

Technical Support Document

Evaluation of Arizona's Infrastructure SIP for the 2015 Ozone NAAQS



Evaluation of Arizona's Infrastructure State Implementation Plan for the 2015
Ozone National Ambient Air Quality Standards

U.S. EPA, Region IX

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Introduction

This document summarizes the Environmental Protection Agency's (EPA) review of Arizona's state implementation plan (SIP) provisions and county air agency provisions against the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2015 ozone national ambient air quality standards (NAAQS). Specifically, this technical support document (TSD) examines information submitted by the Arizona Department of Environmental Quality (ADEQ) on behalf of ADEQ, Maricopa County Air Quality Department (MCAQD or "Maricopa County"), Pima County Department of Environmental Quality (PDEQ or "Pima County"), and Pinal County Air Quality Control District (PCAQCD or "Pinal County") to the EPA in 2018 and 2022.

Throughout this document, state and county rules are referenced to describe Arizona's air quality management infrastructure and to support how existing Arizona programs satisfy the infrastructure requirements under CAA section 110(a)(2). Arizona Revised Statutes are referred to as "ARS." Rules in the Arizona Administrative Code are referred to as "AAC." Maricopa County Air Pollution Control Regulations are referred to as "Maricopa County Rules." Rules in the Pima County Code of Ordinances are referred to as "Pima County Code." Rules in the Pinal County Air Quality Control District Code of Regulations are referred to as "Pinal County Code."

CAA sections 110(a)(1) and 110(a)(2) require states to submit to the EPA no later than three years after the promulgation of a new or revised NAAQS a SIP revision addressing CAA requirements to implement, maintain and enforce the new or revised standards. Many of the requirements in CAA section 110(a)(2) relate to the general information and authorities that constitute the "infrastructure" of a state's air quality management program; a SIP submittal that addresses these requirements is referred to as an "infrastructure SIP" (I-SIP). We refer to individual infrastructure SIP requirements under CAA section 110(a)(2) as "elements."

On September 24, 2018, ADEQ submitted to the EPA the Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone National Ambient Air Quality Standards ("2018 Ozone I-SIP submittal") to address the CAA section 110(a)(2) infrastructure requirements for the 2015 ozone NAAQS. On February 10, 2022, ADEQ submitted to the EPA the State Implementation Plan Revision: Clean Air Act Section 110(a)(2) for the 2012 Fine Particulate & 2015 Ozone NAAQS ("2022 I-SIP supplement"), which addresses various CAA section 110(a)(2) requirements for the 2012 fine particulate matter NAAQS and the 2015 ozone NAAQS. We refer to these submittals collectively as "Arizona's Ozone I-SIP submittals" in this document. The 2018 Ozone I-SIP submittal and the 2022 I-SIP supplement became complete by operation of law on March 24, 2019, and August 10, 2022, respectively.

Based on our evaluation, we propose to approve Arizona's Ozone I-SIP submittals as satisfying most I-SIP elements for the 2015 ozone NAAQS. Where we have found that the submittals do not satisfy I-SIP elements, the associated proposed disapprovals, if finalized, will not trigger a

deadline for the EPA to promulgate a federal implementation plan (FIP) because each deficiency is already adequately addressed by a pre-existing FIP. In this action, we are not evaluating Arizona’s Ozone I-SIP submittals with respect to CAA section 110(a)(2)(D)(i)(I) (prongs 1 and 2, also referred to as the “Interstate Transport” or “Good Neighbor” provision) or the requirement in section 110(a)(2)(D)(i)(II) pertaining to interference with visibility protection in other states (prong 4).

In addition to our proposed partial approval and partial disapproval of Arizona’s infrastructure SIP, the EPA is proposing to approve rules in the Arizona Revised Statutes and Pima County Code related to public availability of emission reports into the Arizona SIP. Lastly, the EPA is proposing to reclassify regions in Arizona with respect to episode plans for ozone under 40 CFR 51.150.

A summary of the EPA’s proposed findings with respect to each infrastructure SIP element (and subelement, where appropriate) is included in Table 1 below.

Table 1. Evaluation Summary

| Element Identification | | | Meets Requirement? (clarification or cause of disapproval) | | | |
|------------------------|-------------|---|---|-------------------|--------------|-------------------|
| Element | Sub-element | Description | ADEQ | Maricopa County | Pima County | Pinal County |
| A | – | Emission limits and other control measures | Yes | Yes | Yes | Yes |
| B | i. | Ambient air quality monitoring/data system (monitor, compile, analyze data) | Yes | Yes | Yes | Yes |
| | ii. | Ambient air quality monitoring/data system (make data available to EPA) | Yes | Yes | Yes | Yes |
| C | – | Program for enforcement of control measures and regulation of new stationary sources | Partial (PSD FIP) | Partial (PSD FIP) | No (PSD FIP) | Partial (PSD FIP) |
| D | i. | Interstate transport - significant contribution to nonattainment (prongs 1-2) | Not Evaluated | | | |
| | | Interstate transport - interference with PSD (prong 3) | Partial (PSD FIP) | Partial (PSD FIP) | No (PSD FIP) | Partial (PSD FIP) |
| | | Interstate transport – interference with visibility protection (prong 4) | Not Evaluated | | | |
| | ii. | Interstate pollution abatement (CAA §126, including requirement to notify states of potential impacts from new sources) | Partial (PSD FIP) | Partial (PSD FIP) | No (PSD FIP) | Partial (PSD FIP) |

| Element Identification | | | Meets Requirement? (clarification or cause of disapproval) | | | |
|------------------------|-------------|--|---|-------------------|--------------|-------------------|
| Element | Sub-element | Description | ADEQ | Maricopa County | Pima County | Pinal County |
| | | International air pollution (CAA §115) | Yes | Yes | Yes | Yes |
| E | i. | Necessary assurances of adequate resources (personnel, funding, authority) | Yes | Yes | Yes | Yes |
| | ii. | Conflict of interest provisions (CAA §128) | Yes | Yes | Yes | Yes |
| | iii. | Necessary assurances of adequate oversight of local governments and regional agencies | Yes | N/A | N/A | N/A |
| F | i. | Stationary source monitoring system (installation, maintenance, replacement) | Yes | Yes | Yes | Yes |
| | ii. | Stationary source monitoring system (periodic reports) | Yes | Yes | Yes | Yes |
| | iii. | Stationary source monitoring system (correlation of reports with emissions limitations or standards) | Yes | Yes | Yes | Yes |
| G | – | Emergency Episodes | Yes | Yes | Yes | Yes |
| H | i. | SIP revisions (plan revisions for NAAQS or improved methods of attaining) | Yes | Yes | Yes | Yes |
| | ii. | SIP revisions (remedy inadequacies identified by EPA) | Yes | Yes | Yes | Yes |
| I | – | Plan revisions for nonattainment areas | N/A | N/A | N/A | N/A |
| J | CAA §121 | Consultation with government officials | Yes | Yes | Yes | Yes |
| | CAA §121 | Public notification of exceedances | Yes | Yes | Yes | Yes |
| | PSD | Prevention of significant deterioration | Partial (PSD FIP) | Partial (PSD FIP) | No (PSD FIP) | Partial (PSD FIP) |
| | Visibility | Visibility protection | Yes | Yes | Yes | Yes |
| K | i. | Air quality modeling | Yes | Yes | Yes | Yes |
| | ii. | Submission of modeling data | Yes | Yes | Yes | Yes |
| L | i. | Permitting fees (reviewing and acting on application) | Yes | Yes | Yes | Yes |
| | ii. | Permitting fees (implementing and enforcing permit) | Yes | Yes | Yes | Yes |

| Element Identification | | | Meets Requirement? (clarification or cause of disapproval) | | | |
|------------------------|-------------|---|---|-----------------|-------------|--------------|
| Element | Sub-element | Description | ADEQ | Maricopa County | Pima County | Pinal County |
| M | - | Consultation with/ participation by affected local political subdivisions | Yes | Yes | Yes | Yes |

Background

Section 110(a)(1) of the Clean Air Act requires states to submit a plan that provides for the implementation, maintenance, and enforcement of a NAAQS no later than three years after the promulgation of a new or revised NAAQS. CAA section 110(a)(2) specifies the contents of the required plan, which generally relate to the information and authorities, compliance assurances, procedural requirements, and control measures that constitute the infrastructure of a state's air quality management program.

On October 26, 2015, the EPA issued a revised 8-hour ozone NAAQS.¹ This action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of CAA section 110(a)(2) within three years of issuance of the revised NAAQS. EPA guidance for infrastructure SIPs issued on September 13, 2013, (“2013 I-SIP Guidance”) provides “advice on the development of infrastructure SIPs for the 2008 ozone NAAQS . . . as well as infrastructure SIPs for new or revised NAAQS promulgated in the future” that is applicable to infrastructure SIPs for the 2015 ozone NAAQS.²

On September 24, 2018, and February 10, 2022, ADEQ submitted to the EPA the 2018 Ozone I-SIP submittal and the 2022 I-SIP supplement, respectively. Each submittal includes a SIP revision, completeness criteria summary, copies of authorizing statutes, and copies of public process documentation. We have evaluated the 2018 Ozone I-SIP submittal and 2022 I-SIP supplement with respect to the infrastructure SIP requirements of CAA section 110(a)(2) for the 2015 ozone NAAQS.³ In this document, we describe the requirements, summarize ADEQ’s submittals, and present our evaluation for each infrastructure SIP element.

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

CAA section 110(a)(2)(A) requires SIPs to “include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act.”

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

The 2018 Ozone I-SIP submittal states:

¹ 80 FR 65292 (October 26, 2015).

² Memorandum dated September 13, 2013, from Stephen D. Page, Director, Office of Air Quality Planning and Standards, U.S. EPA, to EPA Regional Air Division Directors, Regions I-X, Subject: “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).”

³ Two CAA section 110(a)(2) requirements are considered by the EPA to be outside the scope of infrastructure SIP actions because they pertain to plan requirements for nonattainment areas: (1) section 110(a)(2)(C) to the extent it refers to permit programs under part D; and (2) section 110(a)(2)(I) in its entirety. Therefore, this TSD does not address these requirements.

The timing of submittal for specific nonattainment area control measures and plans is subject to the requirements of CAA, Title I, Part D “Plan Requirements for Nonattainment Areas” therefore, the demonstration of compliance with CAA § 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.⁴

In support of this element, the state of Arizona pointed to the following SIP approved statutes and rules: ARS 49-106, 49-107, 49-402, 49-404, 49-406, 49-421, 49-424, 49-425, 49-541, and AAC R18-2-203 for ADEQ; and ARS 49-471, 49-473 and 49-479 for county programs.

The EPA’s Evaluation

The 2018 Ozone I-SIP submittal contains relevant state statutes and rules providing a range of authorities for the adoption and implementation of state and local programs necessary to address CAA section 110(a)(2)(A) for ozone. The authorities include statewide application of rules; delegation of authorities to county and regional planning authorities; jurisdiction over source categories; maintaining a SIP; adoption of rules, emission standards, and performance standards; and adoption of permits containing enforceable emission limitations, standards, and compliance schedules. These statutes demonstrate the State’s overall program authorities to adopt emission limits and standards for regulated pollutants.

Beyond the Arizona statutes that ADEQ specifically cites in their ozone infrastructure SIP, there are additional ADEQ, Maricopa County, Pima County, and Pinal County provisions in the SIP supporting CAA section 110(a)(2)(A) by establishing emission limits, control measures, means, or techniques for compliance with CAA ozone requirements. These provisions confirm that Arizona has enforceable emission limitations and other control measures in the SIP for numerous stationary and fugitive emission sources. Arizona also has fuel standards that limit the emission of ozone precursors, i.e., volatile organic compounds (VOC) and oxides of nitrogen (NO_x), from mobile sources. While the examples of specific SIP approved emissions limits and other control measures enumerated in the 2018 Ozone I-SIP submittal are not exhaustive, we propose that they, along with the other SIP approved Arizona statutes and rules that they represent, provide an adequate basis to conclude that Arizona’s infrastructure SIP meets the requirements of CAA section 110(a)(2)(A).

Arizona Administrative Codes in the SIP supporting 110(a)(2)(A)

- Title 18. Environmental Quality
 - Chapter 2. Department of Environmental Quality Air Pollution Control
 - Article 3. Permits and Permit Revisions
 - R18-2-302.01 Source Registration Requirements
 - Article 4. Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources
 - R18-2-401 Definitions

⁴ 2018 Ozone I-SIP submittal, 4.

