section 2.0 of this document addresses the criteria for an official SIP submission as set forth in 40 C.F.R. Part 51, Appendix V.

2.0 CRITERIA

2.1 Administrative Materials

2.1(a) A formal letter of submittal from the Governor or [her] designee, requesting EPA approval of the plan or revision thereof (hereafter "the plan").

See cover letter.

2.1(b) Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter "document") in final form.

Certified copies of many of the statutes and rules relied upon in this revision to the Arizona SIP were provided in the supplement to the Clean Air Act Section 110 (a)(1) and (2) SIP for the 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), the 1997 $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS, submitted on August 24, 2012. The EPA approved the certified statutes and rules into the Arizona SIP on November 5, 2012. 77 FR 66398. ADEQ is incorporating these statutes and rules by reference.

Earlier, there were several key statutes and rules that were approved into the Arizona SIP. ADEQ will again reference these as they are important to the approval of this SIP revision. Those statutes are §§ 49-402, -404, and -406, approved by EPA on June 8, 2000 (65 FR 36353) and §§ 49-543, -544, and -551 approved by EPA on January 22, 2003 (68 FR 2912).

R9-3-219, "Air pollution emergency episodes" was approved by the EPA on September 28, 1982. 47 FR 42572. R9-3-215, "Ambient air quality monitoring methods & procedures", was approved by the EPA on October 19, 1984 (49-FR 41026). Certified copies of R18-2-220, "Air pollution emergency episodes," and the Air Quality Monitoring Procedures Manual (Referenced in R9-3-215), were submitted on August 30, 2012, and were approved by the EPA on October 15, 2012. 77 FR 62452. All of these rules and the manual, along with §§ 49-462, -463, and -512, comprise the approved Arizona Emergency Episode Plan that is incorporated by reference into this SIP.

2.1(c) Evidence that the State has the necessary legal authority under State law to adopt and implement the plan.

ADEQ is authorized to implement SIPs under Arizona Revised Statutes §§ 49-104, 49-106, 49-404, 49-406 and 49-425, which are attached as Appendix A.

2.1(d) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made to the existing approved plan, where applicable.

The statutes and rules incorporated by reference are listed in Tables 4-1 through 4-10, with EPA approval dates and citations.

2.1(e) Evidence that the State followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan.

Not required for parallel processing version of SIP. See 40 C.F.R. Part 51, Appendix V, § 2.3.1(d).

2.1(f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.

Not required for parallel processing version of SIP. See 40 C.F.R. Part 51, Appendix V, § 2.3.1(d).

2.1(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

Not required for parallel processing version of SIP. See 40 C.F.R. Part 51, Appendix V, § 2.3.1(d).

2.1(h) Compilation of public comments and the State's response thereto.

Not required for parallel processing version of SIP. See 40 C.F.R. Part 51, Appendix V, § 2.3.1(d).

2.2 Technical Support

2.2(a) Identification of all regulated pollutants affected by the plan.

Ozone.

2.2(b) Identification of the locations of affected sources including the EPA attainment/ nonattainment designation of the locations and the status of the attainment plan for the affected areas(s).

Not applicable.

2.2(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

Not applicable.

2.2(d) The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented (Section 110(l) demonstration).

See below sections 5.3, 5.4 and 5.10.

2.2(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.

Not applicable.

2.2(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

Not applicable.

2.2(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels.

See below sections 5.1, 5.2, 5.3 and 5.6.

2.2(h) Compliance/enforcement strategies, including how compliance will be determined in practice.

See below sections 5.3 and 5.5.

2.2(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.

No known deviations.

3.0 REGULATORY BACKGROUND

Clean Air Act Section (CAA) 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.

On March 27, 2008, the U.S. Environmental Protection Agency (EPA) issued new NAAQS for 8-hour ozone. The EPA revised both the primary and secondary standard for ozone, making the level of the 8-

hour standard to 0.075 parts per million (ppm). EPA also made conforming changes to the Air Quality Index (AQI) for ozone, setting an AQI value of 100 equal to 0.075 ppm, 8-hour average, and making proportional changes to the AQI values of 50, 150 and 200. (73 FR 16436).

On September 16, 2009, the EPA announced it would reconsider the 2008 NAAQS for ground-level ozone On January 19, 2010, the EPA proposed a rulemaking to set different primary and secondary standards than those set in 2008: 1) the primary standard was proposed at the level within the range of 0.060 to 0.070 ppm, and 2) the secondary standard should instead be a new cumulative, seasonal standard expressed as an annual index of the sum of weighted hourly concentrations, cumulated over 12 hours per day (8 am to 8 pm) during the consecutive 3-month period within the ozone season with the maximum index value, set at a level within the range of 7 to 15 ppm-hours. (75 FR 2938). On September 2, 2011, President Obama issued a Statement stating that he requested that Administrator Jackson withdraw the draft Ozone NAAQS.[1] Since, at this time, the new standards were withdrawn, this SIP revision covers the standards set on March 27, 2008.

On October 14, 2009, Arizona submitted a demonstration that the required Section 110(a)(2) elements are met, in part, for the 1997 $PM_{2.5}$ and 8-hour ozone NAAQS, and the 2006 $PM_{2.5}$ NAAQS. After subsequent discussions with EPA regarding the October 14, 2009 submittal, Arizona supplemented the October 14, 2009 submittal with certified copies of specific statutes and rules, which were attached in Appendices A, B, D, and E of the final submitted supplement. The supplement was submitted to the EPA on August 24, 2012 and provided EPA with evidence that the laws and regulations have been adopted specifically for submittal to EPA as a SIP revision, with the exception of two Pima County regulations (rules 17.12.040 and 17.24.040), which relate to stationary source monitoring and reporting.

On October 15, 2012, the EPA approved into the Arizona SIP, the Arizona Emergency Episode Plan, which EPA found is substantively identical to the CAA section 110(a)(2)(G). (77 FR 62452 at 62453). The approval included the rule currently approved into Arizona's SIP (R9–3–219, "Air pollution emergency episodes"), which EPA approved in 1982 (47 FR 42572, September 28, 1982), R9-3-215, "Ambient air quality monitoring methods & procedures", which EPA approved on October 19, 1984 (49-FR 41026), and revisions submitted on August 15, 1994, which included rule R18–2–220, "Air pollution emergency episodes", amended effective September 26, 1990. On August 30, 2012, ADEQ submitted a certified copy of R18–2–220, "Air pollution emergency episodes", and the document titled, "Procedures for Prevention of Emergency Episodes," 1988 edition, ADEQ, to the EPA, along with a letter from Eric C. Massey, Director, Air Quality, Arizona, ADEQ, to Jared Blumenfeld, Regional Administrator, US EPA, certifying that the attached copy of a document titled "Procedures for Prevention of Emergency Episodes: 1988 Edition" is a true and correct copy of the original and is an official publication of ADEQ. (77 FR at 62454). Together, these above-referenced rules and manual, along with §§ 49-462, -463, and -512, comprise the approved Arizona Emergency Episode Plan.

