



**Arizona State Implementation Plan
Revision under Clean Air Act section
110(a)(1) and (2): Implementation of the
2015 Ozone National Ambient Air
Quality Standard**

*Air Quality Division
July 18, 2018 Proposed*

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Completeness Criteria (40 C.F.R. Part 51, Appendix V, § 2.0)

Appendix V § 2.1 - Administrative Materials

(a) A formal signed, stamped, and dated letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof (hereafter “the plan”). If electing to submit a paper submission with a copy in electronic version, the submittal letter must verify that the electronic copy provided is an exact duplicate of the paper submission.

See the cover letter for this SIP submission and attached delegation of authority from Misael Cabrera, Director of ADEQ, to Tim Franquist, Director of the ADEQ Air Quality Division, authorizing Mr. Franquist to perform any act the ADEQ Director is authorized to perform under the state air quality statutes, including the submission of SIPs to EPA.

(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. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date.

See the cover letter in Enclosure # wherein the state adopts and submits this SIP revision. This is the method of Arizona state adoption.

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

Arizona is authorized to adopt and implement SIPs under Arizona Revised Statutes (A.R.S.) Sections 49-104, 49-106, 49-404, 49-406 and 49-425. Copies of Arizona Revised Statutes sections 49-104, 49-106, 49-404, 49-406 and 49-425, are attached in Enclosure #.

(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 (such as redline/strikethrough) to the existing approved plan, where applicable. The submission shall include a copy of the official State regulation/document, signed, stamped, and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of any regulation/document contained in the submission shall, whenever possible, be indicated in the regulation/document itself; otherwise the State should include a letter signed, stamped, and dated by the appropriate State official indicating the effective date. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents.

See this document.

(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.

As demonstrated in the Completeness Criteria section, Appendix V § 2.1 Sections V, C, and G, ADEQ has complied with all requirements of state law for adoption of this SIP Revision.

(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.

Proof that ADEQ gave notice of the SIP Revision in accordance with A.R.S. § 49-444 is attached as Appendix A.

(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.

The certification and other documents related to the public hearing are attached as Appendix A

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

A compilation of comments received and the State's responses are attached as the Responsiveness Summary in Appendix A

Appendix V § 2.1 - Technical Support

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

The revision applies to ozone (O3).

(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).

This is an infrastructure plan which applies to the entire state.

(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.

(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. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act.

Not applicable.

(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.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

No known deviation from EPA policy.

1 Introduction

Clean Air Act (CAA) section 110(a)(1) requires states to submit State Implementation Plans (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). 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.

Since Arizona's 2008 ozone NAAQS infrastructure SIP (I-SIP) submittal, the U.S. Environmental Protection Agency (EPA) has taken numerous actions on submittals for ozone and other pollutants. On November 24, 2014, the EPA proposed to approve in a multi-submission action, with a few exceptions to be addressed in a subsequent action, 5 different state and county SIP submittals pertaining to the 2008 ozone (O₃) and 2008 lead (Pb) NAAQS.^{1,2} On August 10, 2015 EPA took final action to approve the proposed I-SIP elements from the state and county submittals.³ The approval related to the following elements:

- Section 110(a)(2)(A): Emission limits and other control measures
- Section 110(a)(2)(B): Ambient air quality monitoring/data system
- Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local and regional government agencies
- Section 110(a)(2)(F): Stationary source monitoring and reporting
- Section 110(a)(2)(G): Emergency episodes
- Section 110(a)(2)(H): SIP revisions
- Section 110(a)(2)(L): Permitting fees
- Section 110(a)(2)(M): Consultation/ participation by affected local entities

On May 12, 2015 the EPA published a subsequent proposed rule to partially approve and partially disapprove Arizona 2008 ozone and 2008 lead I-SIP submissions for SIP elements not included in the August 10, 2015 action. This action was previously mentioned from the November 24, 2014 proposed rule and detailed that the EPA would act separately on the permitting infrastructure SIP elements in CAA sections 110(a)(2)(C), (D), (J), and (K) in a subsequent rulemaking.⁴ On July 14, 2015 EPA took final action on the proposed rule to partially approve the following elements:

- Section 110(a)(2)(C) (approve in part),
- Section 110(a)(2)(D)(i) (approve in part),
- Section 110(a)(2)(D)(ii) (approve in part),

¹ See 79 FR 69796 (November 24, 2014)

² This approval was for certain elements in the 2011 ADEQ Pb I-SIP, the 2012 ADEQ ozone I-SIP, the 2013 Maricopa County submittal, the 2013 Pima County submittal, and the 2014 Pinal County submittal.

³ See 80 FR 47859 (August 10, 2015)

⁴ *supra* note 1

- Section 110(a)(2)(J) (approve in part),
- Section 110(a)(2)(K)

In addition the above approvals, EPA simultaneously partially disapproved the rest of the submittals due to existing FIPs and other SIP deficiencies.⁵

On March 22, 2016, the EPA proposed to partially approve and partially disapprove Arizona's I-SIP submittal for interstate transport requirements related to the 2008 ozone NAAQS.⁶ In this action EPA proposed to approve Arizona's I-SIP submissions (the original December 27, 2012 submission and the December 3, 2015 supplemental interstate transport submittal) pertaining to CAA section 110(a)(2)(D)(i)(I), prongs 1 and 2, with respect to the 2008 ozone NAAQS. With respect to 110(a)(2)(D)(i)(I), prong 4, EPA proposed disapproval of Arizona's submittal. This proposed disapproval was based on EPA's judgement that because Arizona's 2012 and 2015 I-SIP submittals rely in part on Federal Implementation Plans (FIPs) to address interstate transport visibility requirements, they do not meet the requirements of prong 4 for the 2008 ozone NAAQS. However, because FIPs are already in place, no additional FIP obligation would be triggered by a final disapproval of this portion of Arizona's infrastructure SIP. On May 19, 2016, the EPA took final action to partially approve and partially disapprove Arizona's infrastructure SIP for interstate transport requirements of the 2008 ozone NAAQS.⁷

On October 26, 2015, the U.S. Environmental Protection Agency (EPA) issued new NAAQS for 8-hour Ozone. The EPA revised both the primary and the secondary standard for ozone, making the level of the 8-hour standard 0.070 parts per million (ppm), and retaining their indicators (O₃), forms (fourth-highest daily maximum, averaged across three consecutive years) and averaging times (eight hours).⁸

This SIP submittal incorporates by reference the statutes and rules that are required by 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 2015 8-hour ozone NAAQS. The statutes and programs referenced in section 2 of this document, which are the authorities and infrastructure of Arizona State and local air quality management programs, are adequate to ensure attainment and maintenance of the 2015 ozone NAAQS in all areas of the state.

⁵ See 80 FR 40907 (July 14, 2015)

⁶ See 81 FR 15200 (March 22, 2016)

⁷ See 81 FR 31513 (May 19, 2016)

⁸ See 80 FR 65292 (October 26, 2015)

2 Analysis of Clean Air Act section 110(a)(2) Air Quality Control Program Elements for Arizona

Arizona Revised Statutes (A.R.S.), 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: the 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 (PQAQCD).

ADEQ 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"⁹ for areas outside of tribal lands. 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 for certain stationary sources, including petroleum refineries and coal-fired electrical generating stations, portable sources, and all mobile sources, including the motor vehicle emissions inspection program.¹⁰

Except for the sources noted above, the county agencies have original jurisdiction for the issuance, administration, and enforcement of permits.¹¹ The State may assert jurisdiction where the local non-tribal 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.¹²

Two Metropolitan Planning Organizations, the Maricopa Association of Governments (MAG) and the Pima Association of Governments (PAG), are currently certified for the development of certain nonattainment and maintenance area plans (ozone, carbon monoxide, particulate matter) within their respective jurisdictions.¹³ MAG and PAG submit their plans to ADEQ for adoption and inclusion in the state implementation plan pursuant to A.R.S. § 49-406 (H).