- R18-2-402 General
 - R18-2-407 Air Quality Impact Analysis and Monitoring Requirements
- Article 6. Emissions from Existing and New Nonpoint Sources
The following Title 18 rules apply statewide except where a county has adopted a rule at least as stringent as the relevant state rule:
 - R18-2-602. Unlawful Open Burning
- Article 7. Existing Stationary Source Performance Standards
 - R18-2-702. General Provisions
 - R18-2-710. Standards of Performance for Existing Storage Vessels for Petroleum Liquids
 - R18-2-725. Standards of Performance for Existing Dry Cleaning Plants
 - R18-2-727. Standards of Performance for Spray Painting Operations
 - R18-2-734. State Standards of Performance for Mercury Emissions from Coal-Fired Electric Steam Generating Units
- Article 9. New Source Performance Standards
 - R18-2-901. Standards of Performance for New Stationary Sources
- Article 10. Motor Vehicles; Inspections and Maintenance
The following Article 10 rule only applies in Maricopa and Pima counties:
 - R18-2-1001 through R18-2-1031
- Article 11. Federal Hazardous Air Pollutants
 - R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)
- Title 20. Commerce, Financial Institutions, and Insurance
 - Chapter 2. Department of Weights and Measures
 - Article 7. Motor Fuels and Petroleum Products
The following Title 20 rules only apply in Maricopa and Pima counties:
 - R20-2-701, R20-2-716, R20-2-750 through R20-2-762
 - Table 1. Type 1. Arizona CBG Standards (March 31, 2001)
 - Table 2. Type 2. Arizona CBG Standards (March 31, 2001)

Maricopa County Rules in the SIP Supporting 110(a)(2)(A):

- 240 Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources
- 280 Fees
- 314 Open Outdoor Fires and Indoor Fireplaces at Commercial and Institutional Establishments
- 317 Hospital/Medical/Infectious Waste Incinerators
- 331 Solvent Cleaning

- 333 Petroleum Solvent Dry Cleaning
- 334 Rubber Sports Ball Manufacturing
- 335 Architectural Coatings
- 336 Surface Coating Operations
- 337 Graphic Arts
- 338 Semiconductor Manufacturing
- 339 Vegetable Oil Extraction Processes
- 340 Cutback & Emulsified Asphalt
- 341 Metal Casting
- 342 Coating Wood Furniture and Fixture
- 343 Commercial Bread Bakeries
- 344 Automobile Windshield Washer Fluid
- 346 Coating Wood Millwork
- 347 Ferrous Sand Casting
- 348 Aerospace Manufacturing and Rework Operations
- 349 Pharmaceutical, Cosmetic and Vitamin Manufacturing Operations
- 350 Storage of Organic Liquids at Bulk Plants and Terminals
- 351 Loading of Organic Liquids
- 352 Gasoline Delivery Vessels
- 353 Transfer of Gasoline into Stationary Dispensing Tanks
- 358 Polystyrene Foam Operations
- 360 New Source Performance Standards
- 370 Federal Hazardous Air Pollutant Program
- 372 Maricopa County Hazardous Air Pollutants (HAPS) Program
- 510 Air Quality Standards

Pima County Codes in the SIP Supporting 110(a)(2)(A):

- 1997-1993 Rule Codification
 - Chapter II: Permits
 - Rule 201. Statutory Authority
 - Rule 202. Installation Permits
 - Rule 203. Operating Permits
 - Rule 211. Permit Application
 - Rule 212. Sampling, Testing, and Analysis Requirements
 - Rule 213. Public Notification/Public Comments
 - Rule 225. Open Burning Permit Conditions
 - Rule 242. Installation Permit Fees/Non-Fee Requirements
 - Rule 243. Open Burning Permit Fees
 - Rule 244. Operating Permit Fees burning permits
 - Chapter III: Universal Control Standards
 - Rule 312. Asphalt Kettles
 - Rule 313. Incinerators
 - Rule 314. Petroleum Liquids
 - Chapter V: Testing and Monitoring

- Rule 503. Notification; Fees
 - Rule 504. Pre-Installation Testing or Modeling Requirements
 - Rule 511. General Requirements
- Post-1993 Rule Codification
 - Chapter 12: Permits and Permit Revisions
 - 17.12.480. Open burning permits

Pinal County Codes in the SIP Supporting 110(a)(2)(A):

- Chapter 2. Ambient Air Quality Standards
 - Article 1. Air Quality Standards
 - 2-1-040. Ozone
- Chapter 3. Permits and Permit Revisions
 - Article 1. General Provisions Relating to Permits and Permit Revisions
 - 3-1-030. Definitions
 - 3-1-040. Applicability and classes of permits
 - 3-1-081. Permit conditions
 - 3-1-082. Emission standards and limitations
 - Article 3. Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources
 - 3-3-203. Definitions
 - 3-3-205. Application requirements
 - 3-3-250. Permit and permit revision requirements for sources located in attainment and unclassifiable areas
 - Article 8. Open Burning
 - 3-8-700. General provisions
 - 3-8-710. Permit provisions and administration
- Chapter 5. Stationary Source Performance Standards
 - Article 13. Surface Coating Operations
 - 5-13-100. General
 - 5-13-200. Definitions
 - 5-13-300. Standards
 - Article 18. Storage of Organic Liquids
 - 5-18-740. Storage of Volatile Organic Compounds; Organic Compound Emissions
 - Article 20. Storage and Loading of Gasoline at Gasoline Dispensing Facilities
 - 5-20-100. General
 - 5-20-200. Definitions
 - 5-20-300. Standards
 - Article 24. Miscellaneous and Unclassified Source Requirements
 - 5-24-1055. Pumps and Compressors - Organic Compound Emissions

Based on our review of the 2018 Ozone I-SIP submittal and applicable provisions in the Arizona SIP, and for the reasons provided in this section, we propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(A) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(B) – Ambient Air Quality Monitoring/Data System

CAA section 110(a)(2)(B) requires SIPs to “provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—(i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.”

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

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 [ADEQ] and county agencies [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 of the operation of each monitor meets the network design, quality assurance, and other federal requirements of 40 CFR Part 58.⁵

In addition, Arizona noted the following statutes as supporting its analysis for Element B: ARS 49-404, 49-406, 49-422, and 49-424 for ADEQ, and ARS 49-476.01 for county programs.

The EPA’s Evaluation

As stated in its 2018 Ozone I-SIP submittal, Arizona and its counties maintain an extensive monitoring network for ozone that records collected data in the EPA’s Air Quality System. Additionally, the state and relevant counties annually submit air monitoring network plans to the EPA pursuant to 40 CFR Part 58. In 2021, the EPA approved the most recent annual ambient air monitoring network plans for each of the agencies, including the following: ADEQ State of Arizona Air Monitoring Network Plan For the Year 2021,⁶ MCAQD 2020 Air Monitoring Network Review and 2021 Plan,⁷ PCAQCD 2021 Ambient Monitoring Network Plan and 2020

⁵ Id. at 5.

⁶ Letter dated October 29, 2021, from Gwen Yoshimura, Air Quality Analysis Office, U.S. EPA, to Daniel Czecholinski, Director, Air Quality Division, ADEQ.

⁷ Letter dated October 26, 2021, from Gwen Yoshimura, Air Quality Analysis Office, U.S. EPA, to Philip McNeely, Director, MCAQD.

Data Summary,⁸ and PDEQ 2020 Ambient Air Monitoring Network Plan.⁹ There are some limited exceptions explained in our approval letters to ADEQ, MCAQD, PCAQCD, and PDEQ where the EPA took no action. These exceptions, however, do not alter our conclusion that the agencies operate an appropriate monitoring network to monitor, compile, and analyze ambient air quality data for ozone.

The EPA’s 2013 I-SIP Guidance also clarifies that states’ infrastructure SIP submittals should “provide assurance that the state will meet changes in monitoring requirements related to the new or revised NAAQS.”¹⁰ States may submit statutory or regulatory provisions that provide the air agency or official with the authority and responsibility to conduct activities that satisfy the requirements of Element B along with a narrative explanation of how the provisions meet such requirements. In the 2018 Ozone I-SIP submittal, ADEQ cites ARS 49-404, 49-406, 49-422, 49-424, and 49-476.01 as evidence of the establishment and operation of air quality monitors in Arizona to meet CAA requirements. ARS 49-404 requires that ADEQ “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 49-424 requires that ADEQ “[m]ake continuing determinations of the quantity and nature of emissions of air contaminants.” The provisions in ARS 49-404 and 49-424, in conjunction with the annual network plans conducted by ADEQ and the county agencies, provide ADEQ and the county agencies with the authority and responsibility to operate and maintain their monitoring networks consistent with any changes in monitoring requirements related to the promulgation of the 2015 ozone NAAQS. While the 2018 Ozone I-SIP submittal does not include a narrative description of how these statutes provide ADEQ with the authority and responsibility to conduct monitoring activities pursuant to Element B, we find that these statutes provide Arizona with the authority and responsibility to conduct ambient air quality monitoring and data collection activities as required by Element B.

Based on our review of the 2018 Ozone I-SIP submittal and for the reasons provided in this section, we propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(B) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(C) – Program for Enforcement of Control Measures and Regulation of New and Modified Stationary Sources

The requirements of CAA section 110(a)(2)(C) consist of three subelements: enforcement of measures required by CAA section 110(a)(2)(A); state-wide regulation of new and modified minor sources and minor modifications of major sources; and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C.

⁸ Letter dated October 27, 2021, from Gwen Yoshimura, Air Quality Analysis Office, U.S. EPA, to Michael Sundblom, Director, PCAQCD.

⁹ Letter dated October 29, 2021 from Gwen Yoshimura, Air Quality Analysis Office, U.S. EPA, to Ursula Nelson, Director, PDEQ.

¹⁰ 2013 I-SIP Guidance, 23.

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

Subelement C(i), Enforcement of measures required by section 110(a)(2)(A)

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.¹¹

Subelement C(ii), Regulation of minor sources and minor modifications

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. 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.¹²

Subelement C(iii), Preconstruction PSD permitting of major sources:

...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.¹³

¹¹ 2018 Ozone I-SIP submittal, 6-7.

¹² Id. at 8-9.

¹³ Id. at 8.

Arizona SIP approved statutes

In support of this element, the state of Arizona pointed to the following SIP approved statutes: ARS 49-103, 49-106, 49-107, 49-402, 49-404, 49-406, 49-422, 49-424, 49-425, 49-433, 49-435, 49-441, 49-460, 49-461, 49-462, and 49-463 for ADEQ, as well as ARS 49-473, 49-488, 49-490, 49-495, 49-502, 49-510, 49-511, 49-512, and 49-513 for county programs. The following county regulations also support Arizona's 2018 Ozone I-SIP submittal with respect to the 2015 ozone NAAQS: Maricopa County Rules 100, 200, 210, 220, 240, and 241; Pima County Code (1979-1993 codification) rules 171, 202, 231, and 341; and Pinal County Codes 3-1-040, 3-1-050, 3-1-060, and 3-1-070.

The EPA's Evaluation

The authorities cited in Arizona's 2018 Ozone I-SIP submittal apply to all NAAQS (i.e., they are not limited to the NAAQS addressed by a given infrastructure SIP submittal), and they grant ADEQ and the county permitting agencies broad authority to enforce the state's clean air regulations, including those discussed in our evaluation of CAA section 110(a)(2)(A). In addition to reviewing the statutory authorities, we reviewed the Arizona SIP for the SIP approved regulations that implement such enforcement authorities, consistent with the EPA's 2013 I-SIP Guidance.¹⁴ The examples of specific SIP approved enforcement provisions discussed in this TSD are not comprehensive, though they are adequately representative.

Subelement C(i), Enforcement of measures required by section 110(a)(2)(A)

As stated in the 2018 Ozone I-SIP submittal, ADEQ and Arizona counties implement control and enforcement programs for permitted air pollution sources as well as sources not regulated through permitting programs. ARS 49-106 provides that rules adopted by ADEQ are applicable statewide and provides ADEQ with the authority to implement control and enforcement programs. ARS 49-107 allows for the delegation of ADEQ enforcement authority to local (i.e., county) environmental agencies. ARS 49-406 contains provisions that specify the agency responsible for developing and implementing measures associated with ozone nonattainment areas. If responsible agencies fail to implement measures committed in a SIP, the county or ADEQ Director is authorized to seek relief provided by law to ensure implementation of emission limitations and control measures. ARS title 49, chapter 3, articles 1, 2, and 3 provide authority to ADEQ and county agencies to implement stationary source permitting programs and to enforce measures applicable to permitted sources. These provisions provide ADEQ and Arizona county agencies with the authority to enforce emission limits and control measures in the Arizona SIP. We find that Arizona and the relevant counties have authority and programs sufficient to provide for enforcement of the measures described in CAA section 110(a)(2)(A). Thus, we propose to approve the Arizona SIP as meeting the requirements of Subelement C(i) for the 2015 ozone NAAQS.