On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). In that action, the EPA partially disapproved Arizona's Infrastructure SIP Submittals, stating that they do not fully satisfy the following CAA section 110(a) requirements: 1) With respect to those areas under ADEQ and Pinal County jurisdiction, the PSD program requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) regarding regulation of nitrogen oxides (NO_X) as an ozone precursor, regulation of fine particulate matter ($PM_{2.5}$), interstate pollution abatement, and air quality models and modeling data; 2) with respect to the air quality

[1] This information was made official in a Letter from Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, dated September 2, 2011. The EPA has both the official President's press release and the Letter from Cass Sunstein, Administrator, Office of Information and Regulatory Affairs, on their website at http://www.epa.gov/glo/actions.html (Accessed November 14, 2012).

hearing boards in Maricopa, Pima, and Pinal counties, the requirements of CAA section 110(a)(2)(E)(ii) respecting board composition requirements under CAA section 128(a)(1); and 3) with respect to Pima County, the requirements of CAA section 110(a)(2)(F) regarding stationary source monitoring and reporting.

This revision to the Arizona SIP incorporates by reference the statutes and rules already submitted and approved by the EPA in order to demonstrate 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 2008 8-hour ozone NAAQS.

4.0 SUMMARY AND DISCUSSION OF THE REVISION TO ARIZONA'S "INFRASTRUCTURE SIP"

This document incorporates by reference specific statutes and rules, which are the authorities and infrastructure of Arizona State and local air quality management programs need to meet the basic program elements required under CAA Section 110(a)(2) for the 2008 8-hour ozone NAAQS. Certified copies of many of these rules and statutes were submitted to the EPA as part of the Supplement for the 2006 $PM_{2.5}$ NAAQS and the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, submitted on August 24, 2012. All statutes and rules incorporated by reference in this SIP revision have already been approved into the Arizona SIP.[2]

The statutes and programs referenced in Section 5.0 are adequate to meet the following requirements of the CAA for the 2008 8-hour ozone NAAQS, unless otherwise stated:

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)(G) emergency episodes
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.

Arizona's air quality programs are sufficient at this time to assure attainment and maintenance of the 2008 8-hour ozone NAAQS in all areas of the State. Any deficiencies in Arizona's air quality programs indicated by the EPA in their "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter" have either been remedied or are in the process of being remedied by ADEQ and/or the County Programs. 77 FR 66398 (November 5, 2012). ADEQ commits to developing the appropriate remedy for any deficiencies outlined by the EPA and will submit SIP revisions as appropriate within the required timeframe.

Tables 4-1 through 4-10, provided below, show which statute or rule ADEQ is asking to be incorporated by reference, which sections of those statutes are relevant to which section of the CAA and the dates those statutes or rules were approved into the Arizona SIP. All Statutes and rules are also listed in Section 5.0 under each respective section of the CAA to which they relate. Provisions applicable solely to Title V sources are not submitted for approval into the Arizona SIP, as they have already been approved into Arizona's separate Title V Operating Permit Program.

[2] Approval dates and Federal Register Notices are cited in tables 4-1 through 4-10.

Table 4-1

CAA 110(a)(2)(A) Control Measures and Emission Limits		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-106 Statewide application of rules		11/05/2012 (77 FR 66398)
§ 49-107 Local delegation of state authority		11/05/2012 (77 FR 66398)
§ 49-402 State and county control		6/08/2000 (65 FR 36353).
§ 49-404 State implementation plan		6/08/2000 (65 FR 36353).
§ 49-406 Nonattainment area plan		6/08/2000 (65 FR 36353).
§ 49-421 Definitions		11/05/2012 (77 FR 66398)
§ 49-424 Duties of department		11/05/2012 (77 FR 66398)
§ 49-425 Rules; hearing		11/05/2012 (77 FR 66398)
County Programs		
§ 49-471 Definitions		11/05/2012 (77 FR 66398)
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-479 Rules; hearing		11/05/2012 (77 FR 66398)

Table 4-2

CAA 110(a)(2)(B) Ambient Air Quality Monitoring		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-404 State implementation plan		6/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(F)(11)	6/08/2000 (65 FR 36353)
§ 49-422 Powers and duties	(A), (B), (C), (E), and (F)	11/05/2012 (77 FR 66398)
§ 49-424 Duties of department		11/05/2012 (77 FR 66398)
County Programs		
§ 49-476.01 Monitoring		11/05/2012 (77 FR 66398)

Table 4-3

CAA 110(a)(2)(C) Enforcement of Control Measures		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-103 Department employees; legal counsel		11/05/2012 (77 FR 66398)
§ 49-106 Statewide application of rules		11/05/2012 (77 FR 66398)
§ 49-107 Local delegation of state authority		11/05/2012 (77 FR 66398)
§ 49-402 State and county control	All sections but (A)(8)	6/08/2000 (65 FR 36353)
§ 49-404 State implementation plan		6/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(G)(1), (G)(2), and (G)(3)	6/08/2000 (65 FR 36353)
§ 49-422 Powers and duties		11/05/2012 (77 FR 66398)
§ 49-424 Duties of department		11/05/2012 (77 FR 66398)
§ 49-425 Rules; hearing		11/05/2012 (77 FR 66398)
§ 49-433 Special inspection warrant		11/05/2012 (77 FR 66398)
§ 49-435 Hearings on orders of abatement		11/05/2012 (77 FR 66398)
§ 49-441 Suspension and revocation of conditional order		11/05/2012 (77 FR 66398)
§ 49-460 Violations; production of records		11/05/2012 (77 FR 66398)
§ 49-461 Violations; order of abatement		11/05/2012 (77 FR 66398)
§ 49-462 Violations; injunctive relief		11/05/2012 (77 FR 66398)
§ 49-463 Violations; civil penalties		11/05/2012 (77 FR 66398)
County Programs		
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-488 Special inspection warrant		11/05/2012 (77 FR 66398)
§ 49-490 Hearings on orders of abatement		11/05/2012 (77 FR 66398)
§ 49-495 Suspension and revocation of conditional order		11/05/2012 (77 FR 66398)
§ 49-502 Violation; classification	(A), (B), and (C)	11/05/2012 (77 FR 66398)
§ 49-510 Violations; production of records		11/05/2012 (77 FR 66398)
§ 49-511 Violations; order of abatement		11/05/2012 (77 FR 66398)
§ 49-512 Violations; injunctive relief		11/05/2012 (77 FR 66398)
§ 49-513 Violations; civil penalties		11/05/2012 (77 FR 66398)