The following sections summarize the requirements of CAA §§ 110(a)(2)(A) through (M) and present information that demonstrates Arizona's State and local air pollution control programs, and commitments to update these programs, meet the basic infrastructure elements and are adequate to ensure the attainment of the 2015 Ozone NAAQS.

⁹ See A.R.S. § 49-404

¹⁰ See A.R.S. § 49-402

¹¹ *Id*

¹² See A.R.S. Title 49, Chapter 3, Article 3

¹³ See A.R.S. § 49-406

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

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 2015 ozone air quality standards in all areas of Arizona except tribal lands.

Arizona Administrative Code (AAC) R18-2-203 was amended to add the 2015 ozone NAAQS in a Notice of Final Rulemaking published July 6, 2012, in the Arizona Administrative Register (AAR), effective August 7, 2012 (see AAR Volume 23, Issue 6, at 333). The updated rule was submitted to the EPA on April 28, 2017, as part of the New Source Review (NSR) permitting program for inclusion in the Arizona SIP. EPA adopted the rule into the Arizona SIP at 40 CFR 52.120 on May 4, 2018.¹⁴

Table 2-1 lists relevant sections of Arizona Revised Statutes for Arizona’s emissions limits and other control measures.

Table 2-1: CAA §110(a)(2)(A) – Emission Limits and Other Control Measures		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Program		
§ 49-106 Statewide application of rules		11/05/2012 (77 FR 66398)
§ 49-107 Local delegation of state authority		11/02/2015 (80 FR 67319)
§ 49-402 State and county control		09/23/2014 (79 FR 56655)
§ 49-404 State implementation plan		06/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan		06/08/2000 (65 FR 36353)
§ 49-421 Definitions		11/05/2012 (77 FR 66398)
§ 49-424 Duties of Department		05/01/2017 (82 FR 20267)
§ 49-425 Rules; hearing		11/05/2012 (77 FR 66398)
§ 49-541 Definitions	(1)(a), (b), (c)	01/22/2003 (68 FR 2912)

¹⁴ See 83 FR 19631

R18-2-203 Ozone		05/04/2018 (83 FR 19631)
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)
Sources: Arizona Revised Statutes and Federal Register		

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

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

Arizona maintains an extensive monitoring network operated by state and county agencies designed to collect, compile, and analyze ambient air quality data in attainment and nonattainment areas of the state. Operating agencies track data recovery and 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 reported quarterly to the EPA Air Quality System.

The State (Arizona Department of Environmental Quality) and county agencies (Maricopa County Air Quality Department, Pima Department of Environmental Quality, and Pinal County Air Quality Control District) 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.

Table 2-2 lists relevant provisions that have been included in the Arizona Revised Statutes for establishment and operation of ambient air quality monitors as required by the CAA, under section 110(a)(2)(B).

Table 2-2: CAA §110(a)(2)(B) - Ambient Air Quality Monitoring/Data System		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Program		
§ 49-404 State implementation plan		06/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(F)(11)	06/08/2000 (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		05/01/2017 (82 FR 20267)
County Programs		
§ 49-476.01 Monitoring		11/05/2012 (77 FR 66398)
Source: Arizona Revised Statutes and Federal Register		

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

Section 110(a)(2)(C) requires that each SIP include a program to provide for the enforcement of the measures described in section 110(a)(2)(A) and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C (prevention of significant deterioration) and D (nonattainment new source review) of Title I of the CAA.

2.3.1 Programs for Enforcement of Control Measures

Arizona State and local agencies implement control and enforcement programs for permitted sources of air contaminants and those sources that are not regulated through permitting programs (e.g., emissions from disturbed open areas and vacant lots, 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, covered 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.

Arizona agencies implement control and enforcement programs for permitted emission sources through general and individual facility permits, as described by the Arizona Administrative Code, Title 18, Chapter 2, Articles 2, 3, 4, 5, and 6. For example in Articles 3, 4, and 5, the state has adopted several types of air quality permits to prevent any type of activity and emissions that may significantly contribute to elevated ozone concentrations in the ambient air. The following list explains each type of permit.

- Class I Permits – issued any major source of any criteria pollutant
- Class II Permits – issued to sources that do not qualify for Class I Permits but emit significant quantities of regulated NSR pollutants
- General Permits – issued to specific classes of sources. These pre-approved permits differ from individual permits in that they are applied to more than one source. They are usually more restrictive, less expensive, and require a shorter period of time for the processing and issuance of an Authorization to Operate.
- Registration – issued to sources that do not qualify for a class I or II permit, but emit greater than the minor NSR threshold.
- Open Burning Permits – issued for weed abatement, prevention of a fire hazard, or instruction in the methods of fighting fires

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 A.R.S. § 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.

2.3.2 New Source Review Programs

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 (A.A.C.), 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 provisions of these rules or Prevention of Significant Deterioration (PSD) for attainment areas.

On April 28, 2017 ADEQ submitted an NSR SIP revision that will bring the state SIP for areas under the jurisdiction of ADEQ into compliance with the nonattainment NSR and PSD requirements of section 110(a)(2)(C) and 40 CFR. 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. On May 4, 2018 the EPA took final action to approve Arizona's NSR regulatory revisions.¹⁵ Effective June 4, 2018, ADEQ has an approved PSD program for areas under its CAA permitting jurisdiction, except for greenhouse gases, under sections 160 through 165 of the CAA.¹⁶

For local agencies, the Maricopa County Air Quality Department (MCAQD) and the Pima County Department of Environmental Quality (PDEQ) currently implement the Federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants (as defined in 40 CFR 52.21(b)(50)), pursuant to delegation agreements executed in 1993 and 1994, respectively (see Table 2-4).¹⁷

ADEQ has original jurisdiction over major sources in Pinal County but has delegated that jurisdiction to the Pinal County Air Quality Control District (PCAQCD). Under the delegation agreement between ADEQ and PCAQD, the county is obligated to enforce state major NSR rules, but must also enforce its own rules to the extent they are more stringent. ADEQ's approved PSD program, effective June 4, 2018, applies to Pinal County since PCAQCD is obligated to enforce these requirements under its delegation agreement. Once Pinal County secures EPA approval of both its PSD and nonattainment NSR programs, the County will automatically reassume original jurisdiction over major sources within its boundaries.

2.3.3 Minor New Source Review

Each of the four permitting agencies in Arizona have a minor NSR program. ADEQ is currently working with EPA to update the minor NSR program for the state. The May 2016 NSR revisions for the MCAQD include new minor NSR requirements. The updated NSR rules fill the "SIP gap" between NSR rules set forth in the Maricopa County Air Pollution Control Regulations and the rules that have been approved by EPA into the Maricopa County portion of the Arizona SIP.

¹⁵ See 83 FR 19631 (May 4, 2018) and 40 CFR 52.144(C) effective June 4, 2018

¹⁶ *Id*

¹⁷ Agreements dated November 22, 1993 and April 4, 1994

PDEQ is currently working on an NSR rule package that will adopt a similar NSR program to ADEQ’s. PCAQCD is in the preliminary stages of drafting NSR program updates. As part of this process, PCAQCD will be reviewing Maricopa’s and ADEQ’s updated NSR rules.

Table 2-3 lists relevant sections of Arizona Revised Statutes that are essential for the enforcement of control measures.