¹⁴ 2013 I-SIP Guidance, 24.

Subelement C(ii), Regulation of minor sources and minor modifications

ADEQ, MCAQD, PCAQCD, and PDEQ are the four agencies with permitting authority in the state of Arizona. Each of the four permitting agencies implement their own minor new source review (NSR) programs. Authority to establish and implement permitting programs for sources of air contaminants is provided to ADEQ and county agencies in ARS title 49, chapter 3, articles 1, 2, and 3.

Recently, the EPA approved updates to the minor NSR programs for ADEQ and MCAQD. On June 16, 2021, the EPA took final action to approve ADEQ's updated minor NSR program.¹⁵ ADEQ's minor NSR program requirements are contained in the following SIP approved rules: AAC Title 18, Chapter 2, Article 3, including rules R18-2-302, R18-2-302.01, and R18-2-334. In addition to the May 2016 minor source NSR revisions cited by ADEQ in the 2018 Ozone I-SIP submittal, ADEQ submitted further revisions to MCAQD's minor source NSR programs on December 20, 2019. On February 15, 2022, the EPA approved MCAQD's updated minor NSR program.¹⁶ MCAQD's minor NSR program requirements are contained in the following SIP approved rules: Maricopa County Air Pollution Control Regulations I and II, including Maricopa County Rules 100, 200, and 241.

PDEQ and PCAQCD also implement and enforce SIP approved minor NSR programs. PDEQ's SIP approved minor NSR rules are contained in Pima County Code (1979-1993 codification) rules 171, 202, 231, and 341.¹⁷ PCAQCD's SIP approved minor NSR rules are contained in Pinal County Codes 3-1-040, 3-1-050, 3-1-060, and 3-1-070.¹⁸

The SIP approved minor source preconstruction permitting programs implemented by ADEQ and the Arizona county agencies provide for the regulation of minor sources and minor modifications of sources of ozone precursor emissions. We therefore propose to approve the Arizona SIP as satisfying the requirements of Subelement C(ii) for the 2015 ozone NAAQS.

Subelement C(iii), Preconstruction PSD permitting of major sources

The EPA's 2013 I-SIP Guidance recommends that infrastructure SIP submittals demonstrate authority to implement comprehensive PSD permitting programs for all PSD-subject sources in areas classified as attainment or unclassifiable and identify existing SIP provisions that govern the relevant PSD permitting programs.¹⁹ The 2018 Ozone I-SIP submittal references the state and county PSD programs in effect in Arizona at the time the SIP was submitted.²⁰ All new major sources and major modifications to existing major sources in Arizona are subject to major NSR under AAC title 18, chapter 2, articles 2 and 4, or relevant county rules. New major sources and major modifications to existing major sources in areas designated as attainment or unclassifiable in Arizona are subject to PSD preconstruction review.

¹⁵ 86 FR 31927.

¹⁶ 87 FR 8418.

¹⁷ 47 FR 16328 (April 16, 1982), 53 FR 30220 (August 10, 1988).

¹⁸ 65 FR 79742 (December 20, 2000).

¹⁹ 2013 I-SIP Guidance, 25.

²⁰ 2018 Ozone I-SIP submittal, 8.

As codified at 40 CFR 52.144, ADEQ and MCAQD have an approved PSD program, except with respect to emissions of greenhouse gases (GHG). Most recently, on May 4, 2018,²¹ and February 15, 2022,²² the EPA approved updates to the PSD programs for ADEQ and MCAQD, respectively, to correct outstanding deficiencies in each program. ADEQ and MCAQD are currently subject to a FIP under the PSD program for GHGs because neither agency has adopted a PSD program for the regulation of GHG. Regulation of GHG emissions is currently prohibited under Arizona state law.²³ ADEQ and MCAQD hold delegated authority to implement the federal PSD program for GHG emissions under 40 CFR 52.21.

PDEQ implements the federal PSD program in 40 CFR 52.21 by delegation agreement with the EPA for all regulated pollutants.²⁴ PDEQ remains subject to a FIP for implementation of PSD with respect to emissions of all regulated pollutants.

ADEQ retains original jurisdiction for permitting of major sources in Pinal County.²⁵ By delegation agreement between ADEQ and PCAQCD,²⁶ PCAQCD implements and enforces state-level major NSR rules and is required to implement and enforce its own county-level rules to the extent that they are more stringent than state-level rules, except with respect to GHG. ADEQ is subject to a FIP for implementation of the PSD program in Pinal County for GHG.

We find that Arizona's SIP meets the requirements of Subelement C(iii) with respect to the jurisdictions and pollutants for which Arizona has demonstrated that the appropriate agency has authority to implement PSD permitting programs and has an approved PSD permitting program in place. We therefore propose to approve the Arizona SIP as meeting the requirements of Subelement C(iii) for the 2015 ozone NAAQS with respect to PSD permitting under the jurisdiction of ADEQ (including in Pinal County) and MCAQD for all required pollutants except GHG.

We find that Arizona's SIP does not meet the requirements of Subelement C(iii) with respect to the jurisdictions and pollutants for which Arizona has not demonstrated that the appropriate agency has authority to implement PSD permitting programs. We therefore propose to disapprove the Arizona SIP for the requirements of Subelement C(iii) for the 2015 ozone NAAQS with respect to PSD permitting of GHG major sources in all jurisdictions in Arizona and with respect to PSD permitting of major sources of all required pollutants in Pima County. ADEQ, MCAQD, and PDEQ are already subject to FIPs satisfying the components of Subelement C(iii) that we propose to disapprove in this action. If finalized, our proposed partial

²¹ 83 FR 19631.

²² 87 FR 8418.

²³ See ARS 49-191.

²⁴ Agreement for Delegation of Source Review under the Federal Prevention of Significant Deterioration (PSD) Program Set Forth in 40 CFR 52.21 by the U.S. EPA, Region IX to the Pima County Air Quality Control District [PDEQ], signed June 5, 2018, by Elizabeth Adams, Acting Director, Air Division, EPA Region IX.

²⁵ See 80 FR 67319 (November 2, 2015) and 40 CFR 52.120(e), Table 1 under "State Implementation Plan Revision: New Source Review – Supplement."

²⁶ Delegation Agreement Between Arizona Department of Environmental Quality and Pinal County #EV12-0061, signed December 12, 2012, by Fritz Behring, Pinal County Manager, and January 28, 2013, by Henry Darwin, Director, ADEQ.

disapprovals with respect to Subelement C(iii) would generate no new requirements for Arizona or the relevant counties.

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

CAA section 110(a)(2)(D) requires that each SIP

contain adequate provisions—

(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

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

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

(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).

The requirements of Section 110(a)(2)(D) are divided into two subelements in Sections 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) is further divided into two subsections: (D)(i)(I) and (D)(i)(II). Sometimes referred to as the “good neighbor” provision, Section 110(a)(2)(D)(i)(I) is further divided into prong 1 (pertaining to significant contribution to nonattainment) and prong 2 (pertaining to interference with maintenance). We proposed to approve Arizona’s 2018 Ozone I-SIP submittal with respect to prongs 1 and 2 in a separate rulemaking²⁷ and are therefore not evaluating or taking action on prongs 1 and 2 in this proposed rulemaking.

Subelement (D)(i)(II) contains prong 3 of Subelement D(i) (pertaining to interference with PSD in any other state) and prong 4 of Subelement D(i) (pertaining to interference with visibility protection in any other state). This section includes the EPA’s evaluation of Arizona’s 2018 Ozone I-SIP submittal with respect to prong 3; the EPA is not evaluating or taking action on prong 4 in this proposed rulemaking.

Lastly, Subelement D(ii) contains requirements that states comply with CAA sections 126(a), 126(b), 126(c), and 115, which pertain to interstate pollution abatement and international air pollution.

Arizona’s submittal and the EPA’s evaluation of Subelements D(i)(II) (prong 3 only) and D(ii) are discussed in this section.

²⁷ 87 FR 37776 (June 24, 2022).

Related EPA Regulations

CAA title I, part C contains the requirements for major source preconstruction permitting programs for prevention of significant deterioration.

40 CFR sections 51.308 and 51.309 contain the requirements for regional haze programs for the protection of visibility in class I areas.

CAA section 126 requires major new sources and major modifications at existing major sources to notify neighboring states if emissions from the new source or modification may affect air pollution in the neighboring state. Section 126 also authorizes states to petition the EPA to make a finding that an upwind state violated the good neighbor provision in section 110(a)(2)(D)(i).

CAA section 115 authorizes the EPA to require a state to revise its SIP under certain conditions to alleviate international transport into another country.

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

Subelement D(i)(II), prong 3

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. ADEQ is currently administering the NSR requirements for GHGs under a delegation agreement with EPA...²⁸

Subelement D(ii), CAA section 126

With respect to 126(a), and the requirements for interstate pollution abatement, Arizona's SIP approved PSD rule A.A.C. R18-2-402(I)(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". In addition, Pinal County's SIP-approved PSD rules at 3-3-210 requires written notice to EPA, to

²⁸ 2018 Ozone I-SIP submittal, 14.

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 § 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.²⁹

Subelement D(ii), 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.” 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.³⁰

The EPA’s Evaluation

Subelement D(i)(II), prong 3

Prong 3 of Subelement D(i)(II) requires that a state’s SIP include provisions prohibiting emissions that would interfere with measures required to be included in any other state’s SIP under CAA part C to prevent significant deterioration of air quality. Per the EPA’s 2013 I-SIP Guidance, states can meet the requirements of prong 3 by confirming in the applicable infrastructure SIP submittal that new major sources and major modifications are subject to a PSD permitting program that applies to all regulated NSR pollutants and is approved by the EPA into the state’s SIP.³¹

In the 2018 Ozone I-SIP submittal, 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.” ADEQ explains that it has an approved PSD program for areas under its jurisdiction except for GHG, for which ADEQ administers the federal PSD

²⁹ Id. at 17.

³⁰ Id.

³¹ 2013 I-SIP Guidance, 31.

program in 40 CFR 52.21 under a delegation agreement with the EPA. The status of each Arizona county agency's PSD program is discussed in detail in the *CAA Section 110(a)(2)(C)* section of this document. ADEQ and MCAQD implement SIP approved PSD programs for all regulated NSR pollutants except for GHG. ADEQ and MCAQD are subject to FIPs for PSD permitting for GHG in the areas where they have permitting jurisdiction (including Pinal County for ADEQ). PDEQ implements the federal PSD program for all regulated pollutants under a delegation agreement with the EPA and is subject to a FIP for PSD permitting for all regulated NSR pollutants.

Arizona's SIP is approvable under Prong 3 for the CAA permitting authorities and pollutants for which a PSD program has been approved by the EPA into the SIP. We therefore propose to approve the Arizona SIP as meeting the requirements of Prong 3 for the 2015 ozone NAAQS for PSD permitting of major sources in the jurisdiction of ADEQ (including in Pinal County) and MCAQD for all required pollutants except GHG.

Arizona's SIP is not approvable under Prong 3 for the CAA permitting authorities and pollutants for which a PSD program has not been approved by the EPA into the SIP. As described previously in this section, PSD FIPs apply in Arizona statewide with respect to GHG and in Pima County with respect to all PSD pollutants. We therefore propose to disapprove the Arizona SIP under Prong 3 for the 2015 ozone NAAQS with respect to PSD permitting of GHG major sources in all jurisdictions in Arizona and with respect to PSD permitting of major sources of all required pollutants in Pima County. ADEQ, MCAQD, and PDEQ are already subject to FIPs that satisfy the PSD permitting program requirements for all regulated NSR pollutants not covered by SIP approved PSD permitting programs. If finalized, our proposed partial disapprovals with respect to Prong 3 would generate no new requirements for Arizona or the relevant counties.

Subelement D(ii), CAA section 126

With respect to the requirement in CAA section 110(a)(2)(D)(ii) regarding compliance with the applicable requirements of section 126 relating to interstate pollution abatement, we note that the requirements of CAA section 126(b) and (c), which pertain to petitions by affected states to the EPA regarding sources violating the interstate transport provisions of CAA section 110(a)(2)(D)(i), do not apply to this action because the EPA has not made a finding under CAA section 126(b) in response to a petition from another state that emissions from Arizona emit prohibited amounts of ozone precursors in violation of CAA section 110(a)(2)(D)(i). We therefore evaluate the 2018 Ozone I-SIP submittal only with respect to CAA section 126(a).