Table 4-4

CAA 110(a)(2)(E) Adequate Resources		
CAA 110(a)(2)(E)(i)		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 28-1253. Registration requirement; exceptions; assessment; violation; classification		11/05/2012 (77 FR 66398)
§ 35-313. Investment of trust and treasury monies; loans and securities		11/05/2012 (77 FR 66398)
§ 49-103 Department employees; legal counsel		11/05/2012 (77 FR 66398)
§ 49-402 State and county control		11/05/2012 (77 FR 66398)
§ 49-406 Nonattainment area plan		11/05/2012 (77 FR 66398)
§ 49-455 Permit administration fund	(A) and (B)(2)	11/05/2012 (77 FR 66398)
§ 49-543. Emissions inspection costs; disposition; fleet inspection; certificates	(A)	11/05/2012 (77 FR 66398)
§ 49-544 Emissions inspection fund; composition; authorized expenditures; exemptions; investment		1/22/2003 (68 FR 2912)
§ 49-551 Air quality fee; air quality fund; purpose		1/22/2003 (68 FR 2912)
County Programs		
§ 49-471 Definitions		11/05/2012 (77 FR 66398)
§ 49-478. Hearing board		11/05/2012 (77 FR 66398)
§ 49-479 Rules; hearing		11/05/2012 (77 FR 66398)
§ 49-480.02 Appeals of permit actions		11/05/2012 (77 FR 66398)
§ 49-482. Appeals to hearing board		11/05/2012 (77 FR 66398)
CAA 110(a)(2)(E)(ii)		
ADEQ and County Programs		
§ 38-101 Definitions		11/05/2012 (77 FR 66398)
§ 38-501 Application of article		11/05/2012 (77 FR 66398)
§ 38-502 Definitions		11/05/2012 (77 FR 66398)
§ 38-503 Conflict of interest; exemptions; employment prohibition		11/05/2012 (77 FR 66398)
§ 38-504 Prohibited acts		11/05/2012 (77 FR 66398)
§ 38-505 Additional income prohibited for services		11/05/2012 (77 FR 66398)
§ 38-506 Remedies		11/05/2012 (77 FR 66398)
§ 38-507 Opinions of the attorney general, county attorneys, city or town attorneys and house and senate ethics committee		11/05/2012 (77 FR 66398)
§ 38-508 Authority of public officers and employees to act		11/05/2012 (77 FR 66398)
§ 38-509 Filing of disclosures		11/05/2012 (77 FR 66398)

CAA 110(a)(2)(E) Adequate Resources		
§ 38-510 Penalties		11/05/2012 (77 FR 66398)
§ 38-511 Cancellation of political subdivision and state contracts; definition		11/05/2012 (77 FR 66398)
CAA 110(a)(2)(E)(iii)		
§ 49-107 Local delegation of state authority		11/05/2012 (77 FR 66398)
§ 49-402 State and county control	(A)(1) through (A)(7), (B), (C),	6/08/2000 (65 FR 36353)
§ 49-404 State implementation plan		6/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(C), (D), (E), (I), (J), (K)	6/08/2000 (65 FR 36353)

Table 4-5

CAA 110(a)(2)(F) Emission Monitoring and Reporting		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-422 Powers and duties		11/05/2012 (77 FR 66398)
R18-2-313. Existing Source Emission Monitoring		11/05/2012 (77 FR 66398)
R18-2-327. Annual Emission Inventory Questionnaire		11/05/2012 (77 FR 66398)
County Programs		
§ 49-476.01 Monitoring		11/05/2012 (77 FR 66398)
Maricopa County Rules		
Rule 100. General Provisions and Definitions	Section 500 Monitoring and Records	11/05/2012 (77 FR 66398)

Table 4-6

CAA 110(a)(2)(G) Emergency Powers		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-462 Violations; injunctive relief		11/05/2012 (77 FR 66398)
§ 49-465 Air pollution emergency		11/05/2012 (77 FR 66398)
R9-3-215. Ambient Air Quality Monitoring Methods & Procedures		10/19/1984 (49 FR 41026)
R9-3-219. Air Pollution Emergency Episodes		9/28/1982 (47 FR 42572)
R18-2-220 Air Pollution Emergency Episodes		10/15/2012 (77 FR 62452)
Air Quality Monitoring Procedures Manual (Referenced in R9-3-215)		10/15/2012 (77 FR 62452)
County Programs		
§ 49-512 Violations; injunctive relief		11/05/2012 (77 FR 66398)

Table 4-7

CAA 110(a)(2)(H) Plan Revisions		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-404 State implementation plan		6/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan		6/08/2000 (65 FR 36353)

Table 4-8

CAA 110(a)(2)(J) Consultation with Government Officials, Public Notification, PSD and Visibility Protection		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-104 Powers and duties of the department and director	(A)(2), (A)(4), (B)(3) and (B)(5)	11/05/2012 (77 FR 66398)
§ 49-405 Attainment area designations		11/05/2012 (77 FR 66398)
§ 49-406 Nonattainment area plan		6/08/2000 (65 FR 36353)
§ 49-424 Duties of department		11/05/2012 (77 FR 66398)
§ 49-425 Rules; hearing		11/05/2012 (77 FR 66398)
County Programs		
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-474 County control boards		11/05/2012 (77 FR 66398)
§ 49-479 Rules; hearing		11/05/2012 (77 FR 66398)

Table 4-9

CAA 110(a)(2)(K) Air Quality Modeling		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-406 Nonattainment area plan	(A), (E), (F)(8), (F)(9)	6/08/2000 (65 FR 36353)
§ 49-422 Powers and duties	(A)(3)(a), (A)(3)(b), (C)(1), (C)(2), (C)(3), (C)(4), (C)(5)	11/05/2012 (77 FR 66398)
§ 49-424 Duties of department	(2)	11/05/2012 (77 FR 66398)
County Programs		
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-474 County control boards		11/05/2012 (77 FR 66398)

Table 4-10

CAA 110(a)(2)(M) Consultation/Participation by Affected Local Entities		
ADEQ Programs		
Statute/Rule	**Relevant Sections**	**Date approved into the Arizona SIP**
§ 49-104 Powers and duties of the department and director	(A)(2), (A)(4), (B)(3) and (B)(5)	11/05/2012 (77 FR 66398)
§ 49-405 Attainment area designations	(B)(2)(6)	11/05/2012 (77 FR 66398)
§ 49-406 Nonattainment area plan	(C), (D), (E), (F)	6/08/2000 (65 FR 36353)
§ 49-424 Duties of department	(8), (10)	11/05/2012 (77 FR 66398)
§ 49-425 Rules; hearing	(B), (D)	11/05/2012 (77 FR 66398)
County Programs		
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-474 County control boards		11/05/2012 (77 FR 66398)
§ 49-479 Rules; hearing		11/05/2012 (77 FR 66398)

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

Arizona Revised Statutes (ARS), 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).