Table 2-3: CAA §110(a)(2)(C) – Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 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		11/02/2015 (80 FR 67319)
§ 49-402 State and county control	All sections but (A)(8)	09/23/2014 (79 FR 56655)
§ 49-404 State implementation plan		06/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(G)(1), (G)(2), and (G)(3)	06/08/2000 (65 FR 36353)
§ 49-422 Powers and duties		11/05/2012 (77 FR 66398)
§ 49-424 Duties of department		05/01/2017 (82 FR 20267)
§ 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)

Table 2-3: CAA §110(a)(2)(C) – Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
§ 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)
Source: Arizona Revised Statutes and Federal Register		

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

Clean Air Act (CAA) § 110(a)(2)(D) contains two overarching sections of requirements related to the regulation of interstate transport of air pollution: CAA § 110(a)(2)(D)(i) and CAA § 110(a)(2)(D)(ii). Clean Air Act §110(a)(2)(D)(i) can be further broken down into two subsections: § 110(a)(2)(D)(i)(I) and § 110(a)(2)(D)(i)(II) which each contain two "prongs" of requirements.

Section 110(a)(2)(D)(i)(I), which is often referred to as the “Good Neighbor” provision, 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. When referencing the two requirements of § 110(a)(2)(D)(i), the EPA sometimes refers to them as “prong 1 (significant contribution to nonattainment) and prong 2

(interference with maintenance)".¹⁸ For the 2015 Ozone NAAQS, a SIP submittal addressing the "Good Neighbor" requirement is due "within 3 years of promulgation of the revised NAAQS, or by October 1, 2018".¹⁹

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or from interfering with measures required of any other state to protect visibility (referring to visibility in Class I areas). When referencing the two requirements of § 110(a)(2)(D)(II), the EPA sometimes refers to them as "prong 3 (interference with PSD) and prong 4 (interference with visibility protection)".²⁰

Section 110(a)(2)(D)(ii) further requires compliance with the applicable requirements of sections 126 and 115 related to interstate and international pollution abatement.

For the 2008 Ozone, NAAQS ADEQ submitted its first I-SIP revision on December 27, 2012. On December 3, 2015 ADEQ, submitted a supplement that addressed § 110(a)(2)(D)(i) prongs 1, 2, and 4.²¹ EPA proposed action on this submittal on March 22, 2016.²² While EPA noted that it disagreed with some of Arizona's arguments, the EPA's assessment of the submittal was to recommend approval in part. On May 19, 2016 EPA issued a final rule approving prongs 1 and 2 for the 2008 Ozone NAAQS and disapproving prong 4.

2.4.1 "Good Neighbor" 110(a)(2)(D)(i)(I) – Prong 1 and Prong 2

On March 27, 2018 EPA released a memorandum pertaining to the availability of air quality modeling data to assist states as they develop SIPs to address the cross-state transport of air pollution under the CAA's Good Neighbor provision.²³ In this memorandum, EPA made available updated contribution modeling analyses that provided projected ozone design values for 2023 based on EPA's nationwide ozone modeling efforts. This modeling data is intended to assist states in submitting SIPs that address their interstate transport obligations for the 2015 ozone NAAQS.

¹⁸ See "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)", memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, U.S. EPA. September 13, 2013.

¹⁹ See 82 FR 1734 (January, 6, 2017)

²⁰ Id

²¹ See "Arizona State Implementation Plan Revisions for 2008 Ozone and 2010 Nitrogen Dioxide Under Clean Air Act section 110(a)(2)(D) . . ." Signed December 3, 2015.

²² See 81 FR 15202 (March 22, 2016)

²³ See "Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act section 110(a)(2)(D)(i)(I) ", memorandum from Peter Tsigotis, Director, Office of Air Quality Planning and Standards, U.S. EPA. March 27, 2018.

2.4.1.1 4 Step Framework to Address the Good Neighbor Provision

In order to develop a framework to address the Good Neighbor Provision, the EPA has over the years implemented several rulemakings including the 1998 NO_x SIP Call, the 2005 Clean Air Interstate Rule (CAIR), the 2011 Cross State Air Pollution Rule (CSAPR), and the most recent 2016 CSAPR update final rule. Through these rulemaking the EPA has established the following 4 step framework:

1. Identify downwind air quality problems;
2. Identify upwind states that contribute enough to those downwind air quality problems to warrant further review and analysis;
3. Identify the emission reductions necessary (if any), considering cost and air quality factors, to prevent an identified upwind state from contributing significantly to those downwind air quality problems;
4. Adopt permanent and enforceable measures needed to achieve those emissions reductions.

In making available their nationwide ozone contribution modeling available to states, EPA has helped states begin to address the first 2 steps in the above outlined framework.

2.4.1.2 Applying the 4 Step Framework to Arizona

2.4.1.2.1 Identifying downwind air quality problems

In order to address the first step of identifying downwind air quality problems for the 2015 ozone NAAQS, EPA conducted modeling with an analytic year of 2023.²⁴ Then, EPA took this modeling data and combined it with monitoring data to identify two categories of air quality problems. The first subset of air quality problems EPA identified were "nonattainment receptors" and were identified as those monitoring sites with current measured values exceeding the NAAQS and with projected 2023 average design values exceeding the NAAQS.²⁵ The second subset of air quality problems that EPA identified were "maintenance receptors" and were identified based on 2 criteria. The first criteria was to include those monitoring sites that have current measured values below the NAAQS but with projected average and maximum design values exceeding the NAAQS. The second criteria was to include those monitoring sites with projected average design values below the NAAQS but with projected maximum design values above the NAAQS.²⁶ This sorting of the modeling and monitoring data into the 2 categories allowed EPA to classify the data in terms of applicability to prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance).

²⁴ 2023 was selected as the analytic year because it aligns with the anticipated attainment year for moderate ozone nonattainment areas.

²⁵ Supra note 23

²⁶ Id

At this time Arizona does not have the resources to conduct its own CAMx future year and nationwide contribution modeling for the purposes of assessing Good Neighbor Provision obligations and will rely upon the modeling done by EPA to form the basis of this plan submittal.

2.4.1.2.2 Steps 2-4: Contribution, Emission Reductions, and Permanent and Enforceable Controls

In order to identify state contributions to the identified air quality problems, EPA performed nationwide CAMx source apportionment modeling to provide information regarding state level nitrogen oxides (NOx) and volatile organic compound (VOC) emissions to air quality monitoring sites. From this contribution modeling EPA processed the data to produce individual state contributions to the 2023 average design value at air quality monitoring sites. Based on this contribution modeling Arizona was not shown to contribute above the one percent NAAQS (0.7 ppb) to any nonattainment or maintenance receptors in other states. At this time Arizona does not have the resources to conduct its own nationwide future year or contribution modeling and will rely upon the modeling done by EPA to form the basis of this plan submittal.

While Arizona is currently not shown to contribute above the one percent threshold for this § 110(a)(2)(D)(i)(I) interstate transport demonstration, Arizona still maintains that the one percent threshold is poorly suited for determining contribution obligations in the Southwestern US. One of EPA's strongest rationale's in the East in support of a one percent threshold is that it captures a high percentage of the total pollution transport affecting downwind nonattainment areas, areas where nonattainment problems result from the combined impact of relatively small contributions from many upwind states.²⁷ However, as previously discussed in Arizona's 2015 CAA § 110(a)(2)(D) plan submittal for the 2008 ozone NAAQS, these facts do not always hold true for the Southwest and states such as Arizona can be found to contribute a relatively small contribution as the sole upwind state. Arizona finds this to be contrary to the stated goal of the one percent threshold of identifying a "combined" impact among many actors. When taking into consideration factors such as the magnitude of transported ozone from all upwind states, the design values at the receptor locations, the relatively small contributions some states solely contribute, and decreasing NOx and VOC emission inventories over time, Arizona feels that EPA should continue to evaluate § 110(a)(2)(D) submittals on a case by case basis using a weight of evidence approach. EPA evaluated and approved Arizona's 2015 § 110(a)(2)(D) prong I and II submittal for the 2008 ozone NAAQS using a weight of evidence approach and Arizona maintains that this is still the correct course of action for evaluating transport obligations for the Southwest in the future.