Under section 126(a), SIPs must require a new or modified major source to notify neighboring air agencies of potential impacts from the source. The notification requirements in section 126(a) apply to new or modified sources subject to PSD and major new or modified sources "which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification)." 40 CFR 51.166(q)(2)(iv), which applies to PSD permitting programs, requires the permitting authority to notify air agencies whose lands may be affected by emissions from proposed major new sources and modifications. As described in the EPA's 2013

I-SIP Guidance, the EPA considers notification by the permitting authority sufficient to satisfy the requirement of CAA section 126(a)(1)(A).³²

In its 2018 Ozone I-SIP submittal, ADEQ points to the PSD provisions in AAC R18-2-402(I)(3), which require the permitting agency to send a copy of the required public notice to the 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." This rule is consistent with the requirement under 40 CFR 51.166(q)(2)(iv). PCAQCD implements ADEQ's PSD permitting program and, in turn, implements AAC R18-2-402(I)(3). The MCAQD PSD program revisions approved by the EPA on February 15, 2022, include Maricopa County Rule 240-303.2(d)(4), which requires the MCAQD control officer to notify any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from a proposed major source or modification.³³ PDEQ implements the federal PSD program in 40 CFR 52.21 by delegation agreement with the EPA.

Arizona's SIP is approvable for the section 126(a)(1) component of Subelement D(ii) only for the CAA permitting authorities and pollutants for which a PSD program (specifically, the major source notification provisions as required by 40 CFR 51.166(q)(2)(iv)) has been approved by the EPA into the SIP.³⁴ We therefore propose to approve the Arizona SIP as meeting the section 126(a)(1) component of Subelement D(ii) for the 2015 ozone NAAQS with respect to notification of new major sources in the jurisdiction of ADEQ (including in Pinal County) and MCAQD for all required pollutants except GHG.

Because ADEQ and MCAQD are subject to FIPs for PSD permitting for GHG, and PDEQ is subject to a FIP for PSD permitting for all regulated NSR pollutants, we propose to disapprove the Arizona SIP for the section 126(a)(1) component of Subelement D(ii) for the 2015 ozone NAAQS with respect to notification of new GHG major sources in all jurisdictions in Arizona and with respect to notification of new major sources of all required pollutants in Pima County. ADEQ, MCAQD, and PDEQ are already subject to FIPs that satisfy the PSD permitting program requirements for all regulated NSR pollutants not covered by SIP approved PSD permitting programs. If finalized, our proposed partial disapprovals with respect to the section 126(a)(1) component of Subelement D(ii) would generate no new requirements for Arizona or the relevant counties.

Subelement D(ii), CAA section 115

CAA section 115 authorizes the Administrator to require a state to revise its SIP in the case of a belief or allegation that any air pollutant emitted in the United States causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country. The EPA has not issued a notification to the governor of Arizona or made any finding against Arizona under section 115 regarding international transport of ozone. Because there are no such pending actions against Arizona under CAA section 115, the EPA concludes that

³² Id. at 36-37.

³³ 87 FR 8418.

³⁴ The 2013 I-SIP Guidance states that the EPA may find an infrastructure SIP submittal to be incomplete with respect to Subelement D(ii) where some or all pollutants in a state are subject to a PSD FIP. See 2013 I-SIP Guidance, 36-37.

Arizona’s SIP is sufficient to satisfy the requirement in CAA section 110(a)(2)(D)(ii) regarding compliance with the applicable requirements of section 115. We are therefore proposing to approve the 2018 Ozone I-SIP submittal for the CAA section 115 related requirements of CAA section 110(a)(2)(D)(ii) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(E) – Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies

CAA section 110(a)(2)(E) requires SIPs to “provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.”

CAA section 128 requires SIPs to contain requirements that (1) any board or body which approves permits or enforcement orders under the CAA shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

Related EPA Regulations

Subpart L (“Legal Authority”) of 40 CFR Part 51 specifies SIP requirements related to CAA sections 110(a)(2)(E)(i) and (iii). Subpart L includes the following three rules: 40 CFR 51.230 (“Requirements for all plans”), 51.231 (“Identification of legal authority”), and 51.232 (“Assignment of legal authority to local agencies”).

Section 51.280 (“Resources”) of Subpart O (“Miscellaneous Plan Content Requirements”) also relates to CAA section 110(a)(2)(E)(i), and it specifies that, with respect to resources, a SIP 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 five-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.

Section 51.240 (“General Plan Requirements”) states that “[e]ach State implementation plan must identify organizations by official title that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations. The plan shall include any related agreements or memoranda of understanding among the organizations.”

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

Subelement E(i), Personnel, funding, and legal authority

ADEQ is the primary agency responsible for developing, implementing and enforcing the Arizona SIP. ADEQ cites the following rules in the Arizona SIP that cover personnel, funding, and legal authority to support SIP requirements:

- ARS 49-103(A): “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.”
- ARS 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.”
- ARS 49-455, Permit Administration Fund
- ARS 49-544, Emissions Inspection Fund
- ARS 49-551, Air Quality Fund
- ARS 49-107, Local Delegation of State Authority (for Maricopa, Pima, and Pinal Counties)
- ARS 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.” The 2018 Ozone I-SIP submittal states that these delegation and funding mechanisms help ensure that Maricopa, Pima, and Pinal Counties have adequate personnel and funding to implement the delegated portions of the Arizona SIP.
- 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 costs 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. . .”

ADEQ also receives funds for air programs from CAA section 105 (“Grants for support of air pollution planning and control programs”), under which the 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 NAAQS.

According to Arizona, “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.”³⁵

Subelement E(ii), State boards and conflicts of interest

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

Subelement E(iii), Necessary assurances

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.³⁷

In the 2018 Ozone I-SIP submittal, ADEQ referenced the following statutes with respect to CAA section 110(a)(2)(E)(iii): ARS 49-107, 49-402, 49-404, and 49-406.

The EPA’s Evaluation

Subelement E(i), Legal authority

Several statutes in ARS title 49 establish ADEQ’s and the three counties’ authorities to provide for enforcement of air pollution control measures. For example, ARS 49-402 (“State and county control”) contains general provisions regarding the respective jurisdictions of ADEQ and the

³⁵ Ozone I-SIP submittal, 18-20.

³⁶ Id. at 20-21.

³⁷ Id. at 21.

counties to issue and enforce permits, among other authorities. ARS 49-404 (“State implementation plan”) requires the director of ADEQ to maintain a SIP 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 49-406 (“Nonattainment area plan”) establishes a process for the designation of responsibilities among State, regional, and local agencies to develop, implement, and enforce SIPs for certain nonattainment or maintenance areas (ARS 49-406(A) through (D)), and requires each agency that commits to implement a SIP provision to describe its commitment in a resolution, which must specify, among other things, the agency’s legal authority for implementing the limitation or measure and “a program for the enforcement of the limitation or measure” (ARS 49-406(G)). The EPA approved ARS 49-402, 49-404, and 49-406 into the Arizona SIP on June 8, 2000.³⁸ ARS 49-479 authorizes the board of supervisors for each county to adopt rules as it determines are necessary to control air pollution, which rules shall contain standards at “least equal to or more restrictive than those adopted by the director.” The EPA approved ARS 49-479 into the Arizona SIP on November 5, 2012.³⁹

Although not directly mentioned in the 2018 Ozone I-SIP submittal for this subelement, additional SIP approved rules further demonstrate Arizona’s compliance with this subelement. ARS 49-422⁴⁰ (“Powers and Duties”) authorizes ADEQ to require sources of air contaminants to “monitor, sample or perform other studies to quantify emissions of air contaminants or levels of air pollution that may reasonably be attributable to that source” for purposes of determining whether the source is in violation of a control requirement or permit condition, among other things. ARS 49-476.01⁴¹ contains similar authorities for Pima, Maricopa, and Pinal counties. The EPA approved these provisions into the Arizona SIP on November 5, 2012.⁴²

Finally, although not discussed in the 2018 Ozone I-SIP submittal, ARS 49-460 through 49-463 broadly authorize ADEQ to request compliance-related information from sources, to issue orders of abatement upon reasonable cause to believe a source has violated or is violating an air pollution control requirement, to establish injunctive relief, to establish civil penalties of up to \$10,000 per day per violation, and to conduct criminal enforcement, as appropriate through the Attorney General. ARS 49-510 through 49-513 contain similar authorities for Pima, Maricopa, and Pinal counties. The EPA approved these provisions into the Arizona SIP on its November 5,

³⁸ 65 FR 36353, 36358.

³⁹ 77 FR 66398, 66404.

⁴⁰ We note that both ARS 49-422 and ARS 49-476.01 contain, in subsection C of each respective rule, certain restrictions on State/county authorities to require emissions-related data which are not permissible under the CAA. See, e.g., 40 CFR 51.212(c) (“the plan must not preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements. . .”). The restrictions in these provisions, however, apply only with respect to “those sources of air contaminants for which rules are not required to be adopted pursuant to subsection B,” i.e., sources for which rules are not required under ARS 49-424 or 49-425(A) to protect the public health and to control air pollution within the State. We interpret this limiting language to mean that the restrictions on ADEQ’s and the counties’ authorities in subsection C of ARS 49-422 and ARS 49-476.01 apply only with respect to stationary sources that are not subject to any requirement in the applicable SIP (but that the State/counties choose to regulate for other purposes). For all sources subject to SIP requirements, ADEQ’s and the counties’ authorities to require monitoring, sampling, or other quantification of emissions may not be limited by the criteria established in subsection C of ARS 49-422 and subsection C of ARS 49-476.01.

⁴¹ Id.

⁴² 77 FR 66398, 66404.

2012 action.⁴³ We note that approval of these State and local enforcement authorities into the Arizona SIP would have no effect on the EPA's independent authorities under sections 113 and 114 of the CAA.

The 2018 Ozone I-SIP submittal describes ADEQ's authority to implement, enforce, and revise the SIP. The submittal cites State laws providing the ADEQ with such authority and identifies the provisions that provide for the delegation of powers and duties to local and county agencies. We find that the Arizona SIP includes the necessary legal authority for ADEQ and county agencies to adopt emission standards and limitations, operate preconstruction permitting programs, and enforce SIP measures, consistent with 40 CFR 51.230. We also find that the Arizona SIP appropriately identifies legal authority to carry out the SIP as required by 40 CFR 51.231 and provides for the delegation of responsibility to local agencies as required by 40 CFR 51.232. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(E)(i) related to legal authority for the 2015 ozone NAAQS.

Subelement E(i), Personnel and funding

For ADEQ:

In its 2018 Ozone I-SIP submittal, ADEQ provided a narrative outlining the resources available to the state and counties to carry out the SIP. The EPA is not taking action to approve all of these provisions into the SIP but is merely referencing them here to show that Arizona and the relevant counties have adequate resources to implement the SIP.⁴⁴

As discussed in its 2018 Ozone I-SIP submittal, ADEQ is the primary organization responsible for developing, implementing, and enforcing the SIP in Arizona. 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 ARS 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 ARS title 49, relating to the environment.

In its 2018 Ozone I-SIP submittal, ADEQ discusses the various sources of funding available to carry out the SIP, including (1) fees collected from regulated emission sources, (2) monies collected under the emissions inspection fund, vehicle emission inspections, fleet emissions inspection station certifications, private grants or donations, and federal grants, (3) the Air Quality Fund under ARS 49-551, which is appropriated to air quality research and attainment measures in the Phoenix and Tucson areas, and (4) grants for support of air pollution planning and control programs under CAA section 105.

⁴³ Id.

⁴⁴ Specifically, Arizona has not submitted for approval, and the EPA is not proposing action, on ARS 49-112, 49-476, and 49-480.02.

For County Programs:

The 2018 Ozone I-SIP submittal also discusses personnel and monetary resources available to county agencies in Arizona to carry out the SIP.

The ADEQ Director is permitted to delegate functions, powers and duties to a local environmental agency, county health department, public health services district, or municipality under ARS 49-107. The scope of counties' SIP authorities is laid out in ARS 49-112. Counties may adopt their own rules as long as the adopted rules are as stringent as state rules, and they may issue permits as long as the fee or cost of obtaining permits is equal to or less than the fee or cost of obtaining similar permits or approvals under ARS title 49.

Under ARS 49-406(A), the governor certifies the metropolitan planning organization ("MPO") designated to conduct planning for each ozone, carbon monoxide, and particulate nonattainment or maintenance area. The MPOs certified to perform transportation planning for these pollutants in Arizona are in Maricopa and Pima Counties. ADEQ is responsible for sulfur dioxide and lead plans throughout the state, including in Maricopa and Pima Counties. The powers and limits of the control officers of each county agency are described in ARS 49-402(B).

Under ARS 49-107(B), funds available to ADEQ for distribution to local agencies may be allocated or reallocated to assure that local activities and delegated functions, powers and duties are accomplished according to applicable standards of performance. This funding mechanism ensures that each county has adequate personnel and funding to carry out the SIP. 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. MPOs receive funding as directed in ARS 49-406(A). Under ARS 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."