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 meet these basic elements and are adequate to ensure attainment and maintenance of the 2008 ozone NAAQS.

5.1 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 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

For County Programs:
49-471. Definitions
49-473. Board of supervisors
49-479. Rules; hearing

5.2 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 ozone, are measured with instruments meeting EPA certification as Federal Reference or Equivalent Methods. All data collected within the ozone compliance network is 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.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:
49-404. State implementation plan
49-406(F)(11). Nonattainment area plan
49-422(A,)(B), (C), (E), (F). Powers and duties; definition
49-424. Duties of department

For County Programs:
49-476.01 Monitoring

5.3 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 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 463, and 49-510 through 513, 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.

On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). In that action, the EPA partially disapproved Arizona's Infrastructure SIP Submittals, stating that they do not fully satisfy the following CAA section 110(a) requirements with respect to those areas under ADEQ and Pinal County jurisdiction, the PSD program requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K).

ADEQ has submitted a revision to the New Source Review SIP on October 29, 2012. ADEQ expects that the New Source Review SIP revision will bring the State of Arizona's SIP for areas under the jurisdiction of ADEQ into compliance with the NSR/PSD requirements of section 110(a)(2)(C) and 40 C.F.R. Part 51, Subpart I, with the exception of the requirements pertaining to greenhouse gases (GHGs). ADEQ is currently administering the NSR requirements for GHGs under a delegation agreement with EPA. The State intends to continue to address NSR for GHGs in this manner until the uncertainty created by litigation relating to those requirements has been resolved. EPA has already promulgated a Federal Implementation Plan (FIP) for the GHG NSR and has delegated ADEQ authority to administer that FIP.

ADEQ is working with Pinal County to remedy the NSR/PSD issues outlined by the EPA in their November 5, 2012 action for sections110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K). ADEQ commits to developing the appropriate remedy for any deficiencies outlined by the EPA and will submit SIP revisions as appropriate within the required timeframe.

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 (All sections, but (A)(8))
49-404. State implementation plan
49-406(G)(1) through (G)(3). Nonattainment area plan
49-422. Powers and duties; definition
49-424. Duties of department
49-425. Rules; hearing
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

For County Programs:
49-473. Board of supervisors
49-488. Special inspection warrant
49-490. Hearings on orders of abatement
49-495. Suspension and revocation of conditional order
49-502(A), (B), (C). Violation; classification
49-510. Violations; production of records
49-511. Violations; order of abatement
49-512. Violations; injunctive relief

49-513. Violations; civil penalties

5.4 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. 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).

EPA promulgated new designations for the 2008 8-hour ozone standard on May 21, 2012. (77 FR 30088). The new boundary designations vary only slightly from the designated nonattainment area for the 1997 8-hr ozone standard. Also, the 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level of 0.075ppm. For these reasons, ADEQ asserts that the analysis and conclusions reached in the May 24, 2007 SIP continue to apply to the 2008 8-hour ozone standards.

On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). In that action, the EPA partially disapproved Arizona's Infrastructure SIP Submittals, stating that they do not fully satisfy 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii) regarding regulation of nitrogen oxides (NO_X) as an ozone precursor and interstate pollution abatement. Since that submittal was turned in, as stated in section 5.3, ADEQ submitted a revision to the New Source Review SIP on October 29, 2012. ADEQ expects that the NSR/PSD SIP revision will bring the State of Arizona's SIP for areas under the jurisdiction of ADEQ into compliance with the NSR/PSD requirements of section 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 40 C.F.R. Part 51, Subpart I.

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

Generally, 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.

CAA Section 110(a)(2)(E)(i)

The purpose of Section 110(a)(2)(E) of the SIP is to provide the necessary assurances that the State of Arizona, Pinal County, Maricopa County, and Pima County have adequate personnel and funding under State law to carry out the SIP as required under the relevant portions of section 110(a)(2)(E)(i) of the

Federal Clean Air Act (CAA), as amended in 1990, and the applicable SIP regulations in 40 CFR part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans").

CAA section 110(a)(2)(E)(i) requires SIPs to provide:

> necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, ... under State (and, as appropriate, local) law to carry out such implementation plan ... .
>
> The federal regulations in title 40, part 51, subpart O of the Code of Federal Regulations (40 CFR part 51, subpart O, "Miscellaneous Plan Content Requirements") include requirements for SIPs pertaining to funding and personnel. Specifically, 40 CFR 51.280 ("Resources") requires:
>
> Each plan must include a description of the resources available to the State and local agencies at the date of submission of the plan and of any additional resources needed to carry out the plan during the 5-year period following its submission. The description must include projections of the extent to which resources will be acquired at 1, 3, and 5-year intervals.

In the State of Arizona, ADEQ is the primary organization responsible for developing, implementing, and enforcing the SIP.

Under ARS § 49-103. Department employees; legal counsel, the director, "shall employ, determine the conditions of employment and specify the duties of administrative, secretarial and clerical employees as he deems necessary." Under § 49-103(B) "The attorney general shall be the legal advisor of the department and shall give legal services as the department requires...The attorney general shall prosecute and defend in the name of this state all actions necessary to carry out the provisions" of Title 49, relating to the environment.

Funding to staff to administer the Arizona air quality control programs consists of fees that are collected from regulated emissions sources, including fees collected to administer permitting programs. Under ARS § 49-455 "Permit administration fund," a permit administration fund is established consisting of fees and interest collected pursuant to article 2 governing state air pollution control. Under the statute, 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 ARS § 35-313, and monies earned from investment shall be credited to the fund.

There is also an emissions inspection fund (see ARS § 49-544) that consists of monies appropriated to the fund by the legislature; monies collected pursuant to ARS § 49-543(A) concerning vehicle emissions inspections; monies collected by the director for the issuance of inspection certificates to owners of fleet emissions inspection stations; monies received from private grants or donations when so designated by the grantor or donor; and monies received from the United States by grant or otherwise to assist the state in any emissions inspection program.