2.4.1.3 Declaration of Adequate Provisions for Prongs I and II of CAA Section 110(a)(2)(D)(i)(I)

As EPA's own modeling for assessing Good Neighbor Provision obligations suggests that Arizona does not contribute significantly to any nonattainment or maintenance receptors under CAA §

²⁷ See 80 FR 75714 (December 3, 2015)

110(a)(2)(D)(i), Arizona does not find it necessary to identify any emission reductions or adopt any permanent and enforceable controls for this SIP submittal. Arizona believes that this SIP contains adequate provisions to ensure that air emissions in Arizona do not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state in the future.

2.4.2 CAA section 110(a)(2)(D)(i)(II) - Prong 3

CAA §110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or from interfering with measures required of any other state to protect visibility (referring to visibility in Class I areas). When referencing the two requirements of §110(a)(2)(D)(II), the EPA sometimes refers to them as “prong 3 (interference with PSD) and prong 4 (interference with visibility protection)”.

With respect to PSD, "EPA interprets prong 3 to mean that the infrastructure SIP submission should have provisions to prevent emissions of any regulated pollutant from interfering with any other air agency's comprehensive PSD permitting program, in addition to the new or revised NAAQS that is the subject of the infrastructure submission."²⁸ In addition, EPA states in its 2013 infrastructure SIP guidance, that one way to meet the prong 3 requirements is through "an air agency's confirmation in its infrastructure SIP submission that new major sources and major modifications are subject to a comprehensive EPA-approved PSD permitting program in the SIP that applies to all regulated NSR pollutants and that satisfies the requirements of the EPA's PSD implementation rule(s), as discussed above for purposes of Element C."²⁹

ADEQ and local agencies are authorized to implement preconstruction review and permitting programs under A.R.S. title 49, chapter 3, articles 1, 2, and 3. ADEQ and county regulations implementing these permit program requirements are contained in A.A.C. 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 (NA-NSR) provisions of these rules or Prevention of Significant Deterioration (PSD) for attainment areas.

In order to satisfy the requirements of CAA § 110(a)(2)(D)(i)(II), prong 3, ADEQ certifies that new major sources and major modifications in areas under the jurisdiction of ADEQ are subject to a comprehensive EPA approved PSD permitting program. Effective June 4, 2018, ADEQ has an approved PSD program for areas under its CAA permitting jurisdiction, except for greenhouse gases, under sections 160 through 165 of the CAA.³⁰ ADEQ is currently administering the NSR requirements for GHGs under a delegation agreement with EPA. For local agencies, the Maricopa County Air Quality Department (MCAQD) and the Pima County

²⁸ Supra note 18

²⁹ Id

³⁰ See 83 FR 19631 (May 4, 2018) and 40 CFR 52.144(C) effective June 4, 2018

Department of Environmental Quality (PDEQ) currently implement the Federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants (as defined in 40 CFR 52.21(b)(50)), pursuant to delegation agreements executed in 1993 and 1994, respectively (see Table 2-4).³¹ ADEQ has delegated implementation of the major source program to the Pinal County Air Quality Control District. Under the delegation agreement between ADEQ and PCAQCD, the county is obligated to enforce state major NSR rules, but must also enforce its own rules to the extent they are more stringent. Therefore, effective June 4, 2018, Pinal County meets CAA section 110(a)(2)(D)(i)(II) prong 3 requirements for all regulated NSR pollutants except for greenhouse gases through its obligation to enforce ADEQ SIP approved state Major NSR rules.

Table 2-4 PSD Programs by Permitting Authority

Permitting Authority	PSD Program
Arizona Department of Environmental Quality (ADEQ)	EPA Approved (83 FR 19631)
Maricopa County Air Quality Department (MCAQD)	MCAQD implements the Federal PSD program in 40 CFR 52.21
Pinal County Air Quality Control District (PCAQD)	ADEQ SIP approved PSD program ³²
Pima County Department of Environmental Quality (PDEQ)	PDEQ implements the Federal PSD program in 40 CFR 52.21

2.4.3 CAA section 110(a)(2)(D)(i)(II) - Prong 4

CAA § 110(a)(2)(D)(i)(II), prong 4, requires a state’s SIP to contain provisions that prohibit sources in that state from emitting pollutants in amounts that interfere with another state’s efforts to protect visibility. EPA acknowledges that this requirement is pollutant specific as not all pollutants contribute to visibility impairment. When it comes to the regulation of ozone precursors under CAA 110(a)(2)(D)(i)(II), "EPA believes that ozone precursor emissions of NOx may contribute to visibility impairment in Class I areas" and therefore must be addressed in state I-SIP submittals.³³ In EPA’s 2013 I-SIP guidance, EPA details that one way a state can meet this requirement is through confirmation in its I-SIP submittal that the state has an approved regional haze plan that meets the requirements of 40 CFR 51.308.

³¹ Agreements dated November 22, 1993 and April 4, 1994

³² Under the delegation agreement between ADEQ and PCAQCD, the county is obligated to enforce state major NSR rules, but must also enforce its own rules to the extent they are more stringent. Therefore, effective June 4, 2018, Pinal County meets CAA Section 110(a)(2)(D)(i)(II) prong 3 requirements by enforcing state Major NSR rules.

³³ *Evaluation of the Arizona Infrastructure State Implementation Plan for the 2008 Ozone (O3) NAAQS for CAA 110(a)(2)(D) Prongs 1, 2, and 4*, U.S. EPA, Region 9, March 15, 2016.

Arizona does not currently have a fully approved Regional Haze SIP. Arizona’s 2011 submittal under 40 CFR 51.308, its 2013 SIP revision, and 2015 progress report rely, in part, on regulations imposed by FIPs to address visibility impairment in Class 1 Areas caused by NOx, SO₂, and PM. Currently Arizona has Regional Haze FIPs for the following facilities: Freeport McMoran Miami Smelter, ASARCO Hayden Smelter, TEP Sundt Station Unit 4, Lhoist Nelson Lime Plant Kilns 1 and 2, Phoenix Cement Company Clarkdale, and CalPortland Cement Rillito. Arizona also has three facilities that were initially issued BART FIP's but later had those regulations incorporated into the state SIP. Those three facilities are Arizona Public Service Cholla Power Plant, AEPSCO Apache Station Units 1, 2, and 3, and Salt River Project Coronado Generating Station (see Table 2-5).

In EPA's May 19, 2016 action on Arizona's 2015 supplement to its 2012 I-SIP submittal for the 2008 Ozone NAAQS, EPA disapproved Arizona's submittal in regards to prong 4 because of Arizona's reliance on FIP's to fully meet the requirements of 40 CFR 51.308. EPA did note, that despite a disapproval for this infrastructure element, no additional FIP obligation would be triggered by a final disapproval due to the aforementioned regional haze FIPs already being implemented.