The 2018 Ozone I-SIP submittal describes numerous sources of funding that provide for ongoing implementation of the Arizona SIP. Arizona projects that funding and personnel levels will remain stable for the five years following submittal of the 2018 Ozone I-SIP submittal and that the funding mechanisms described in the submittal will be sufficient to meet the resource needs required to carry out the SIP in this period, suggesting that the funding mechanisms described in the submittal have provided sufficient resources for ADEQ, MCAQCD, and PDEQ to carry out the SIP for over 40 years. We do not expect that the 2015 ozone NAAQS will increase the resources required to carry out the SIP beyond those available via the funding mechanisms described in the 2018 Ozone I-SIP submittal. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(E)(i) related to personnel and funding for the 2015 ozone NAAQS.

Subelement E(ii), State boards and conflicts of interest

CAA section 110(a)(2)(E)(ii) refers to the requirements of CAA section 128 that address potential conflicts of interest concerning final decisions by boards or the heads of executive

agencies on permits and enforcement orders issued under air pollution control programs developed to meet CAA requirements. The 2018 Ozone I-SIP submittal cites the following State and county rules to provide assurance that boards responsible for approving permits or enforcement orders represent the public interest and that conflicts of interest by board members or executive agency heads are adequately disclosed: ARS Title 38, Chapter 3, Article 8; MCAQD Rule 100, Section 108; Pinal County Code 1-3-140; and Pima County Code 17.04.190.⁴⁵

Arizona's 2009 and 2012 infrastructure SIP submittals for the 1997 ozone, 1997 PM_{2.5}, and 2006 PM_{2.5} NAAQS provided analyses of the Subelement E(ii) requirements and cited numerous state statutes regarding how the state addresses conflicts of interest, consistent with the requirements of CAA section 128. As part of our rulemaking on the state's infrastructure SIP submittals for the 1997 ozone, 1997 PM_{2.5}, and 2006 PM_{2.5} NAAQS, we included our evaluation of the state's provisions for conflicts of interest and concluded that they mostly meet the requirements of CAA sections 110(a)(2)(E)(ii) and 128 for all four jurisdictions in the state (i.e., the state level, Pima County, Pinal County, and Maricopa County).⁴⁶ That evaluation is equally applicable to the conflict of interest requirements for the 2015 ozone infrastructure SIP because the Subelement E(ii) requirements for each infrastructure SIP are the same. Additionally, Arizona referenced the same rules in the 2018 Ozone I-SIP submittal for Subelement E(ii) as in the 2009 and 2012 infrastructure SIP submittals, with the addition of three new rules to address deficiencies identified by the EPA.

Our rulemaking on Arizona's infrastructure SIP submittals for the 1997 ozone, 1997 PM_{2.5}, and 2006 PM_{2.5} NAAQS outlined minor deficiencies with the Maricopa, Pima, and Pinal County programs concerning the section 128(a)(1) requirements for any board or body which approves enforcement orders. Specifically, the EPA noted that ARS 49-478, in conjunction with the definitions of "substantial interest" and "remote interest" in ARS 38-502, satisfies the "public interest" and "significant income" requirements of CAA section 128(a)(1) for Maricopa, Pima, and Pinal Counties, but only with respect to interests in persons subject to permits.⁴⁷ The EPA identified that Pima County Code 17.040.190 properly extends the "substantial interest" requirement of ARS 38-502 to interests in emission sources subject to enforcement orders. However, at the time of the 2012 action, Pima County Code 17.040.190 had not been submitted for incorporation into the Arizona SIP. The EPA could not identify comparable local provisions in Maricopa and Pinal counties to address the CAA section 128(a)(1) board membership requirements with respect to interests in persons subject to enforcement orders. Since then, the EPA has approved into the Arizona SIP Pima County Code 17.04.190,⁴⁸ Maricopa County Rule 100,⁴⁹ and Pinal County Code 1-3-140,⁵⁰ which rectify the deficiencies.

⁴⁵ 2018 Ozone I-SIP submittal, 20-21.

⁴⁶ For a complete discussion of the EPA's evaluation of Arizona's 1997 ozone, 1997 PM_{2.5}, and 2006 PM_{2.5} infrastructure SIP submittals against provisions for state boards and conflict of interest, see 77 FR 44555 (July 30, 2012) and the associated supporting document, "Technical Support Document: EPA Evaluation of Arizona Provisions for Section 110(a)(2)(E)(ii)/Section 128 Conflict of Interest Requirements," Air Division, EPA Region IX (July 2, 2012).

⁴⁷ *Id.*

⁴⁸ 80 FR 47859 (August 10, 2015).

⁴⁹ 87 FR 8418.

⁵⁰ 80 FR 47859.

The EPA approved Maricopa County Rule 108, Pima County Code 17.04.190, and Pinal County Code 1-3-140 into the Arizona SIP as part of its action on ADEQ infrastructure SIP submittals for the 2008 lead and 2008 ozone NAAQS.⁵¹ The EPA’s approval of these rules into the Arizona SIP remedied all remaining deficiencies noted by the EPA in its 2012 action concerning the section 128(a)(1) requirements for any board or body which approves enforcement orders, satisfying the requirements for section 128(a)(1) and 128(a)(2) as required by CAA section 110(a)(2)(E)(ii) for all jurisdictions in Arizona, including ADEQ, Maricopa County, Pima County and Pinal County. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(E)(ii) for the 2015 ozone NAAQS.

Subelement E(iii), Necessary assurances

CAA section 110(a)(2)(E)(iii) requires states to provide “necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.”

Under ARS 49-402, ADEQ has original jurisdiction over all major sources for NSR and PSD under the CAA as well as mobile sources. A county or multi-county air quality control region, however, can assert jurisdiction over the aforementioned sources with ADEQ approval. Pursuant to ARS 49-402(B), any delegation of jurisdiction can be revoked by the ADEQ director upon notification and after providing an opportunity to confer with the affected county or multi-county air quality control region.

Per ARS 49-406(A), in Arizona, counties with a certified MPO carry out and implement the SIP in nonattainment and maintenance areas. Per ARS 49-406(B), for any ozone, carbon monoxide or particulate matter nonattainment or maintenance area for which no MPO exists, ADEQ has primary responsibility for the development of a nonattainment or maintenance area plan for that area. In Arizona, Maricopa County and portions of Gila and Pinal Counties are designated nonattainment for the 2015 8-hour ozone standards. The Maricopa Association of Governments (MAG) is designated as the MPO in Maricopa County and the portions of Gila and Pinal Counties designated as nonattainment for the 2015 8-hour ozone standards. Thus, MAG implements the SIP for the 2015 ozone NAAQS in this nonattainment area. Yuma County is designated as nonattainment for the 2015 8-hour ozone standards but does not have a certified MPO, so ADEQ implements the SIP for the 2015 ozone NAAQS in Yuma County.⁵²

ARS 49-406 (“Nonattainment area plan”) establishes a process for the designation of responsibilities among State, regional, and local agencies to develop, implement, and enforce SIPs for certain nonattainment or maintenance areas (ARS 49-406(A) through (D)) and requires each agency that commits to implement a SIP provision to describe its commitment in a resolution, which must specify, among other things, the agency’s legal authority for implementing the limitation or measure and “a program for the enforcement of the limitation or measure” (ARS 49-406(G)).

⁵¹ Id.

⁵² Nonattainment areas for states and counties can be found on the EPA’s website at: <https://www.epa.gov/green-book> (accessed April 11, 2022).

ARS 49-406(I) gives the control officer the authority to issue an injunction through the county attorney if it is determined that any person has failed to implement an emission limitation or other control measure adopted pursuant to subsection G. Per ARS 49-406(J), if the control officer fails to act, the director of ADEQ, through the attorney general, has similar authority to issue an injunction or file any other action for relief provided by law. The EPA approved ARS 49-402, 49-404, and 49-406 into the Arizona SIP on June 8, 2000.⁵³

In addition to these statutory references, we have previously found that Arizona law includes the necessary assurances that where a state has relied on a local or regional government, agency or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.⁵⁴

We find that these provisions in the Arizona SIP provide “necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.” We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(E)(iii) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(F) – Stationary Source Monitoring and Reporting

Under CAA section 110(a)(2)(F), SIPs must “require, as may be prescribed by the Administrator— (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection.”

Related EPA Regulations

40 CFR part 51, subpart K (“Source Surveillance”) relates to source monitoring, recordkeeping, and reporting requirements.

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

ADEQ included the following as part of its 2018 Ozone I-SIP submittal:

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

⁵³ 65 FR 36353.

⁵⁴ 60 FR 18010, 18019 (April 10, 1995); 67 FR 48717 (July 25, 2002).

*statutes and rules also meet the applicable requirements for the 2015 ozone NAAQS.*⁵⁵

The 2022 I-SIP supplement further addressed Element F requirements for the 2015 ozone NAAQS. ADEQ included the following in section 3 of the 2022 I-SIP supplement:

Arizona Revised Statutes (A.R.S.) provide the 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 CAA § 110(a)(2)(F) submittal for the 2008 ozone NAAQS and ADEQ asserts that the statutes and rules approved by EPA also meet the applicable requirements for the 2015 ozone NAAQS. . .

*ADEQ certifies the absence of any provision in the Arizona State Implementation Plan precluding the use of any credible evidence in determining whether a source would have been in compliance with applicable source testing or monitoring requirements.*⁵⁶

In the 2018 Ozone I-SIP submittal, ADEQ identified the following relevant state regulations: ARS 49-422, 49-424, 49-476.01,⁵⁷ and AAC R18-2-310.01, R18-2-313, and R18-2-327. ADEQ also cited the following county rules: Maricopa County Rule 100, Section 500 and Rule 140; Pima County Code 17.12.040 and 17.24.040; and Pinal County Code 3-1-081, 3-1-083, 3-1-103, 3-1-107 and 3-1-150. In the 2022 I-SIP supplement, ADEQ cited ARS 49-432 and Pima County Code 17.24.010 as meeting the requirement of Subelement F(iii) related to public availability of emission reports and submitted these rules for incorporation into the Arizona SIP.

The EPA's Evaluation

As detailed in CAA section 110(a)(2)(F), the requirements of Element F are categorized into three subelements. The EPA's 2013 I-SIP Guidance elaborates on the components that a SIP submittal should include in order to satisfy Element F.⁵⁸ To satisfy Subelement (i), pursuant to 40 CFR 51.212, the infrastructure SIP submittal should (1) describe the air agency's program for source testing, (2) reference the statutory authority for the air agency's program, and (3) certify the absence of any provision preventing the use of any credible evidence relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. To satisfy Subelement (ii), the infrastructure SIP submittal should include air agency requirements providing for reporting of emissions and emissions-related data by sources to the air agency. To satisfy Subelement (iii), the infrastructure SIP submittal should describe the EPA-approved air agency requirements that

⁵⁵ 2018 Ozone I-SIP submittal, 24.

⁵⁶ 2022 I-SIP supplement, 14.

⁵⁷ We note that both ARS 49-422 and ARS 49-476.01 contain, in subsection C of each respective rule, certain restrictions on State/county authorities to require emissions-related data which are not permissible under the CAA. See, e.g., 40 CFR 51.212(c). Further discussion of the scope of these restrictions on State and county authority is included in the EPA's evaluation with respect to Subelement E(i) in this document.

⁵⁸ 2013 I-SIP Guidance, 45-46.

provide for (1) correlation by the air agency of emission reports by sources with applicable emission limitations or standards and (2) public availability of emission reports by sources.

The 2018 Ozone I-SIP submittal lists statutes and rules that provide a range of authorities and requirements for the adoption and implementation of State and local programs necessary to address CAA section 110(a)(2)(F). The relevant authorities and requirements are described in detail later in this section of the TSD. Beyond the state and county rules cited by ADEQ, there are additional ADEQ, Maricopa County, Pima County, and Pinal County regulations in the SIP that further support Element F. In total, these provisions establish specific requirements related to monitoring, recordkeeping, reporting, correlation, and public access to reports.

Arizona statewide rules supporting Element F:

For ADEQ Programs:

ARS 49-422⁵⁹ gives the director the authority to require a source to monitor air contaminants and requires the director to adopt rules requiring sources of air contaminants to perform monitoring. ARS 49-476.01 authorizes the control officer to require any source of air contaminants to monitor, sample or perform other studies to quantify emissions.

ARS 49-424⁶⁰ requires ADEQ to compile and publish, from time to time, reports, data and statistics with respect to those matters studied and investigated by the department. ARS 49-424 also requires ADEQ to conduct investigations, inspections, and tests, and it requires ADEQ to compile and publish, from time to time, reports, data and statistics with respect to those matters studied and investigated by the department.