A third source of funding in Arizona is the Air Quality Fund. Under ARS § 49-551 "Air quality fee; air quality fund; purpose" every person who is required to register a motor vehicle in the state pursuant to ARS § 28-2153 shall pay, in addition to the registration fee, an annual air quality fee at the time of vehicle registration. Interest earned on monies in the fund shall be credited to the fund. Monies in the air quality fund shall be used, subject to legislative appropriation, for air quality research and programs for the purpose of bringing area A or area B into or maintaining attainment status, improving air quality in areas outside area A and B, and reducing emissions of various pollutants including particulate matter, carbon

monoxide, oxides of nitrogen, volatile organic compounds and hazardous air pollutants throughout the state. The funds are also used to monitor visible air pollution and reduce emissions of pollutants that contribute to visible air pollution in counties with a population of four hundred thousand persons or more. See §49-551(C)(1).

A final source of funding for ADEQ's air programs is CAA section 105 ("Grants for support of air pollution planning and control programs") under which EPA is authorized to make grants to air pollution control agencies to defray a portion of the costs associated with implementation of programs for the prevention and control of air pollution and achievement of the national ambient air quality standards. To qualify for such grants in a given year, air pollution control agencies must at least maintain the same level of funding from non-Federal funds for air pollution control programs as for the preceding year. See CAA section 105(c).

For Maricopa, Pima, and Pinal Counties, ARS § 49-107 "Local delegation of state authority" the director "may delegate to a local environmental agency, county health department, public health services district or municipality any functions, powers or duties which the director believes can be competently, efficiently and properly performed by the local agency if the local agency accepts the delegation and agrees to perform the delegated functions, powers and duties according to the standards of performance required by law and prescribed by the director." Under § 49-107(B), "Monies appropriated or otherwise made available to the department for distribution to local agencies may be allocated or reallocated in a manner designed to assure that the recognized local activities and the delegated functions, powers and duties are accomplished according to the applicable standards of performance." These delegation and funding mechanisms help ensure that the counties will have adequate personnel and funding to implement the delegated portions of the SIP.

The scope of county SIP authority is as follows: under ARS § 49-112 "County regulation; standards", a county may adopt rules that are as stringent as state rules and may administer permits provided that the cost of obtaining permits will be approximately equal or be less than the fee or cost of obtaining similar permits or approvals under title 49 or any rule adopted pursuant to title 49, which relates to the environment. The county no-drive days and travel reduction programs are funded by contractual agreements with ADEQ. Other county air quality programs are funded by county fee programs and other sources. In Arizona, the Metropolitan Planning Organizations (MPOs) certified to do planning (Maricopa and Pima) do so for ozone, carbon monoxide, or particulate nonattainment or maintenance areas. See § 49-406(C). The MPOs receive funding as directed in ARS § 49-406(A). ADEQ is responsible for all Sulfur Dioxide (SO_2) plans and Lead (Pb) plans even in Maricopa and Pima counties and for plans for the rest of the State. Under ARS § 49-402(B). Maricopa County Air Quality Control District (MCAQCD) and the Pima Department of Environmental Quality (PDEQ) each have a "control officer" whose powers to permit and enforce are set forth under the statute. ADEQ's contractor operates the Vehicle Emissions Inspection (VEI) program in both Area A and in Area B.

ADEQ, MCAQCD, and PDEQ have been administering, implementing, and enforcing air programs designed to meet the CAA's SIP requirements for over 40 years., and the funding and personnel described above for each of the three agencies is adequate to meet the needs of these programs. Over the next five years, current funding and personnel levels are expected to remain stable via the funding mechanisms described above and to be sufficient to meet the resource needs of the agencies for air pollution control purposes over that period.

Relevant sections of Arizona Revised Statutes:

For State Programs:

28-2153. Registration requirement; exceptions; assessment; violation; classification
35-313. Investment of trust and treasury monies; loan of securities
49-103. Department employees; legal counsel
49-402. State and county control
49-406. Nonattainment area plan
49-455(A) and (B)(2). Permit administration fund
49-462. Violations; injunctive relief
49-463. Violations; civil penalties
49-465. Air pollution emergency
49-543(A). Emissions inspection costs; disposition; fleet inspection; certificates
49-544. Emissions inspection fund; composition; authorized expenditures; exemptions; investment
49-551. Air quality fee; air quality fund; purpose

For County Programs:
49-479. Rules; hearing
49-478. Hearing board
49-480.02. Appeals of permit actions
49-482. Appeals to hearing board

CAA Section 110(a)(2)(E)(ii)

The purpose of 110 (a)(2)(E)(ii) is to provide necessary assurances 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.

Permit approval and enforcement orders are provided by the ADEQ Director and county control officers. Arizona law, which is 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. In the August 24, 2012 Supplement to the 2006 $PM_{2.5}$ NAAQS and the 1997 8-hour ozone and $PM_{2.5}$ NAAQS Infrastructure SIP, ADEQ submitted certified copies of ARS Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees, in order to meet the conflict of interest requirements under Section 110(a)(2)(E)(ii). ADEQ hereby incorporates those provisions into this SIP revision.

On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). This action outlined deficiencies within Maricopa, Pinal, and Pima county programs for this element. At this time, ADEQ is working with the EPA and all three counties to remedy the issue. ADEQ commits to developing the appropriate remedy for any deficiencies outlined by the EPA and will submit SIP revisions as appropriate within the required timeframe.

Relevant sections of Arizona Revised Statutes:

For State and County Programs:
38-101 Definitions
Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees

CAA Section 110(a)(2)(E)(iii)

The purpose of 110 (a)(2)(E)(iii) is to provide 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. 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:

49-107. Local delegation of state authority
49-402(A)(1) through (A)(7), (B), and (C). State and county control
49-404. State implementation plan
49-406(C), (D), (E), (I), (J), (K). Nonattainment area plan

5.6 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.

On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). This action outlined a deficiency within the Pima county program for this element. At this time, ADEQ is working with the EPA and Pima County to remedy the issue. ADEQ commits to developing the appropriate remedy for any deficiencies outlined by the EPA and will submit SIP revisions as appropriate within the required timeframe.

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:
Statutes:
49-422. Powers and duties; definition

Rules:
R18-2-313. Existing Source Emission Monitoring
R18-2-327. Annual Emission Inventory Questionnaire

For County Programs:
Statutes:
49-476.01. Monitoring

Maricopa County Rules:
Rule 100. General Provisions and Definitions, section 500 Monitoring and Records

5.7 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 submitting with this revision, the Air Quality Monitoring Procedures Manual referenced in R9-3-215, which as already been approved into the Arizona SIP on October 19, 1984 at 49 FR 41026.