Table 2-5 Regional Haze Plan Status

Facility	Plan Type	SIP or FIP Approval
AEPSCO Apache Station	State Implementation Plan	80 FR 19220
SRP Coronado Generating Station	State Implementation Plan	82 FR 46903
APS Cholla Power Plant	State Implementation Plan	82 FR 15139
Freeport McMoran Miami Smelter	Federal Implementation Plan	79 FR 52420
ASARCO Hayden Smelter	Federal Implementation Plan	79 FR 52420
TEP Sundt Station	Federal Implementation Plan	79 FR 52420
Lhoist Nelson Lime Plant	Federal Implementation Plan	79 FR 52420
Phoenix Cement Company Clarkdale	Federal Implementation Plan	81 FR 83144
CalPortland Cement Rillito	Federal Implementation Plan	81 FR 83144

2.4.4 CAA section 110(a)(2)(D)(ii)

Finally, CAA section 110(a)(2)(D)(ii) requires SIP submittals to demonstrate compliance with the applicable requirements of interstate and international pollution abatement as set forth in CAA §§ 115 and 126.

2.4.4.1 CAA section 126

CAA section 126 contains subsections 126(a), 126(b), and 126(c). The requirements of these subsections are as follows:

- Section 126(a) of the CAA requires notification at least 60 days prior to the commencement of construction to affected, nearby states of major proposed new or modified sources subject to CAA Title I, Part C.
- Sections 126(b) and (c) outline the requirements with respect to the petition process that affected states may make to EPA regarding sources violating the “interstate transport” provisions of CAA section 110(a)(2)(i).

With respect to 126(a), and the requirements for interstate pollution abatement, Arizona's SIP approved PSD rule A.A.C. R18-2-402(l)(3) requires the permitting agency to send a copy of the required public notice to EPA and to “[a]ny state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification”.³⁴ In addition, Pinal County’s SIP-approved PSD rules at 3-3-210 requires written notice to EPA, to the ADEQ Director, and to “other officials and agencies having cognizance over the location where the proposed construction would occur,” including “any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.” ADEQ believes that both of these SIP approved rules are consistent with EPA’s requirements for PSD programs in 40 CFR 51.166(q)(2)(iv), and therefore that areas under ADEQ’s and Pinal County’s jurisdiction meet the applicable requirements set out in CAA 126(a). In regards to compliance with the requirements of CAA section 126(b) and 126(c), Arizona is unaware of any petitions at this time by affected states to EPA regarding sources violating the “interstate transport” provisions of CAA section 110(a)(2)(D)(i). Maricopa County and Pima County do not have SIP-approved PSD programs, and rely the Federal PSD program in 40 CFR 52.21 to satisfy the requirements of § 110(a)(2)(D)(ii).

Arizona is requesting that EPA issue a partial approval/partial disapproval for this sub-element approving ADEQ and Pinal county's PSD programs for all regulated NSR pollutants except for greenhouse gases in terms of satisfying CAA § 110(a)(2)(D)(ii) for the 2015 ozone NAAQS.

2.4.4.2 CAA section 115

CAA section 115 authorizes "the Administrator to require a state to revise its SIP under certain conditions to alleviate international transport into another country."³⁵ Arizona is aware of no such pending actions pursuant to CAA section 115, and therefore requests approval for CAA § 110(a)(2)(D)(ii) with regards to meeting the applicable requirements set forth in CAA § 115 for the 2015 ozone NAAQS.

³⁴ Supra note 30

³⁵ Supra note 18

2.5 CAA section 110(a)(2)(E) – Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies

This section provides information to show that the Arizona Department of Environmental Quality and designated local governments have (i) adequate resources and legal authority required to carry out the State Implementation Plan, (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.

2.5.1 CAA section 110(a)(2)(E)(i) - Personnel, Funding, and Legal Authority

The purpose of section 2.5 of this SIP submittal 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 CAA, and the applicable SIP regulations in 40 CFR part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans").

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

Under A.R.S § 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 A.R.S. § 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 A.R.S § 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 A.R.S § 35-313, and monies earned from investment shall be credited to the fund.

There is also an emissions inspection fund (see A.R.S § 49-544) that consists of monies appropriated to the fund by the legislature; monies collected pursuant to A.R.S § 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 A.R.S § 49-551 “Air quality fee; air quality fund; purpose” every person who is required to register a motor vehicle in the state pursuant to A.R.S. § 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 the Phoenix ("area A") or Tucson ("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. Area A is an Arizona specific delineation that represents the area where Arizona operates a vehicle I/M program for the Phoenix area. Similarly Area B represents the bounds of the Arizona vehicle I/M program for the Tucson area. Both Area A and B are defined in A.R.S. 49-451. 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, A.R.S. § 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 A.R.S. § 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 A.R.S. § 49-406(A). ADEQ is responsible for all Sulfur Dioxide (SO₂) plans and Lead (Pb) plans even in Maricopa and Pima counties and for plans for the rest of the State. Under A.R.S. § 49-402(B). Maricopa County Air Quality Control Division (MCAQD) 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.

Under A.R.S. § 49-476 "[t]he department of environmental quality, county health departments, or boards of supervisors may accept and expend in accordance with the terms of the grant any funds granted to it for research of air pollution by the federal government, any political subdivision of the state, any agency or branch of the federal or state governments, or any private agency." 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. Table 2-6 lists relevant sections of Arizona Revised Statutes.

2.5.2 CAA section 110(a)(2)(E)(ii) - Conflict of Interest

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.

Authority for permit approvals and enforcement orders is provided to the ADEQ Director and county control officers. Arizona law, applicable to "all public officers and employees of incorporated cities or towns, of political subdivisions and of the State and any of its departments, commissions, agencies, bodies or boards," contains provisions for adequate disclosure of any conflict of interest. To meet the conflict of interest requirements under section 110(a)(2)(E)(ii), ADEQ submitted A.R.S. Title 38, Chapter 3, Article 8, Conflict of Interest of Officers and Employees, on October 14, 2009. Maricopa County adopted a revision to Rule 100, Section 108, requiring that the majority of County Air Quality Hearing Board members not have substantial interest in any person required to obtain an air pollution permit or subject to enforcement orders issued under the Maricopa County Air Pollution Control Regulations. ADEQ submitted this revision to EPA on December 6, 2013. On December 19, 2013, ADEQ submitted to the EPA the Pima County revisions to Pima County Rule 17.04.190, extending the majority membership requirement to interests in persons subject to enforcement orders. On September

4, 2014, ADEQ submitted Pinal County Rule 1-3-140 revisions addressing the deficiency in § 110(a)(2). EPA approved these submittals into the Arizona SIP on August 10, 2015.³⁶

2.5.3 CAA section 110(a)(2)(E)(iii) – Implementation

The purpose of section 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.

Table 2-6 lists relevant sections of Arizona Revised Statutes to affirm that the Arizona Department of Environmental Quality and designated local governments have adequate resources required to carry out the State Implementation Plan.