ARS 49-432 requires ADEQ to make available to the public any records, reports or information obtained from any person pursuant to ARS title 49, chapter 3. ADEQ submitted ARS 49-432 for incorporation into the Arizona SIP as part of the 2022 I-SIP supplement. In this action, we are proposing to approve ARS 49-432 for incorporation into the Arizona SIP.

AAC R18-2-310.01⁶¹ requires sources to report emissions in excess of emission limits established in 18 AAC chapter 2 or an applicable permit. The excess emissions report shall identify each emission point where the excess emissions occurred and the magnitude of the excess emissions including the operating data and calculations used in determining the magnitude of the excess emissions.

AAC R18-2-313⁶² applies to fossil fuel-fired steam generators, fluid bed catalytic cracking unit catalyst regenerators, sulfuric acid plants, and nitric acid plants. The rule requires affected sources to install, maintain and operate equipment necessary to continuously monitor emissions of pollutants specified for the applicable source category.

⁵⁹ 77 FR 66398 (November 5, 2012).

⁶⁰ 82 FR 20267 (May 1, 2017).

⁶¹ 66 FR 48087 (September 18, 2001).

⁶² 77 FR 66405 (November 5, 2012).

AAC R18-2-327⁶³ requires sources subject to permit requirements under 18 AAC chapter 2 to complete and submit an annual emissions inventory questionnaire. The questionnaire includes reporting of the actual annual quantity of emissions, including documentation of the method of measurement, calculation, or estimation for any single regulated air pollutant in a quantity greater than one ton or any combination of regulated air pollutants in a quantity greater than 2½ tons.

In its 2018 Ozone I-SIP submittal, ADEQ did not certify the absence of any provision, statewide or relating to any of the counties, precluding the use of any credible evidence or information relevant to whether a source would have been in compliance with an applicable requirement if an appropriate performance or compliance test or procedure had been performed, pursuant to 40 CFR 51.212. In the 2022 I-SIP supplement, ADEQ certified the absence of any provision in the Arizona SIP precluding the use of any credible evidence in determining whether a source would have been in compliance with applicable source testing or monitoring requirements.

For County Programs:

Statutory authority to require emissions monitoring by sources is provided to county agencies in ARS 49-476.01⁶⁴ ARS 49-476.01 authorizes the control officer to require any source of air contaminants to monitor, sample or perform other studies to quantify emissions.

Maricopa County rules supporting Element F:

Maricopa County Rule 100 was conditionally approved into the SIP on April 5, 2019,⁶⁵ and fully approved into the SIP on February 15, 2022.⁶⁶ Rule 100, Section 400 requires that records, reports, and information obtained from any person under the associated rules be made available to the public. Rule 100, Section 500 requires that the owner and/or operator of any air pollution source maintain and furnish records of all emissions testing and monitoring, and any other records relating to the emission of air contaminants requested by the Control Officer. The owner and/or operator of a source requested to submit information may subsequently be required to submit annual reports if specified by the Control Officer. The owner and/or operator of any source which emits or may emit NO_x or VOC shall provide the Control Officer with an emission statement showing measured actual emissions or estimated actual emissions of NO_x and VOC. Under Rule 100-505, the owner and/or operator of a business is required to complete and submit an annual emissions inventory report.

Maricopa County Rule 140, which was approved into the SIP on August 27, 2002,⁶⁷ requires the owner or operator of any source to report to the Director any emissions in excess of the limits established by applicable rule or in an applicable permit. The report shall identify each emission

⁶³ Id.

⁶⁴ We note that both ARS 49-422 and ARS 49-476.01 contain, in subsection C of each respective rule, certain restrictions on State/county authorities to require emissions-related data which are not permissible under the CAA. See, e.g., 40 CFR 51.212(c). Further discussion of the scope of these restrictions on State and county authority is included in the EPA's evaluation with respect to Subelement E(i) in this document.

⁶⁵ 84 FR 13543.

⁶⁶ 87 FR 8418.

⁶⁷ 67 FR 54957.

point where the excess emissions occurred and the magnitude of the excess emissions including the operating data and calculations.

Maricopa County Rule 245 applies to fossil fuel-fired generators, nitric acid plants, sulfuric acid plants, and fluid bed catalytic cracking units. Rule 245 describes the continuous source emission monitoring provisions required of affected sources.

Maricopa County Rules 310-358⁶⁸ include category-specific rules which contain requirements for monitoring and recordkeeping applicable to the relevant source categories.

Pima County rules supporting Element F:

Pima County Code 17.12.040, approved into the SIP on August 10, 2015,⁶⁹ requires permits to incorporate applicable reporting requirements, including the requirements under Pima County Codes 17.12.179 and 17.11.190. Permits must also require submittal of reports of required monitoring at least every six months. Periodic reports required by permits must clearly identify all instances of deviations from permit requirements. Under Pima County Code 17.12.040, permits must also require prompt reporting of deviations from permit requirements.

Under Pima County Code 17.20.010,⁷⁰ the control officer must require sources of air contaminants for which an ambient air quality standard, emission standard, or design, equipment, work practice or operational standard have been adopted to monitor, sample or quantify emissions. The control officer may require, by permit or order, any other source of air contaminants to monitor, sample or quantify emissions.

Under Pima County Code 17.24.010, any records, reports or information obtained from any person under Chapter 17.24 must be made available to the public. ADEQ submitted Pima County Code 17.24.010 for incorporation into the Arizona SIP as part of the 2022 I-SIP supplement. In this action, we are proposing to approve Pima County Code 17.24.010 for incorporation into the Arizona SIP.

Pima County Code 17.24.040, approved into the SIP on August 10, 2015,⁷¹ authorizes the Control Officer to require a person to produce all existing books, records, or other documents which might reasonably contain evidence needed to determine compliance or noncompliance.

Pinal County rules supporting Element F:

Pinal County Code 3-1-081 requires that each permit include emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures

⁶⁸ ADEQ did not reference Maricopa County Rules 245 or 310-358 in its 2018 Ozone I-SIP submittal. We note that Rule 245 and some of the rules contained in Rules 310-358 have not been approved by the EPA into the Arizona SIP. However, these rules further describe Maricopa County's monitoring requirements program in support of CAA section 110(a)(2)(F).

⁶⁹ 80 FR 47859.

⁷⁰ ADEQ did not reference Pima County Rule 17.20.010 in its 2018 Ozone I-SIP submittal. We note that Pima County Rule 17.20.010 has not been approved by the EPA into the Arizona SIP. However, this rule describes Pima County's monitoring requirements program in support of CAA section 110(a)(2)(F).

⁷¹ 80 FR 47859.

and methods promulgated pursuant to CAA sections 114(a)(3) or 504(b). With respect to reporting, the permit shall incorporate all applicable reporting requirements and require submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements shall be clearly identified in such reports.

Pinal County Code 3-1-083 requires that each permit contain monitoring requirements sufficient for compliance and all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to CAA sections 114(a)(3) or 504(b). With respect to reporting, Pinal County Code 3-1-083 requires that permits incorporate all applicable reporting requirements and submittal of reports of any required monitoring at least every 6 months and prompt reporting of deviations from permit requirements.

Pinal County Code 3-1-083 also requires that permits contain requirements for compliance certification with terms and conditions contained in the permit, and the compliance certifications must be submitted no less than annually. Permits must also include the means to monitor the compliance of the source with its emissions limitations, standards, and work practices and a requirement that the compliance certification include the following: (1) identification of each term or condition of the permit that is the basis of the certification; (2) compliance status; (3) whether compliance was continuous or intermittent; (3) method(s) used for determining the compliance status of the source, currently and over the reporting period; and (4) other facts as the Control Officer may require to determine the compliance status of the source. The compliance certifications are submitted to the Control Officer, and for class A permits, to the EPA as well.

Pinal County Code 3-1-103 requires that each source subject to a permit requirement or who obtains an authorization to operate shall complete and submit an annual emissions inventory questionnaire. The questionnaire shall include the actual annual quantity of emissions, including documentation of the method of measurement, calculation or estimation of any single regulated air pollutant in a quantity greater than one ton or any combination of regulated air pollutants in a quantity greater than 2.5 tons.

Pinal County Code 3-1-107 describes the public availability of permitting information. Pinal County Code 3-1-120 (“Confidentiality of records”) clarifies records available to the public.

Pinal County Code 3-1-150 describes the conditions under which the Control Officer may require a source of air contaminants to monitor, sample, or perform other studies to quantify emissions of air contaminants or levels of air pollution that may reasonably be attributable to that source. The Control Officer may require these actions as a permit condition or by order.

Pinal County Code 3-1-081, 3-1-083, 3-1-103, 3-1-120, and 3-1-150 were approved into the Arizona SIP on April 9, 1996.⁷² Pinal County Code 3-1-107 was approved into the Arizona SIP on December 20, 2000.⁷³

⁷² 61 FR 15717.

⁷³ 65 FR 79742.

Summary of the EPA’s evaluation concerning Element F:

The EPA reviewed the 2018 Ozone I-SIP submittal, the 2022 Ozone I-SIP supplement, and other supporting information in the SIP against the requirements in CAA section 110(a)(2)(F). We find that Arizona’s I-SIP submittals satisfy the requirements of Element F and are consistent with EPA guidance. Specifically, Arizona’s I-SIP submittals include the following: descriptions of State and county programs for source testing, including references to statutory authorities to carry out these programs and certifications of the absence of provisions preventing the use of credible evidence; State and county agency requirements providing for periodic emission reporting; and SIP approved State and county requirements requiring correlation of emissions reports with applicable emission standards and public availability of emission reports. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA sections 110(a)(2)(F)(i), (ii), and (iii) for the 2015 ozone NAAQS. We are also proposing to approve ARS 49-432 and Pima County Code 17.24.010 for incorporation into the Arizona SIP.

CAA Section 110(a)(2)(G) – Emergency Episodes

CAA section 110(a)(2)(G) requires SIPs to “provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.”

Related EPA Regulations

EPA’s implementing regulations for “contingency plans” (also known as emergency episode plans) are set forth at 40 CFR sections 51.150-51.153.

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

ADEQ included the following as part of its 2018 Ozone I-SIP submittal:

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. 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.

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.

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. 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.⁷⁴

In addition to the county provisions identified previously in this section, ADEQ identified the following relevant state regulations: ARS 49-462, 49-465, 49-512; AAC R18-2-215, R18-2-220; *Procedures for Prevention of Emergency Episodes* (October 18, 1988, referenced in AAC R18-2-220).

The EPA's Evaluation

The EPA's implementing regulations for "contingency plans" (also known as emergency episode plans) are set forth at 40 CFR 51.150-51.153. Section 51.150 provides criteria for the classification of areas for emergency episode planning purposes, based on previously measured concentrations of ambient air pollutants, specifically sulfur oxides, particulate matter, carbon monoxide, nitrogen dioxide, and ozone. Areas are classified as Priority I, IA, II, or III, with Priority I areas being those with the highest measured concentrations of air pollutants and Priority III regions as those with the lowest. Under the requirements in 40 CFR 51.151-51.152, Priority I, IA, and II regions are required to develop emergency episode plans, while Priority III areas are not required to develop episode plans.

The Priority I threshold for one-hour ozone under 40 CFR 51.150 is 195 micrograms per cubic meter, equivalent to 0.10 parts per million (ppm). Regions with one-hour ozone concentrations greater than 0.10 ppm are classified as Priority I regions under 40 CFR 51.150 and are therefore required to develop emergency episode plans. All other regions are classified as Priority III regions with respect to ozone episode planning. The Maricopa Intrastate air quality control

⁷⁴ 2018 Ozone I-SIP submittal, 25-26.

region (AQCR) and Pima Intrastate AQCR are currently the only two regions classified as Priority I in Arizona for ozone under 40 CFR 51.150.⁷⁵

Pursuant to 40 CFR 51.153, states should periodically reevaluate priority classifications regions within their borders. Reevaluations of emergency episode priority classifications must consider the three most recent years of air quality data. Air quality data from 2019-2021 indicate that the maximum one-hour ozone concentrations monitored in two Arizona AQCRs exceed the Priority I threshold for one-hour ozone; the maximum one-hour ozone concentrations measured in the Maricopa Intrastate and Central Arizona Intrastate AQCRs in this period are 0.14 ppm and 0.11 ppm, respectively. Additionally, the maximum one-hour ozone concentration measured in the Pima Intrastate AQCR from 2019-2021 is 0.09 ppm. Based on the monitored air quality data from 2019-2021, we are proposing to reclassify the Central Arizona Intrastate AQCR from Priority III to Priority I with respect to ozone episode planning, and we are proposing to reclassify the Pima Intrastate AQCR from Priority I to Priority III with respect to ozone episode planning. We are proposing to retain the existing ozone episode priority classifications for all other Arizona regions.