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[3], 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[4]).

On October 15, 2012, the EPA approved into the Arizona SIP, the Arizona Emergency Episode Plan, which EPA found is substantively identical to the CAA section 110(a)(2)(G). (77 FR 62452 at 62453). The rulemaking includes the rule currently approved into Arizona's SIP (R9–3–219, "Air pollution emergency episodes"), which EPA approved in 1982 (47 FR 42572, September 28, 1982), and revisions submitted on August 15, 1994. These revisions include:1) Rule R18–2–220, "Air pollution emergency episodes", amended effective September 26, 1990, 2) a letter from Eric C. Massey, Director, Air Quality, Arizona, and ADEQ, to Jared Blumenfeld, Regional Administrator, US EPA, dated August 30, 2012, certifying that the attached copy of a document titled "Procedures for Prevention of Emergency Episodes: 1988 Edition" is a true and correct copy of the original and is an official publication of ADEQ, and 2) the document titled, "Procedures for Prevention of Emergency Episodes," 1988 edition, ADEQ. (77 FR at 62454).

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:
Statutes:
49-462. Violations; injunctive relief
49-465. Air pollution emergency

Rules:
R9-3-215. Ambient Air Quality Monitoring Methods & Procedures
R9-3-219. Air pollution emergency episodes

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[3] Maricopa County Rule 600 was adopted 7/13/1988 and approved by EPA into the SIP 3/18/1999 in 64 FR 13351.
[4] Pinal County Rules were adopted 6/29/1993 and approved by EPA into the SIP on 12/20/2000 in 65 FR 79742.

R18-2-220 Air pollution emergency episodes
Air Quality Monitoring Procedures Manual (submitted to supplement already approved rule R9-3-215).

For County Programs:
49-512. Violations; injunctive relief

5.8 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

5.9 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 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." ADEQ recognizes that the guidance was written for the 1997 $PM_{2.5}$ and 8-hour ozone NAAQS, however, since new guidance has not been provided, ADEQ maintains that the requirements for the 2008 8-hour ozone NAAQS under Section 110(a)(2)(I) are the same.

5.10 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:
49-104(A)(2), (A)(4), (B)(3) and (B)(5). Powers and duties of the department and director
49-405. Attainment area designations
49-406. Nonattainment area plan
49-424. Duties of department
49-425. Rules; hearing

For County Programs:
49-473. Board of supervisors
49-474. County control boards
49-479. Rules; hearing

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 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.

As stated in the August 24, 2012 supplement, ADEQ, and those counties with authority to implement portions of the SIP (Maricopa, Pinal, and Pima counties), certify to do now and will continue to notify the public on a regular basis of instances or areas in which any primary NAAQS was exceeded, consistent with the requirements of sections 110(a)(2)(J) and 127 of the Federal Clean Air Act. Such notifications are and will be available on the state and county air quality websites, which are updated daily to identify exceedances of the NAAQS that occurred during the previous day or any portion of the preceding calendar year. We commit to continue, through these websites, to advise the public of the health hazards associated with such exceedances and to increase public awareness of: (1) measures which can be taken to prevent a primary standard from being exceeded, and (2) ways in which the public can participate in regulatory and other efforts to improve air quality.

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. On November 5, 2012, the EPA issued the final rulemaking, "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." (77 FR 66398). In that action, the EPA partially disapproved

Arizona's Infrastructure SIP Submittals, stating that they do not fully satisfy the following CAA section 110(a) requirements with respect to those areas under ADEQ and Pinal County jurisdiction, the PSD program requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), 110(a)(2)(J), and 110(a)(2)(K) regarding regulation of nitrogen oxides (NO_X) as an ozone precursor, regulation of fine particulate matter ($PM_{2.5}$), interstate pollution abatement, and air quality models and modeling data.

As stated above in Section 5.3 and 5.4, ADEQ has submitted a revision to the New Source Review SIP on October 29, 2012. ADEQ expects that the New Source Review SIP revision will bring the State of Arizona's SIP for areas under the jurisdiction of ADEQ into compliance with the NSR/PSD requirements of section 110(a)(2)(C) and 110(a)(2)(J) and 40 C.F.R. Part 51, Subpart I, with the exception of the requirements pertaining to greenhouse gases (GHGs).

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. ADEQ submitted a SIP developed under 40 CFR 51.308 on February 28, 2011.

5.11 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.

As stated above in Section 5.3, 5.4 and 5.10, ADEQ has submitted a revision to the New Source Review SIP on October 29, 2012. ADEQ expects that the New Source Review SIP revision will bring the State of Arizona's SIP for areas under the jurisdiction of ADEQ into compliance with the NSR/PSD requirements of section 110(a)(2)(K) and 40 C.F.R. Part 51, Subpart I, with the exception of the requirements pertaining to greenhouse gases (GHGs).

Relevant sections of Arizona Revised Statutes:

For ADEQ Programs:
49-406(A), (E), (F)(8), (F)(9). Nonattainment area plan
49-422(A)(3)(a), (A)(3)(b), (C)(1), (C)(2), (C)(3), (C)(4), (C)(5). Powers and duties; definition
49-424(2). Duties of department

For County Programs:
49-473. Board of supervisors
49-474. County control boards

5.12 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.

According to EPA issued Guidance[5], "[t]he infrastructure SIP should provide citations to the regulations providing for collection of permitting fees under the state's EPA-approved Title V permit program. See 40 CFR 70.9 ('Fee determination and certification'), and 40 CFR Part 70, Appendix A, 'Approval Status of State and Local Operating Permits Programs'."

Arizona received interim approval for the federal Title V permit program, established by the 1990 Federal Clean Air Act Amendment. 61 FR 55915 (October 30, 1996). The interim approval of the ADEQ Title V program became effective on Nov. 29, 1996. EPA fully approved the Title V operating permits programs for ADEQ, Maricopa County, Pima County, and Pinal County effective November 30, 2001. 66 FR 63175 (December 5, 2001) and 66 FR 63166 (December 5, 2001). Subsequently, on May 17, 2005, EPA issued a notice of deficiency with respect to certain elements of Maricopa County's Title V operating permits program, including the permit fee requirements. 70 FR 32243 (June 2, 2005). Following EPA's performance of a Title V program evaluation and the Maricopa County Air Quality Department's (MCAQD) subsequent submittal of corrections to address the identified deficiencies, EPA issued a notice of resolution explaining EPA's bases for concluding that the MCAQD had resolved all of the issues identified in EPA's May 17, 2005 notice of deficiency. 71 FR 67061 (November 20, 2006). Thus, all of the Arizona permitting agencies currently implement fully approved fee programs under Title V of the CAA.