Table 2-6: CAA §110(a)(2)(E) - Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
CAA 110(a)(2)(E)(i) - ADEQ Programs		
§ 28-2153 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		09/23/2014 (79 FR 56655)
§ 49-406 Nonattainment area plan		06/08/2000 (65 FR 36353)
§ 49-404 State implementation plan	(A)	06/08/2000 (65 FR 36353)
§ 49-455 Permit administration fund	(A) and (B)(2)	11/05/2012 (77 FR 66398)

³⁶ 80 FR 47859 (August 10, 2015)

Table 2-6: CAA §110(a)(2)(E) - Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
§ 49-543 Emissions inspection costs; disposition; fleet inspection; certificates	(A)	01/22/2003 (68 FR 2912)
§ 49-544 Emissions inspection fund; composition; authorized expenditures; exemptions; investment		01/22/2003 (68 FR 2912)
§ 49-551 Air quality fee; air quality fund; purpose		01/22/2003 (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/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)

Table 2-6: CAA §110(a)(2)(E) - Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
§ 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)
§ 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)
Maricopa County Rule 100, Section 108		08/10/2015 (80 FR 47859)
Pima County Rule 17.04.190		08/10/2015 (80 FR 47859)
Pima County Rule 17.12.040		08/10/2015 (80 FR 47859)
Pima County Rule 17.24.040		08/10/2015 (80 FR 47859)
Pinal County Rule 1-3-140		08/10/2015 (80 FR 47859)
CAA 110(a)(2)(E)(iii)		
§ 49-406 Nonattainment area plan	(C), (D), (E), (I), (J), (K)	06/08/2000 (65 FR 36353)
§ 49-107 Local delegation of state authority		11/02/2015 (80 FR 67319)
§ 49-402 State and county control	(A)(1) through (A)(7), (B), (C),	09/23/2014 (79 FR 56655)
§ 49-404 State implementation plan		06/08/2000 (65 FR 36353)
Sources: Arizona Revised Statutes and Federal Register		

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

Section 110(a)(2)(F) requires provisions 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. Adoption of the SIP by the state also requires that each state submit a comprehensive plan to the EPA that includes correlation of such plan with any emission limitations or standard established pursuant to the Clean Air Act regulations.

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. Arizona currently has an approved § 110(a)(2)(F) submittal for the 2008 ozone NAAQS, and ADEQ believes that the current EPA SIP approved statutes and rules also meet the applicable requirements for the 2015 ozone NAAQS.

Table 2-7 lists relevant sections of Arizona Revised Statutes, Administrative Code, and local rules to show compliance with emission monitoring and reporting requirements.

Table 2-7: CAA §110(a)(2)(F) - Stationary Source Monitoring and Reporting		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 49-422 Powers and duties		11/05/2012 (77 FR 66398)
§ 49-424 Duties of Department		05/01/2017 (82 FR 20267)
§ 49-476.01 Monitoring		11/05 2012 (77 FR 66398)
R18-2-310.01 Reporting Requirements		09/18/2001 (66 FR 48087)
R18-2-313. Existing Source Emission Monitoring		11/05/2012 (77 FR 66405)
R18-2-327. Annual Emission Inventory Questionnaire		11/05/2012 (77 FR 66405)
County Programs		
§ 49-476.01 Monitoring		11/05/2012 (77 FR 66398)

Table 2-7: CAA §110(a)(2)(F) - Stationary Source Monitoring and Reporting		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
Maricopa County Rules		
Rule 100. General Provisions and Definitions	Section 500 Monitoring and Records	11/05/2012 (77 FR 66405)
Rule 140 Excess Emissions		07/27/2002 (67 FR 54957)
Pima County Rules		
17.12.040 Reporting Requirements		08/10/2015 (80 FR 47859)
17.24.040 Reporting for Compliance Evaluations		08/10/2015 (80 FR 47859)
Pinal County Rules		
3-1-081 Permit Conditions	(3)(4)	04/09/1996 (61 FR 15717)
3-1-083 Compliance provisions		04/09/1996 (61 FR 15717)
3-1-103 Annual emissions inventory questionnaire		04/09/1996 (61 FR 15717)
3-1-107 Public notice and participation		12/20/2000 (65 FR 79742)
3-1-150 Monitoring		04/09/1996 (61 FR 15717)
Sources: Arizona Revised Statutes and Federal Register		

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

Section 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs. 40 CFR 51.150 also requires the states to designate priority levels for ambient pollutant concentrations.

A.R.S § 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", prescribes the procedures the ADEQ Director shall implement

to prevent the occurrence of ambient air pollution concentrations which would cause significant harm to public health.³⁷ These 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.

Similar provisions for determining air pollution emergency episodes, advisory procedures, and control actions are contained in Maricopa, Pima, and Pinal County code:

Maricopa County Air Pollution Control Regulations, Regulation VI - Emergency Episodes, Rule 600, Emergency Episodes.³⁸

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.³⁹

In Arizona, Maricopa and Pima counties are priority I regions for the one-hour ozone standard under 40 CFR 51.150. On August 10, 2015 EPA published a final rule approving Arizona's § 110(a)(2)(G) Emergency Episode Plan for the 2008 8-hour ozone standard.⁴⁰ The Arizona Emergency Episode Plan sets forth specific procedures to be followed in the event of an air pollution emergency. These procedures comply with the requirements of Subpart H, 40 CFR § 51.150-153 and section 303 of the Clean Air Act. As Arizona has an approved § 110(a)(2)(G) submission for past ozone NAAQS, ADEQ does not believe that a change in the NAAQS affects the emergency episode requirements. Therefore, ADEQ requests that EPA approve this SIP submission as meeting the applicable requirements of CAA § 110(a)(2)(G) for the 2015 ozone NAAQS.

Table 2-8 lists relevant sections of Arizona Revised Statutes and Administrative Code that have been adopted by the state of Arizona in order to comply with the federal prevention of air pollution episodes.

Table 2-8: CAA §110(a)(2)(G) - Emergency Powers		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 49-462 Violations; injunctive relief		11/05/2012 (77 FR 66398)
§ 49-465 Air pollution emergency		11/05/2012 (77 FR 66398)

³⁷ A.A.C R9-3-219 in 47 FR 42572 (September 28, 1982).

³⁸ Maricopa County Rule 600 was adopted 7/13/1988 and approved by EPA into the SIP 3/18/1999 in 64 FR 13351.

³⁹ Pinal County Rules were adopted 6/29/1993 and approved by EPA into the SIP on 12/20/2000 in 65 FR 79742.

⁴⁰ 80 FR 47859 (August 10, 2015)

R18-2-215. Ambient Air Quality Monitoring Methods & Procedures		09/23/2014 (79 FR 56655)
R18-2-220 Air Pollution Emergency Episodes		10/15/2012 (77 FR 62452)
Procedures for Prevention of Emergency Episodes: October 18, 1988, Edition (Referenced in R18-2-220)		10/15/2012 (77 FR 62452)
§ 49-512 Violations; injunctive relief		11/05/2012 (77 FR 66398)
Source: Arizona Revised Statutes, Arizona Administrative Code, and Federal Register		

2.8 CAA section 110(a)(2)(H) – SIP 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 A.R.S. § 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."

On August 10, 2015 EPA published a final rule approving Arizona’s § 110(a)(2)(H) submittal for the 2008 8-hour ozone standard. ADEQ does not believe a change in the NAAQS affects the Element H requirements, and asks that EPA approve this submission as meeting the applicable requirements of CAA § 110(a)(2)(H).

Table 2-9 lists relevant sections of Arizona Revised Statutes.

Table 2-9: CAA §110(a)(2)(H) - SIP Revisions		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
Plan Revisions		
§49-404 State implementation plan		06/08/2000 (65 FR 36353)
§49-406 Nonattainment area plan		06/08/2000 (65 FR 36353)
Source: Arizona Revised Statutes and Federal Register		

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

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

In their 2013 guidance on infrastructure SIP elements, the U.S. EPA states that they do not "expect infrastructure SIP submissions to address subsection 110(a)(2)(I)". Furthermore the guidance states that it in "EPA's interpretation of the CAA this element does not need to be addressed in the context of an infrastructure SIP submission".⁴¹

Therefore, based on this guidance, ADEQ is not submitting any relevant statutes or rules to comply with CAA section 110(a)(2)(I) as part of this SIP submission.