On October 15, 2012, the EPA published a final rule approving Arizona’s Element G emergency episode plan for the 1997 8-hour ozone standards.⁷⁶ Furthermore, on August 10, 2015, the EPA published a final rule approving Arizona’s Element G emergency episode plan for the 2008 8-hour ozone standards.⁷⁷ Arizona’s emergency episode plan sets forth specific procedures to be followed in the event of an air pollution emergency in the AQCRs in Arizona. These procedures comply with the requirements of Subpart H, 40 CFR 51.150-51.153 and section 303 of the CAA. Because the provisions in Arizona’s emergency episode plan apply uniformly statewide, the plan will satisfy the emergency episode requirements newly applicable to the Central Arizona AQCR if we finalize our proposal to reclassify the Central Arizona AQCR to a Priority I region for one-hour ozone. Otherwise, our analysis of the emergency episode requirements under Element G with respect to the 2015 ozone standards is identical to our analysis of these requirements with respect to the 1997 and 2008 ozone NAAQS in that a change in the NAAQS does not affect the emergency episode requirements. Consequently, we propose to approve the Arizona SIP as meeting the requirements of section 110(a)(2)(G) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(H) – SIP Revisions

CAA section 110(a)(2)(H) requires SIPs to “provide for revision of such plan—(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is

⁷⁵ For Arizona’s regional priority classifications for the one-hour ozone standard under 40 CFR 51.150, see 40 CFR 52.121. The constituent counties within each AQCR are also defined at 40 CFR 52.121. Emergency episode priority classifications for Arizona air quality control regions were last updated at 83 FR 42214 (August 21, 2018).

⁷⁶ 77 FR 62452.

⁷⁷ 80 FR 47859.

substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act.”

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

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.”⁷⁸

ADEQ also identified ARS 49-404 and 49-406 as relevant to meeting the requirements of CAA section 110(a)(2)(H).

The EPA’s Evaluation

Under ARS 49-404(A), the director of ADEQ “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.” The EPA interprets this statute as requiring the state to revise the SIP as necessary whenever a new NAAQS is promulgated and whenever the plan is substantially inadequate to attain the NAAQS or comply with any other requirements under the CAA.

In addition to ARS 49-404, ARS 49-406 requires ADEQ and the counties to revise the SIP as necessary in nonattainment and maintenance areas. Under ARS 49-406(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 . . . from time to time as necessary, jointly review and update planning procedures or develop new procedures.”⁷⁹

We find that ARS 49-404 and 49-406 require ADEQ to revise the Arizona SIP as needed to address revisions to the NAAQS, to address the availability of improved or more expeditious methods of attaining the NAAQS, and to resolve inadequacies related to attainment of the NAAQS or compliance with CAA requirements. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA Section 110(a)(2)(H) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(I) – Plan Revisions for Nonattainment Areas

CAA section 110(a)(2)(I) requires SIPs to, “in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas).”

⁷⁸ 2018 Ozone I-SIP submittal, 27.

⁷⁹ 65 FR 36353 (June 8, 2000).

While this section requires States to meet nonattainment area requirements, pursuant to CAA title I, part D, when submitting plans or plan revisions for nonattainment areas, the EPA has concluded that the submission of, and subsequent EPA action on, nonattainment SIP revisions by states is not governed by the three-year submission deadline set forth under CAA section 110(a)(1). Instead, SIP revisions for nonattainment areas are due and evaluated under the requirements for nonattainment areas described in part D.

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

*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 [sic] in "EPA's interpretation of the CAA this element does not need to be addressed in the context of an infrastructure SIP submission."*⁸⁰

The EPA's Evaluation

As noted previously in this section, the specific nonattainment area plan requirements of CAA section 110(a)(2)(I) are subject to the timing requirement of section 172, not the timing requirement of CAA section 110(a)(1). This position was reiterated in our 2013 I-SIP Guidance.⁸¹ This element is therefore not applicable to this action. Any evaluations of Arizona's SIP with respect to the requirements of CAA title I, part D will be completed with respect to the relevant nonattainment area plans.

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

CAA section 110(a)(2)(J) requires SIPs to “meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection).”

CAA section 121 requires SIPs, in carrying out the CAA provisions requiring SIPs to contain any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or any measure referred to in part D or part C of title I,⁸² to provide a process of consultation with general purpose local governments, designated organizations of elected official of local governments and any Federal land manager having authority over Federal land to which the State plan applies. Such process shall be in accordance with regulations promulgated by the EPA.

⁸⁰ 2018 Ozone I-SIP submittal, 28.

⁸¹ 2013 I-SIP Guidance, 52.

⁸² Section 121 was added by the CAA Amendments of 1977, and it also refers to section 113(d) (relating to certain enforcement orders), but section 113(d) was significantly amended by the CAA Amendments of 1990, and as so amended, no longer relates to state enforcement orders. Also, we view the requirement of section 121 to provide a satisfactory process of consultation for “any measure referred to in part D” to be outside the scope of infrastructure SIP evaluations since the part D requirements pertain to nonattainment planning requirements.

CAA section 127 requires SIPs to contain measures to effectively notify the public during any calendar year on a regular basis of instances or areas in which any NAAQS is exceeded or was exceeded during any portion of the preceding calendar year, to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measures which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warning signs on interstate highway access points to metropolitan areas or television, radio, or press notices or information.

For a discussion of the CAA title I, part C requirements, see our evaluation of section 110(a)(2)(C).

Related EPA Regulations

The EPA's regulations concerning consultation are set forth in subpart M ("Intergovernmental Consultation") of 40 CFR part 51, sections 51.240 ("General plan requirements") and 51.241 ("Nonattainment areas for carbon monoxide and ozone"). Under section 51.240, each SIP must identify organizations by official title that will participate in developing, implementing, and enforcing the SIP and the responsibilities of such organizations. The SIP shall include any related agreements or memoranda of understanding among the organizations. Under section 52.241, for each Air Quality Control Region (AQCR) or portion of an AQCR in which the NAAQS for carbon monoxide or ozone, the Governor must certify, after consultation with local officials, the organization responsible for developing the revised SIP or portions thereof for such AQCR.

The EPA's regulations concerning public notification are set forth in subpart O ("Miscellaneous Plan Content Requirements") of 40 CFR part 51, section 51.285 ("Public notification"). Section 51.285 requires SIPs to provide for "(a) Notifying the public on a regular basis of instances or areas in which any primary standard was exceeded during any portion of the preceding calendar year; (b) Advising the public of the health hazards associated with such an exceedance of a primary standard; and (c) Increasing 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."

The EPA's regulations concerning visibility requirements are set forth in subpart P ("Protection of Visibility"). The EPA's 2013 I-SIP Guidance states that, because the requirements under part C do not change when the EPA establishes or revises NAAQS, the EPA does not expect the states to meet the applicable requirements in their infrastructure SIP submittals.⁸³

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

Consultation

Arizona agencies maintain appropriate consultation procedures with local governments, CAA section 174 and metropolitan planning agencies, and federal

⁸³ 2013 I-SIP Guidance, 54-55.

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.⁸⁴

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 . . . The annual reports, daily forecasts, and other air quality information including tips for reducing pollution are available on the ADEQ Web site...

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.⁸⁵

The 2018 Ozone I-SIP submittal includes a sample air quality forecast issued by ADEQ and hyperlinks to daily air quality forecasts issued by Arizona agencies.

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 [the 2018 Ozone I-SIP submittal] relating to Arizona's PSD permitting programs. In their 2013 guidance on infrastructure SIP elements, the U.S. EPA states that

⁸⁴ 2018 Ozone I-SIP submittal, 28.

⁸⁵ Id. at 29-31.

“[g]enerally, every PSD-related requirement of Element C applies, including the requirement that the PSD permitting program address all regulated pollutants.”

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 . . .⁸⁶

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.”

Therefore, based on this guidance, ADEQ is not submitting any relevant statutes or rules to comply with CAA § 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.⁸⁷

ADEQ noted the following statutes in support of Element J: ARS 49-104, 49-402, 49-405, 49-406, 49-424, and 49-425 for ADEQ, and ARS 49-473, 49-474, and 49-479 for county programs.

The EPA’s Evaluation

Consultation

The Arizona SIP contains many authorities that address the CAA requirements of section 121. Under ARS 49-104(A)(2), the department shall “[s]timulate 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.” Under ARS 49-104(A)(4), the department shall also “provide information and advice on request of any local, state or federal agencies” on matters within the scope of the department.

Under ARS 49-104(B)(3), ADEQ, through the director, shall “utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.” Under ARS 49-104(B)(5), ADEQ shall “Contract with other agencies, including laboratories, in furthering any department program.”

For transportation plans under CAA section 121(1), ARS 49-402(F) states that “[e]ach regional planning agency shall consult with the department of transportation to coordinate the plans

⁸⁶ Id. at 32.

⁸⁷ Id. at 32.

developed pursuant to subsection E of this section with transportation plans developed by the department of transportation pursuant to any other law.”

ARS 49-406(E) requires the State, the planning agency on behalf of affected local governments, the county air pollution control department or district, 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. ARS 49-406(F) cites the minimum information that the memorandum must contain, including the responsibilities and authorities of each organization, assurances for adequate plan implementation, and procedures and responsibilities for adoption of control measures and emissions limitations.

More broadly, ARS 49-424(3) requires ADEQ to establish substantive policy statements for identifying air quality exceptional events. These substantive policy statements “shall be developed with the planning agency certified pursuant to section 49-406, subsection A and the county air pollution control department or district.” ADEQ shall also determine the standards for the quality of the ambient air and the limits of air contaminants necessary to protect the public health “and develop and transmit to the county boards of supervisors minimum state standards for air pollution control” under ARS 49-424(4). ADEQ is required to hold hearings relating to any matter within their duties and consult with “persons or affected groups or other states to achieve the purposes of this chapter, including voluntary testing of actual or suspected sources of air pollution.” Under ARS 49-424(9), ADEQ shall also “[e]ncourage political subdivisions of the state to handle air pollution problems within their respective jurisdictions, and provide as it deems necessary technical and consultative assistance therefor.”

At the county level, under ARS 49-474, the board of supervisors of each county may authorize the board of health or health department of their respective counties in cooperation with ADEQ to: “1. Study the problem of air pollution in the county; 2. Study possible effects on adjoining counties; 3. Cooperate with chambers of commerce, industry, agriculture, public officials and all other interested persons or organizations; 4. Hold public hearings if in their discretion such action is necessary; 5. The board of supervisors by resolution may establish an air pollution control district.”

To meet the Element J requirements related to consultation, the 2013 I-SIP Guidance recommends that SIP submittals describe the established process for consultation, demonstrate that the process specify the types of actions requiring consultation, and identify the organizations that will participate in developing, implementing, and enforcing SIPs.⁸⁸ The guidance also instructs that SIPs relying on a self-executing statute to meet this requirement should be approved into the SIP.⁸⁹ ARS 49-406 identifies the organizations that must participate in consultation processes for nonattainment and maintenance plan development and lists the roles and responsibilities that must be defined in the memorandum of understanding required for the coordination of plan development. ARS 49-406 was approved into the Arizona SIP on June 8, 2000.⁹⁰ The measures discussed in this section establish a comprehensive process requiring consultation and collaboration with local, state, regional, and federal governmental agencies for

⁸⁸ 2013 I-SIP Guidance, 53.

⁸⁹ *Id.*

⁹⁰ 65 FR 36353.

the development of air quality and transportation plans, consistent with the requirements of CAA section 121. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(J) related to consultation for the 2015 ozone NAAQS.

Public Notification

The 2018 Ozone I-SIP submittal demonstrates that ADEQ advises the public of primary NAAQS exceedances and the health hazards associated with such exceedances. Additionally, ADEQ commits to continue to notify the public on a regular basis of instances of areas in which any primary NAAQS is exceeded and to enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(J) related to public notification for the 2015 ozone NAAQS.

Prevention of Significant Deterioration

The 2013 I-SIP Guidance clarifies that the PSD-related requirements of Element J are the same as the requirements of Element C, and, generally, every PSD-related requirement of Element C applies.⁹¹ For the reasons provided in our evaluation of CAA section 110(a)(2)(C), we propose to partially approve and partially disapprove the Arizona SIP as meeting the PSD-related requirements of CAA section 110(a)(2)(J) for the 2015 ozone NAAQS. Specifically, we propose to approve the Arizona SIP as meeting the PSD-related requirements of Element J with respect to PSD permitting under the jurisdiction of ADEQ (including in Pinal County) and MCAQD for all required pollutants except GHG, and we propose to disapprove the Arizona SIP for the PSD-related requirements of Element J with respect to PSD permitting of GHG major sources in all jurisdictions in Arizona and with respect to PSD permitting of major sources of all required pollutants in Pima County. The EPA's evaluation of the Arizona SIP against PSD permitting program requirements is contained in the section of this document addressing CAA section 110(a)(2)(C).