5.13 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:
49-104(A)(2), (A)(4), (B)(3) and (B)(5). Powers and duties of the department and director
49-405(B)(2)(6). Attainment area designations
49-406(C), (D), (E), (F). Nonattainment area plan
49-424(8), (10). Duties of department
49-425(B), (D). Rules; hearing

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[5] Guidance On Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS), dated October 14, 2011.

For County Programs:
49-473. Board of supervisors
49-474. County control boards
49-479. Rules; hearing

6.0 CONCLUSION

This revision to the Arizona SIP demonstrates that the existing authorities and infrastructure of Arizona State and local air quality management programs, in conjunction with the updated NSR/PSD SIP submitted on October 29, 2012, meet the basic program elements required under CAA Section 110(a)(2) for the 2008 8-hour ozone NAAQS. ADEQ is diligently working with the EPA and all three counties to remedy all the issues identified by the EPA in it's "Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter." 77 FR 66398 (November 5, 2012). ADEQ commits to developing the appropriate remedy for any deficiencies outlined by the EPA and will submit SIP revisions as appropriate within the required timeframe.

Appendix A

Authorizing Statutes

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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. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.

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.
17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.
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. The department may require payment of a fee as a condition of licensure. After the effective date of this amendment to this section, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be

deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.
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.
17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:
(a) The direct and indirect costs of the department's relevant duties, including employees salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.
(b) The availability of other funds for the duties performed.
(c) The impact of the fees on the parties subject to the fees.
(d) The fees charged for similar duties performed by the department, other agencies and the private sector.
C. The department may:
1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.
2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.
D. The director may:
1. If the director 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.

49-106. Statewide application of rules

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.

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.

49-406. Nonattainment area plan

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine

which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.
E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.
F. At a minimum, the memorandum of agreement shall contain:
1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:
(a) Demographics.
(b) Transportation.
(c) Emissions inventories.
(d) Assumptions used in developing the model.
(e) Results of modeling done in support of the plan.
(f) Monitoring data.
G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:
1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.
H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.
J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.
K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

49-425. Rules; hearing
A. The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.
B. No rule may be enacted or amended except after the director first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.
C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge upon request.

Appendix B

ADEQ's Public Process Documentation
(Public Hearing Agenda, Sign-In Sheet, Hearing Officer Certification, Hearing Script, and Affidavit of Publication)

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ADEQ Arizona Department of Environmental Quality

Janice K. Brewer, Governor
Henry R. Darwin, Director

Public Hearing Agenda

AIR QUALITY DIVISION

HEARING ON PROPOSED SUPPLEMENT TO THE ARIZONA STATE IMPLEMENTATION PLAN UNDER CLEAN AIR ACT SECTION 110 (a)(1) AND (2): IMPLEMENTATION OF: 2008 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS, PARALLEL PROCESSING VERSION

ADEQ building, 1110 W. Washington St., Phoenix, AZ 85007
Conference Room 3175
Wednesday, December 26, 2012, at 9:00 a.m.

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) Records Center, First Floor, 1110 W. Washington St., Phoenix, Arizona 85007, 1110 W. Washington St., Phoenix, Arizona, and http://www.azdeq.gov/cgi-bin/vertical.pl?t=search&kewerd=air%20quality. For additional information regarding the hearing please call Danielle M. Dancho, ADEQ Air Quality Division, at (602) 771 - 4210 or 1-800-234-5677, Ext. 771-4210.

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.

ADEQ
Arizona Department of Environmental Quality

Air Quality Division Sign-In Sheet

Please Sign In

SUBJECT CAA section 110(a)(1) and (2) 2008 Ozone Infrastructure SIP Parallel Processing Version DATE 12/26/12

	NAME	ORGANIZATION	PHONE	FAX	E-MAIL
1.	Danielle Dancho	ADEQ	602-771-4210		dancho.danielle@azdeq.gov
2.					
3.					
4.					
5.					
6.					
7.					

ADEQ
Arizona Department
of Environmental Quality

Air Quality Division

Public Hearing Presiding Officer Certification

I, Wayne Bixler, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on December 26, 2012 at 1110 W. Washington St., Phoenix, Arizona, in accordance with public notice requirements by publication in The Arizona Republic and other locations beginning November 23, 2012. 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 26 day of December 2012.

Wayne Bixler

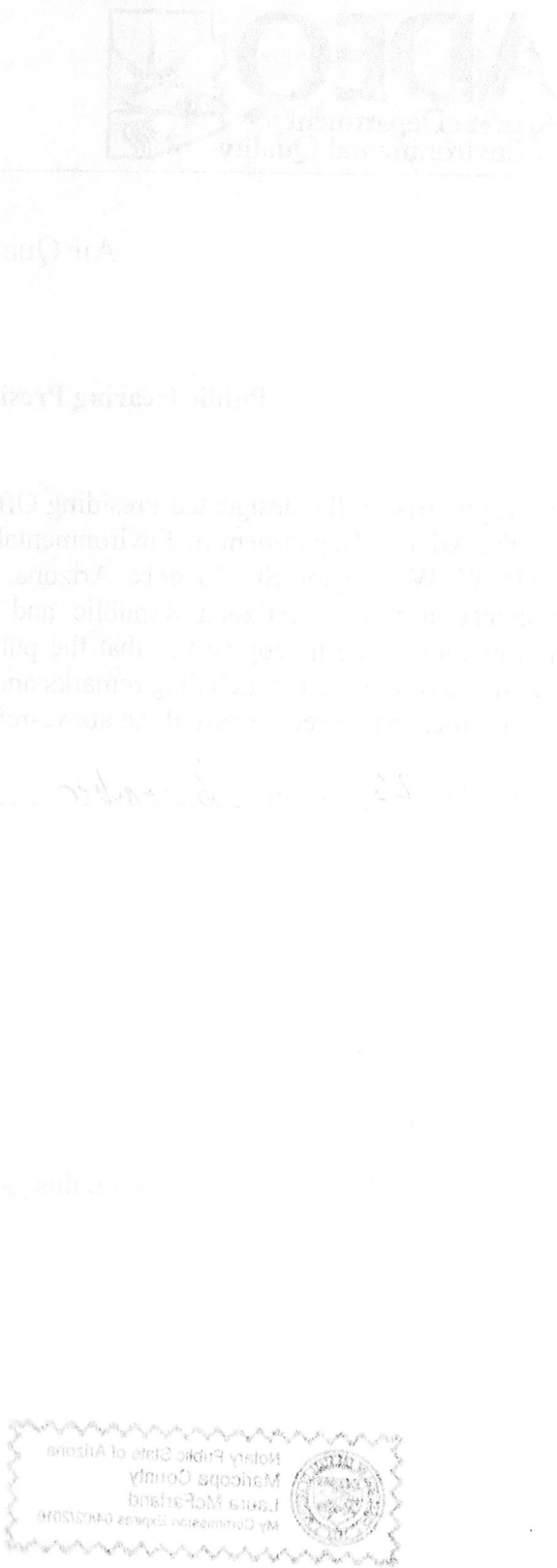
State of Arizona)
) ss.
County of Maricopa)

Subscribed and sworn to before me on this 26 day of December 2012.