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

Section 110(a)(2)(J) requires states to: (1) provide a process for consultation with local governments and Federal Land Managers (FLM) carrying out NAAQS implementation requirements pursuant to CAA 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 CAA section 127 relating to public notification, (3) meet applicable requirements of CAA title I part C related to prevention of significant deterioration (PSD) of air quality, and (4) meet applicable requirements of CAA title I part C related to visibility protection.

2.10.1 Consultation with identified officials on certain actions

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. A.R.S § 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.

⁴¹ Supra note 18

2.10.2 Public Notification

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 (see Table 2-10 and Figure 2-1). The annual reports, daily forecasts, and other air quality information including tips for reducing pollution are available on the ADEQ Web site.

Figure 2-1 Sample ADEQ Forecast

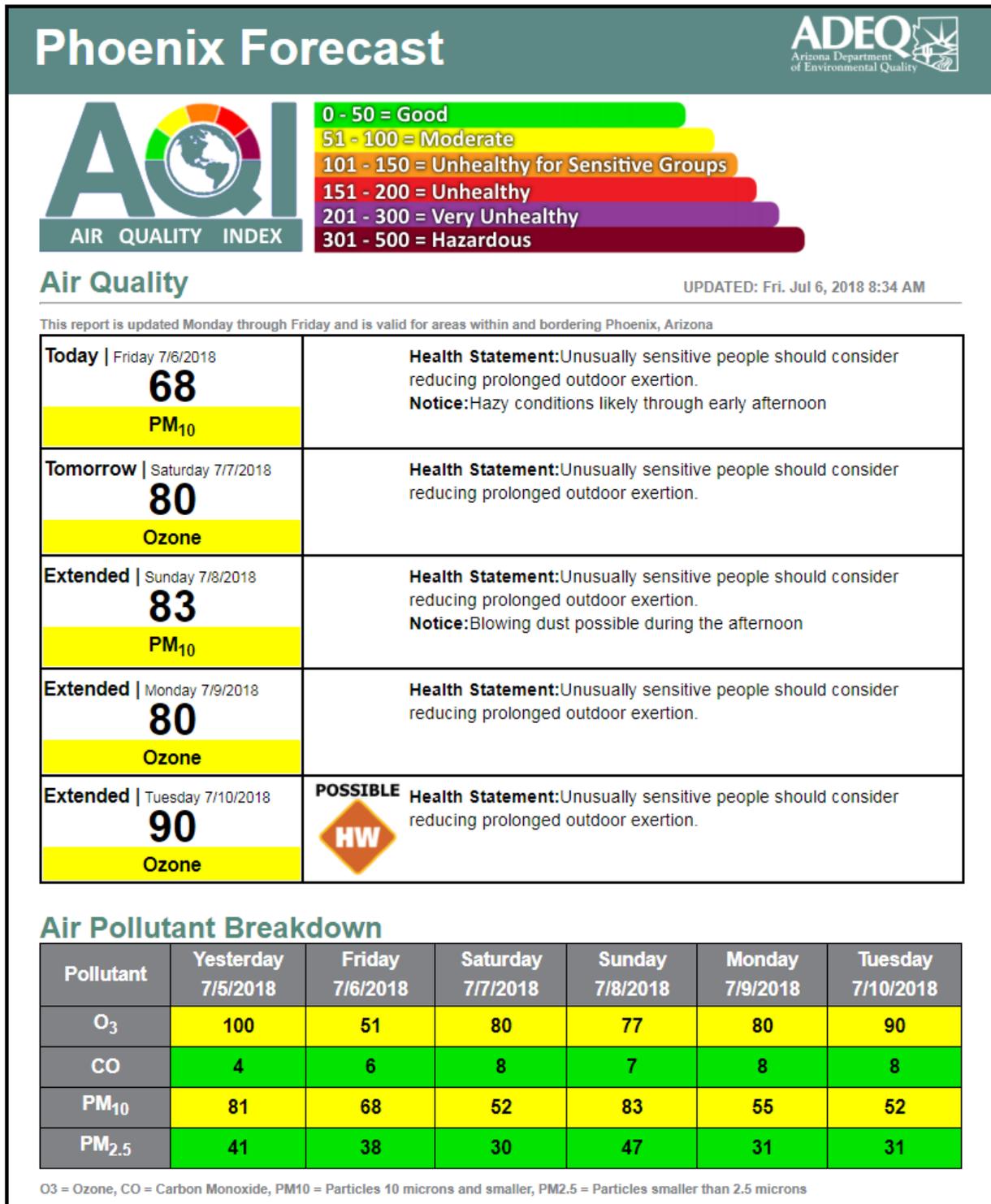


Table 2-10 Arizona Daily Forecasts		
Forecast Area	Subscription Hyperlink	Current Subscriber Numbers (2018)
Maricopa County Air Quality Forecast	Subscription Link	8549
Maricopa County Dust Control Forecast	Subscription Link	6200
Tucson Area Air Quality Forecast	Subscription Link	342
Yuma Air Quality Forecast	Subscription Link	776
Nogales Air Quality Forecast	Subscription Link	701
Pinal County Dust Control Forecast	Subscription Link	689
Green Valley Dust Control Forecast	Subscription Link	427
Hayden Lead Forecast	Subscription Link	340

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.

2.10.3 Prevention of Significant Deterioration

The requirements for Element J relating to prevention of significant deterioration are the same as the requirements previously discussed in section 2.3 of this document relating to Arizona's PSD permitting programs. In their 2013 guidance on infrastructure SIP elements, the U.S. EPA states that "[g]enerally, every PSD-related requirement of Element C applies, including the requirement that the PSD permitting program address all regulated pollutants."⁴²

In order to satisfy the requirements of CAA § 110(a)(2)(J) related to PSD, ADEQ certifies that new major sources and major modifications in areas under the jurisdiction of ADEQ are subject to a comprehensive EPA approved PSD permitting program. Effective June 4, 2018, ADEQ has an approved PSD program for areas under its CAA permitting jurisdiction, except for greenhouse gases, under sections 160 through 165 of the CAA.⁴³ ADEQ is currently administering the NSR requirements for GHGs under a delegation agreement with EPA. For local agencies, the Maricopa County Air Quality Department (MCAQD) and the Pima County Department of Environmental Quality (PDEQ) currently implement the Federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants (as defined in 40 CFR 52.21(b)(50)), pursuant to delegation agreements executed in 1993 and 1994, respectively (see Table 2-4).⁴⁴ ADEQ currently has jurisdiction over Pinal County's PSD program. ADEQ has delegated implementation of the major source program to the Pinal County Air Quality Control District.

Arizona is requesting that EPA issue a partial approval/partial disapproval for this sub-element approving ADEQ and Pinal County's PSD programs for all regulated NSR pollutants except for greenhouse gases in terms of satisfying the CAA § 110(a)(2)(J) requirements applicable to prevention of significant deterioration for the 2015 ozone NAAQS. Please refer to section 2.3 of this document for further discussion of CAA title I part C PSD requirements and permitting programs in Arizona.

2.10.4 Visibility Protection

In their 2013 guidance on infrastructure SIP elements, the U.S. EPA states that they believe that there are "no newly applicable visibility protection obligations pursuant to Element J after the promulgation of a new or revised NAAQS" and that "[a]ir agencies do not need to address the visibility sub element of Element J in an infrastructure SIP submission."⁴⁵

Therefore, based on this guidance, ADEQ is not submitting any relevant statutes or rules to comply with CAA section 110(a)(2)(J) applicable to visibility protection under CAA title I part C as part of this SIP submission for the 2015 ozone NAAQS.