Visibility Protection

With respect to the applicable requirements for visibility protection, the EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. However, as discussed in our 2013 I-SIP Guidance, these program requirements do not change upon establishment of a new or revised NAAQS, and we have clarified that states do not need to address the visibility subelement of Element J in an infrastructure SIP submission.⁹² Thus, there are no applicable visibility requirements under CAA section 110(a)(2)(J) when a new or revised NAAQS becomes effective. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(J) related to visibility protection for the 2015 ozone NAAQS.

⁹¹ 2013 I-SIP Guidance, 54.

⁹² Id. at 54-55.

CAA Section 110(a)(2)(K) – Air Quality Modeling and Submission of Modeling Data

CAA section 110(a)(2)(K) requires SIPs to “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.”

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

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 A.R.S. §§ 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).⁹³

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. . .⁹⁴

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,

⁹³ 2018 Ozone I-SIP submittal, 34.

⁹⁴ Id.

*contracting services, requiring sources to model, and communicating the agency's duties.*⁹⁵

ADEQ noted the following statutes in support of Element K: ARS 49-104, 49-107, 49-404, 49-406, 49-422, and 49-424, and AAC R18-2-334 and R18-2-406 for ADEQ; and ARS 49-473 and 49-474 for county programs.

The EPA's Evaluation

To satisfy CAA section 110(a)(2)(K), the EPA recommends that, at a minimum, states identify the statutory or regulatory provisions that provide state and local air agencies with the authority to perform the following actions, along with a narrative explanation of how the provisions meet the requirements to: (1) conduct air quality modeling to predict the effect on ambient air quality of any emissions of any air pollutant for which a NAAQS has been promulgated; and (2) provide such modeling data to the EPA Administrator upon request.⁹⁶ In its 2018 Ozone I-SIP submittal, ADEQ addressed the requirements of CAA section 110(a)(2)(K) as they relate to development of air quality plans and to issuing preconstruction (i.e., NSR) permits.

ADEQ explains that under ARS 49-404 and 49-406, in ozone nonattainment and maintenance areas, MPOs hold responsibility for developing nonattainment and maintenance plans, and ADEQ retains responsibility for developing other SIPs. ADEQ further explains that it can delegate the responsibility to conduct plan development modeling to a county air pollution control district (APCD) under ARS 49-107(A) and divide responsibilities in a memorandum of agreement (MOA). Under ARS section 49-406(C)-(F), ADEQ, MPOs, APCDs, and the State Department of Transportation must enter into a MOA that addresses the division of responsibilities, including the responsibility to conduct air quality modeling. An APCD may be delegated the authority to conduct modeling for plan development.

Arizona Administrative Code

With respect to preconstruction permitting, ADEQ cites its authority to conduct or require air quality modeling when issuing preconstruction permits for minor sources, major sources, and modifications. ADEQ holds authority to require modeling for minor new sources and modifications under AAC R18-2-334 and for major new sources and modifications under AAC R18-2-406. The following relevant ADEQ rules require modeling for preconstruction permitting:

- AAC R18-2-334(C) requires minor source permit applicants to either implement reasonably available control technology (RACT) or conduct an ambient air quality impact assessment.
- AAC R18-2-334(E) authorizes ADEQ to require any minor source permit applicant to conduct an ambient air quality impact assessment.

⁹⁵ Id. at 35.

⁹⁶ 2013 I-SIP Guidance, 55.

- AAC R18-2-334(I) sets requirements for minor source ambient air quality impact assessments. “All modeling required pursuant to this Section shall be conducted in accordance with 40 CFR 51, Appendix W as of June 30, 2017.”⁹⁷
- AAC R18-2-406(A)(5) requires major source permit applicants to perform an air impact analysis.
- AAC R18-2-406(A)(6) sets requirements for development of major source air quality modeling.

MCAQD, PCAQCD, and PDEQ each also hold the authority to conduct or require modeling when issuing preconstruction permits. The status of each county agency’s minor NSR and PSD programs is discussed in detail in the *CAA Section 110(a)(2)(C)* section of this document. The following relevant county rules requiring modeling for preconstruction permitting:

Maricopa County Rules

- Rule 240-304.16 requires that estimates of ambient concentrations prepared for major source preconstruction permitting be based on models and requirements in 40 CFR part 51, appendix W as of July 1, 2019.
- Rule 240-305 requires permit applicants for major sources to perform an air quality impact assessment as a condition for permit issuance.
- Rule 241-303 requires permit applicants for minor sources to conduct an ambient air quality impact assessment upon the Control Officer’s request.
- Rule 241-312 requires that modeling prepared for minor source preconstruction permitting be conducted in accordance with guidance in 40 CFR part 51, appendix W as of July 1, 2019.

Pima County Code

- 17.11.140(A) authorizes the Control Officer to require the applicant for a stationary source permit to provide an analysis showing the source’s emissions impact on air quality before issuing a permit.
- 17.16.590(A)(5) requires the applicant for a major source permit to perform an air impact analysis before a permit may be issued.

Pinal County Code

- 3-3-250(A)(5) requires the permit applicant for a major source to perform an air impact analysis before a permit may be issued.

ADEQ also cites its broad general authority to conduct modeling and submit results to the EPA. Such authorities relate to “conducting research, providing information, contracting services, requiring sources to model, and communicating the agency’s duties.” The provisions in ARS 49-

⁹⁷ Appendix W to 40 CFR part 51, “Guideline on Air Quality Models” (“Appendix W”) details the EPA’s preferred air quality dispersion models, recommended techniques, and guidance for the use of such models and techniques in estimating ambient concentrations of air pollutants. The latest revision to Appendix W became effective on February 16, 2017. See 82 FR 5182 (January 17, 2017).

104(A)(3)-104(A)(4) give ADEQ the broad authority to conduct air modeling and submit modeling results and information to the EPA. As discussed previously in this section, the authority to conduct modeling for plan development may be delegated to an APCD. If the authority has not been delegated, the authority rests with ADEQ and the MPOs. Thus, ADEQ and MPOs have the authority to conduct modeling and submit the results to the EPA. The joint authority of ADEQ and MPOs extends to all areas of the state, including Maricopa, Pima, and Pinal counties.

The 2018 Ozone I-SIP submittal demonstrates that the Arizona SIP provides ADEQ and county agencies with the authority to conduct air quality modeling for criteria pollutants, to submit modeling data to the EPA, and to require air quality modeling following EPA guidance as a requirement for air quality permits. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(K) for the 2015 ozone NAAQS.

CAA Section 110(a)(2)(L) – Permitting Fees

CAA section 110(a)(2)(L) requires that each SIP require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V of the CAA.

Arizona's Response to this Requirement for the 2015 Ozone NAAQS

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.

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.*⁹⁸

The EPA’s Evaluation

Arizona operates a combined title V, NSR, and PSD program. The EPA understands that Arizona’s permit fee program covers the costs of reviewing and acting upon applications for PSD and nonattainment new source review (NNSR) permits for major sources, along with the reasonable costs of implementing and enforcing the terms and conditions of PSD and NNSR permits.

In addition, all areas in Arizona are currently subject to EPA-approved title V permit programs that satisfy the permit fee requirements of 40 CFR part 70, appendix A “Approval Status of State and Local Operating Permits Programs.” As discussed in ADEQ’s 2018 Ozone I-SIP submittal, the EPA fully approved the title V operating permits programs for ADEQ, Maricopa County, Pima County, and Pinal County effective November 30, 2001.⁹⁹ Subsequently, on May 17, 2005, the EPA issued a notice of deficiency with respect to certain parts of Maricopa County’s title V operating permits program, including the permit fee requirements.¹⁰⁰ Following the EPA’s performance of a title V program evaluation and MCAQD’s subsequent submittal of corrections to address the identified deficiencies, the EPA issued a notice of resolution explaining the EPA’s rationale for concluding that the MCAQD had resolved all of the issues identified in the EPA’s May 17, 2005 notice of deficiency.¹⁰¹

The 2013 I-SIP Guidance states that, for states with title V program fees covering all costs of CAA permitting, implementation, and enforcement for new and modified major sources as well as existing major sources, a reference to the appropriate title V program in the I-SIP submittal will be sufficient to satisfy the requirements of Element L. The 2018 Ozone I-SIP submittal cites the title V fee programs implemented by permitting authorities in Arizona and approved by the EPA. We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(L) for the 2015 ozone NAAQS.

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

CAA section 110(a)(2)(M) requires SIPs to “provide for consultation and participation by local political subdivisions affected by the plan.”

Arizona’s Response to this Requirement for the 2015 Ozone NAAQS

Arizona air quality agencies consult with and maintain frequent and regular communication with all local and political subdivisions affected by plan revisions.

⁹⁸ 2018 Ozone I-SIP submittal, 36-37.

⁹⁹ 66 FR 63166 (December 5, 2001); 66 FR 63175 (December 5, 2001).

¹⁰⁰ 70 FR 32243 (June 2, 2005).

¹⁰¹ 71 FR 67061 (November 20, 2006).

*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.*¹⁰²

The submittal references the following Arizona statutes governing ADEQ programs: ARS 49-104(A)(2), 104(A)(4), 104(B)(3), 104(B)(5), 49-402(F), 49-405(B)(2)(6), 49-406(C) through 49-406(F), 49-424(8), 49-424(10), 49-425(B), and 49-425(D). The submittal also references the following Arizona statutes relating to county programs: ARS 49-473, 49-474, and 49-479.

The EPA's Evaluation

ARS 49-406 directs ADEQ, the metropolitan planning agency (if applicable), the county air control department or district, and the Department of Transportation to develop nonattainment plans. ARS 49-406(A) states that for any ozone, carbon monoxide or particulate nonattainment or maintenance area, the governor shall certify the metropolitan planning organization designated to conduct the planning process as the agency responsible for the development of a nonattainment or maintenance area plan for that area. ARS 49-406(E) requires the State, the planning agency on behalf of affected local governments, the county air pollution control department or district, 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. ARS 49-406(F) cites the minimum information that the memorandum must contain, including the responsibilities and authorities of each organization, assurances for adequate plan implementation, and procedures and responsibilities for adoption of control measures and emissions limitations.

More broadly, ARS 49-104(A)(2) states that ADEQ shall “[s]timulate 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.” Under ARS 49-104(A)(4), ADEQ shall also “provide information and advice on request of any local, state or federal agencies” on matters within the scope of the department.

Under ARS 49-104(B)(3), ADEQ, through the director, shall “utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.” ARS 49-104(B)(5) states that ADEQ shall contract with other agencies, including laboratories, in furthering any department program.

For transportation plans under CAA section 121(1), ARS 49-402(F) states that “[e]ach regional planning agency shall consult with the department of transportation to coordinate the plans developed pursuant to subsection E of this section with transportation plans developed by the department of transportation pursuant to any other law.”

¹⁰² 2018 Ozone I-SIP submittal, 37.

ARS 49-405(C) requires a public notice and comment process for attainment area designations.

ARS 49-424(3) requires ADEQ to establish substantive policy statements for identifying air quality exceptional events. These substantive policy statements “shall be developed with the planning agency certified pursuant to section 49-406, subsection A and the county air pollution control department or district.” Under ARS 49-424(4), ADEQ is also required to determine the standards for the quality of the ambient air and the limits of air contaminants necessary to protect the public health “and develop and transmit to the county boards of supervisors minimum state standards for air pollution control.” ADEQ is required to hold hearings relating to any matter within their duties and consult with “persons or affected groups or other states to achieve the purposes of this chapter, including voluntary testing of actual or suspected sources of air pollution.” ADEQ shall also “[e]ncourage political subdivisions of the state to handle air pollution problems within their respective jurisdictions, and provide as it deems necessary technical and consultative assistance therefor.”

At the county level, under ARS 49-474, the board of supervisors of each county may authorize the board of health or health department of their respective counties in cooperation ADEQ to study the problem of air pollution in the county and any possible effects on adjoining counties; cooperate with chambers of commerce, industry, agriculture, public officials and all other interested persons or organizations, hold public hearings if such action is necessary, and establish by resolution an air pollution control district.

The 2018 Ozone I-SIP submittal demonstrates that Arizona has the authority and rules in place to provide a process for consultation with general purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over Federal land to which the SIP applies, consistent with the requirements of CAA section 110(a)(2)(M). We therefore propose to approve the Arizona SIP as meeting the requirements of CAA section 110(a)(2)(M) for the 2015 ozone NAAQS.