Notary Public State of Arizona
Maricopa County
Laura McFarland
My Commission Expires 04/02/2016

Notary Public

My commission expires: 04/02/2016


Notary Public State of Arizona
Maricopa County
Laura McFarland
My Commission Expires 04/12/2016

PROPOSED ARIZONA AIR QUALITY STATE IMPLEMENTATION PLAN (SIP) HEARING ON PROPOSED REVISION TO THE ARIZONA STATE IMPLEMENTATION PLAN UNDER CLEAN AIR ACT SECTION 110 (a)(1) AND (2): IMPLEMENTATION OF: 2008 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS, PARALLEL PROCESSING VERSION

Oral Proceeding

Hearing Officer Script

December 26, 2012

Wayne Bixler: Good morning, thank you for coming. I now open this hearing on the proposed revision to the Arizona State Implementation Plan (or SIP) under Clean Air Act (CAA) section 110 (a)(1) and (2): Implementation of: the 2008 8-hour Ozone National Ambient Air Quality Standards (NAAQS), parallel processing version.

It is now Wednesday, December 26, 2012 and the time is 9:05 a.m. The location is 1110 W. Washington St, Phoenix, AZ, Conference Room 3175. My name is Wayne Bixler, and I have been appointed by the Director of the Arizona Department of Environmental Quality (ADEQ) to preside at this proceeding.

The purposes of this proceeding are to provide the public an opportunity to:
(1) hear about the substance of the proposed SIP revision,

(2) ask questions regarding the revision, and

(3) present oral argument, data and views regarding the revision in the form of comments on the record.

Representing the Department is Danielle M. Dancho.

Public notice appeared in the Arizona Republic on November 23rd and 26th, 2012, and on ADEQ's website. The public comment period began on November 23, 2012. Copies of the proposal were made available at the ADEQ Phoenix office at the ADEQ Records Center and on ADEQ's website.

The procedure for making a public comment on the record is straightforward. If you wish to comment, you need to fill out a speaker slip, which is available at the sign-in table, and give it to me. Using speaker slips allows everyone an opportunity to be heard and allows us to match the name on the official record with the comments. You may also submit written comments to me today. Please note, the comment period for the proposed SIP ends on December 26, 2012. All written comments must be postmarked or received by ADEQ by 5:00 P.M. MST December 26, 2012 whether sent via U.S. mail or via e-mail or via FAX. Written comments can be mailed to Danielle M. Dancho, Air Quality Planning Section, Arizona Department of Environmental Quality, 1110 W. Washington Street, Phoenix, Arizona 85007 or Dancho.Danielle@azdeq.gov. Comments may also be faxed to (602) 771-2366.

Comments made during the formal comment period are required by law to be considered by the Department when preparing the final SIP. This is done through

the preparation of a responsiveness summary in which the Department responds in writing to written and oral comments made during the formal comment period.

The agenda for this hearing is simple. First, we will present a brief overview of the proposed revision to the SIP.

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

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

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

At this time, Ms. Dancho will give a brief overview of the proposal.

* * * * *

Danielle Dancho: This revision to the state implementation plan (SIP) 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 2008 8-hour ozone NAAQS.

ADEQ is seeking parallel processing of this supplement to the SIP under 40 C.F.R. Part 51, Appendix V, § 2.3.1 pending completion of the State's public notice and public hearing requirements. ADEQ will submit a final version of this SIP revision when public process has been completed.

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Mr. Bixler: This concludes the explanation period of this proceeding on the proposed revision to the SIP.

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Seeing there are no speaker slips, the oral comment period of this proceeding will be concluded also.

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The comment period for this proposed revision to the SIP ends December 26, 2012 at 5:00 p.m.

Thank you for attending.

Mrs. Dancho: Do you want to close it?

Mr. Bixler: The time is now 9:10. I now close this oral proceeding.

AFFIDAVIT OF PUBLICATION

ADEQ
AIR QUALITY DIVISION
12 NOV 29 AM 11:12

THE ARIZONA REPUBLIC

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY 30 DAY PUBLIC COMMENT PERIOD AND HEARING ON PROPOSED REVISION TO THE ARIZONA STATE IMPLEMENTATION PLAN UNDER CLEAN AIR ACT SECTION 110 (a)(1) AND (2): IMPLEMENTATION OF: 2008 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS, PARALLEL PROCESSING VERSION

The Arizona Department of Environmental Quality (ADEQ) opens a thirty day public comment period with the publication of this notice on November 20, 2012, for the proposed revision to the Arizona State Infrastructure State Implementation Plan (SIP) for the 2008 Ozone NAAQS.

A public hearing on the proposed SIP revision, which was submitted to the EPA for parallel processing under 40 CFR 51 Appendix V on November 20, 2012, will be held on Wednesday, December 26, 2012, at 9:00 a.m., ADEQ, Conference Room 3175, 1110 W. Washington St., Phoenix AZ. All interested parties will be given an opportunity at the public hearing to submit relevant comments, data, and views, orally and in writing. Written comments may be submitted prior to or during the public hearing and must be postmarked or received by at ADEQ by 5:00 p.m. on December 26, 2012.

Written comments should be addressed, faxed, or e-mailed to:
Danielle M Dancho
Air Quality Legal Support Section Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
FAX: (602) 771-2366
E-Mail: Dancho.Danielle@azdeq.gov

Copies of the SIP proposal are available for review online at the following web address http://www.azdeq.gov/cgi-bin/vertical.pl?t=search&keword=air%20quality and in hard copy at the following, location:
ADEQ Records Center
First Floor, 1110 W. Washington Street
Phoenix, Arizona 85007
Attention: Norlene Lara, (602) 771-4712
Pub: November 23, 26, 2012

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

Ondrea Petty, being first duly sworn, upon oath deposes and says: That she is a Supervisor 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

11/23/2012
11/26/2012

Ondrea Petty

Sworn to before me this
26TH day of
November A.D. 2012

MANUEL VARGAS
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
November 30, 2015

Notary Public