Table 2-11 lists relevant sections of Arizona Revised Statutes that are in place and essential in conforming with the CAA 110(a)(2)(J).

⁴² Supra note 18

⁴³ See 83 FR 19631 (May 4, 2018) and 40 CFR 52.144(C) effective June 4, 2018

⁴⁴ Agreements dated November 22, 1993 and April 4, 1994

⁴⁵ Supra note 18

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

Table 2-11: CAA §110(a)(2)(J) - Consultation with Government Officials, Public Notification, and PSD and Visibility Protection		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 49-402 State and county control	(F)	09/23/2014 (79 FR 56655)
§ 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		05/01/2017 (82 FR 20267)
§ 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)
Source: Arizona Revised Statutes and Federal Register		

CAA section 110(a)(2)(K) requires that SIPs provide for:

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

Modeling “for the purpose of predicting the effect on ambient air quality of any emissions of” criteria pollutants is required in two contexts relevant to CAA section 110:

1. Developing plans designed to assure that all areas of the state either already meet or will attain the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) requirements.
2. Issuing preconstruction permits designed to assure that a new source does not cause or contribute to a NAAQS violation.

EPA guidance recommends that, at a minimum, states identify the statutory or regulatory provisions that provide state and local air agencies the authority to perform the above actions, along with a narrative of how the provisions meet the requirements above.

ADEQ submitted a supplemental SIP revision for the requirements of 110(a)(2)(K) in December 2015. EPA proposed to approve this submission May 19, 2016 for ADEQ, Pima County, Maricopa County, and Pinal County.^{46,47} ADEQ requests as part of this submittal that EPA also take final action on its proposed rulemaking for the 2010 NO₂ and SO₂ NAAQS and approve A.R.S. §§ 49-104(A)(3) and (B)(1) into the Arizona SIP.

2.11.1 Modeling for Plan Development

In ozone nonattainment and maintenance areas with MPOs, the MPOs have responsibility for developing ozone nonattainment and maintenance plans under section 49-406(A). ADEQ has responsibility for the development of all other SIPs under sections 49-406(B) and 49-404.

ADEQ has broad authority to delegate “any functions, powers, or duties,” to local agencies, including Air Pollution Control Departments (APCD), under A.R.S. section 49-107(A). ADEQ could delegate the responsibility to conduct plan development modeling to the county APCDs under this provision and divide responsibilities in a memorandum of agreement (MOA) under A.R.S. 49-406(C)-(F).

2.11.2 Modeling for Preconstruction Permits

ADEQ has authority to conduct or require air quality modeling when issuing preconstruction permits for minor and major sources as well as modifications.

ADEQ has adopted Arizona Administrative Code R18-2-334 to establish a minor New Source Review (NSR) program. Subsection (C)(2) of R18-2-334 gives ADEQ the authority to require modeling from, or perform air quality modeling on behalf of, a new or modified minor source.

Under R18-2-406, ADEQ has the authority to require modeling for major sources and major modifications meeting Prevention of Significant Deterioration (PSD) requirements.

Maricopa County has submitted a revised NSR program April 2016. Pinal and Pima Counties are currently proposing and revising their respective NSR programs for preconstruction permits.

⁴⁶ May 19, 2016 (81 FR 31571)

⁴⁷ EPA's action was specifically in regards to the 2010 NO₂ and SO₂ NAAQS. However, ADEQ does not believe the requirements for CAA Section 110(a)(2)(K) vary by NAAQS, and are applicable to the 2015 ozone NAAQS.

Each of the county APCDs has existing regulations establishing the authority to require modeling in connection with PSD permits that are substantially identical to ADEQ’s. In addition, as explained in the July 20, 2014, State Implementation Plan for NSR Supplemental Information sections 2.2(b) and 2.4, Pinal County currently has delegated authority to administer ADEQ’s PSD program.

On April 28, 2017 ADEQ submitted to EPA regulatory revisions for the ADEQ portion of the Arizona SIP that pertain to ADEQ’s preconstruction review and permitting program requirements. These revisions were intended to correct previously identified deficiencies in ADEQ’s SIP-approved NSR program. On May 4, 2018 EPA took final action to approve Arizona’s NSR SIP revision. For a further discussion of CAA title I part C requirements, please see section 2.3 of this document.

2.11.3 General Authority

In addition to the specific provisions relating to plan development and preconstruction modeling, a number of statutes provide ADEQ broad general authority that encompasses the ability to conduct modeling and submit the results to EPA. These authorities relate to conducting research, providing information, contracting services, requiring sources to model, and communicating the agency’s duties.

2.11.4 Legal Authority

For reference, Table 2-12 below lists the legal authorities demonstrating compliance with CAA section 110(a)(2)(K):

Table 2-12: CAA §110(a)(2)(K) - Air Quality Modeling and Submission of Modeling Data		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 49-104 Powers and duties of the department and director	(A)(3) and (B)(1)	Proposed 05/19/2016 (81 FR 31571)
§ 49-404 State Implementation Plan	(A)-(C)	06/08/2000 (65 FR 36353)
§ 49-406 Nonattainment area plan	(A)-(F)	06/08/2000 (65 FR 36353)
§ 49-107 Local delegation of state authority	(A)	11/02/2015 (80 FR 67319)

Table 2-12: CAA §110(a)(2)(K) - Air Quality Modeling and Submission of Modeling Data		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
§ 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)	05/01/2017 (82 FR 20267)
R18-2-334 Minor New Source Review	(C)(2) and (I)	11/02/2015 (80 FR 67319)
R18-2-406 Permit Requirements for Sources Located in Attainment and Unclassifiable Areas	(A)(5) and (A)(6)	05/04/2018 (83 FR 19631)
County Programs		
§ 49-473 Board of supervisors		11/05/2012 (77 FR 66398)
§ 49-474 County control boards		11/05/2012 (77 FR 66398)
Source: Arizona Revised Statutes and Federal Register		

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

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

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

According to EPA issued guidance, "[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".⁴⁸ 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’.”

⁴⁸ Supra note 18

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.

On August 10, 2015 EPA took final action on multiple Arizona infrastructure SIP submittals to approve revisions to the Arizona SIP, including approval of an Element L submittal for the 2008 ozone NAAQS. As Arizona has an approved CAA § 110(a)(2)(L) submission for a prior ozone NAAQS, and the requirements of Element L do not change based on NAAQS updates, ADEQ requests that EPA approve this § 110(a)(2)(L) submission for the 2015 ozone NAAQS.

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

CAA 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.

Table 2-13 lists relevant sections of Arizona Revised Statutes to reflect compliance with CAA section 110(a)(2)(M).

Table 2-13: CAA §110(a)(2)(M) - Consultation and Participation by Affected Local Entities		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
ADEQ Programs		
§ 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)
§ 49-402 State and county control	(F)	09/23/2014 (79 FR 56655)

Table 2-13: CAA §110(a)(2)(M) - Consultation and Participation by Affected Local Entities		
Statute/Rule	Relevant Sections	Date approved into the Arizona SIP
§ 49-405 Attainment area designations	(B)(2)(6)	11/05/2012 (77 FR 66398)
§ 49-406 Nonattainment area plan	(C), (D), (E), (F)	06/08/2000 (65 FR 36353)
§ 49-424 Duties of department	(8), (10)	05/01/2017 (82 FR 20267)
§ 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)
Source: Arizona revised Statutes and Federal Register		

3 Conclusion

This ozone Infrastructure State Implementation Plan submittal demonstrates that the existing authorities and infrastructure of Arizona State and local air quality management programs meet the basic program elements required under CAA section 110(a)(2) for 2015 ozone NAAQS.