State of New Mexico

Office of the Governor

Bill Richardson
Governor

April 7, 2008

Mr. Richard Greene, Mayor
Regional Administrator
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Suite 1200
Dallas, TX 75202-2733

SUBJECT: PM 2.5 Infrastructure State Implementation Plan for Bernalillo County

Dear Mayor Greene:

This letter is submitted to fulfill Bernalillo County's requirements under Sections 110 (a)(1) and (2) of the Clean Air Act (CAA). The Clean Air Act requires all states to submit plans to provide for the implementation, maintenance and enforcement of the particulate matter 2.5 microns and less (PM2.5) National Ambient Air Quality Standard (NAAQS). The U.S. Environmental Protection Agency (EPA) is obligated to make a determination on whether states satisfy the requirements of the CAA Sections 110(a)(1) and (2) for the PM2.5 NAAQS by April 4, 2008.

The City of Albuquerque Air Quality Division has evaluated the State Implementation Plan (SIP) for New Mexico (including Bernalillo County), and finds that the New Mexico SIP does not satisfy the necessary remaining 110 (a)(1) and (2) requirements for the PM2.5 NAAQS. The enclosed table outlines what sections of the New Mexico SIP need to be revised to comply with the 11O(a)(1) and (2) requirements.

If you have any questions, please contact John Soladay, Acting Director of the Albuquerque Environmental Health Department (EHD), at (505) 768-2600.

Sincerely,

Bill Richardson
Governor of New Mexico

BR/zw

cc: John Soladay, Acting Director, Albuquerque Environmental Health Department
Mary Uhl, Chief, Air Quality Bureau, NM Environment Department
Isreal Tavarez, Environmental Engineering Manager, Air Quality Division
Margaret Nieto, Control Strategies Section Supervisor, Air Quality Division

Enclosures

Proposed Revisions to New Mexico State Implementation Plan (Bernalillo County) for PM2.5 and Ozone

Regulation	**Revision**
20.11.42 NMAC- *Operating Permits*	Include PM2.5 in definition of Major Sources
20.11.61 NMAC – *Prevention of Significant Deterioration*	Update for ozone precursor NOx
20.11.4 NMAC – *General Conformity*	• Update definition for NAAQS to include PM2.5 • Update definition for precursors of a criteria pollutant to include PM2.5
Air Pollution Episode Contingency Plan For Bernalillo County	Revise to include significant harm levels for PM2.5; (EPA developing rule for this.)

110(a)(2)(A)-(M) Requirements in the Current New Mexico State Implementation Plan (SIP) or Pending SIP Revisions

The federally enforceable State Implementation Plan (SIP) for New Mexico (including Bernalillo County) is compiled in 40 CFR Part 52 Subpart GG. Many of the miscellaneous requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act (CAA) relevant to the eight-hour ozone and fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) are already contained in the current SIP or SIP revisions which have been submitted to but not yet approved by the U.S. Environmental Protection Agency (EPA). The following table summarizes where these requirements of Section 110(a)(2)(A)-(M) are addressed.

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittals	Where codified or approved by EPA
§110(a)(2)(A) **Emission Limits and Other Control Measures**	*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.*	Bernalillo County's enforceable emission limitations and other control measures are covered in the Air Quality Control Act and those provisions of New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11—Albuquerque – Bernalillo County Air Quality Control Board listed in 40 CFR 52.GG, and source specific provisions codified at 40 CFR 52.GG. Enacted in 1967, the New Mexico Air Quality Control Act [NM STAT ANN § § 74-2-1 through 74-2-17] allowed for the establishment of the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) as a local board and gave it authority to administer and enforce its air quality regulations within the Bernalillo County boundaries. The regulations filed under NMAC, Title 20—Environment Protection, Chapter 11—Albuquerque – Bernalillo County Air Quality Control Board, were duly adopted by the AQCB. Where these provisions relate to Section 110 requirements, State Implementation Plan (SIP) revisions have been submitted to and approved by EPA. EPA-approved SIP revisions are codified at 40 CFR Part 52, Subpart GG. Bernalillo County has an EPA-approved air permitting program for both major and minor sources, which ensures that all applicable requirements are included in the source's permit.	40 CFR 52.GG

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittals	Where codified or approved by EPA
§110(a)(2)(D) **Interstate Transport**	*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,* *(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);*	Bernalillo County has adopted (9/12/07) and submitted to EPA (10/24/07) a SIP revision pertaining only to §110(a)(2)(D)(i). Bernalillo County is not currently subject to requirements under §§ 115 and 126.	40 CFR 52.GG
§110(a)(2)(E)(ii) **Adequate Resources**	*(ii) requirements that the state comply with the requirements respecting state boards under section 128, and*	New Mexico state statute, NMSA 1978, Section 74-7-5 requires the state's Environmental Improvement Board (EIB) to comply with the requirements of the federal Clean Air Act (CAA) and its associated standards, regulations and state implementing directives. The AQCB must also comply with the CAA when promulgating regulations. The AQCB must be as stringent as the EIB, and therefore follow the CAA. In addition, the AQCB must comply with the NM Air Quality Control Act, which was adopted pursuant to the CAA.	

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittal	Where codified or approved by EPA
§110(a)(2)(F) **Stationary Source Monitoring System**	*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;*	Regulatory requirements have been codified at 20.11.41 NMAC, *Authority to Construct;* 20.11.42 NMAC, *Operating Permits*; and 20.11.60 NMAC, *Permitting in Nonattainment Areas*; (pertaining to sampling and testing). Requirements in 20.11.47 NMAC, *Emissions Inventory Requirements*, provide for the reporting of emissions inventories in a format established by the City of Albuquerque's Air Quality Division, on a schedule set forth in the regulation. Bernalillo County's enforceable emission limitations and other control measures are covered in The New Mexico State Air Quality Control Act and those provisions of Chapter 11 of New Mexico's Administrative Code. Elements of the program for enforcement are found in the monitoring, recordkeeping and reporting requirements for sources in the aforementioned control measures, as well as under 20.11.42 NMAC, *Operating Permits*.	40 CFR 52.GG
§110(a)(2)(G) **Emergency Power**	*provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;*	On January 26, 1989, the AQCB adopted the *Air Pollution Episode Contingency Plan For Bernalillo County* (8/12/91, 56 FR 38074), that covers air pollution episodes and the occurrence of an emergency due to the effects of the pollutants on the health of persons.	40 CFR 52.1639

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittals	Where codified or approved by EPA
§110(a)(2)(I) **Nonattainment Area Plan Requirements**	*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);*	The SIP revision pertaining to §110(a)(2)(D)(i) covers the requirements of Part D for nonattainment areas. Amendments to these requirements to fulfill recent federal requirements were submitted to EPA on 10/24/07. SIPs under Part D comply with all applicable requirements for each nonattainment area under sections 110, 172(c), and 175A and Subpart 2 to Part D. No SIP was required by EPA for Bernalillo County under the one-hour ozone standard. Compliance under the eight-hour ozone and $PM_{2.5}$ standard will be evaluated with SIPs submitted if necessary. Any SIP revisions related to nonattainment areas will comply with Subpart D requirements, as applicable. The currently approved nonattainment area SIP provisions [Limited Maintenance Plan for Carbon Monoxide] listed in 40 CFR 52.1620 already meet Subpart D requirements.	40 CFR 52.GG

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittals	Where codified or approved by EPA
§110(a)(2)(J) **PSD**	*meet the applicable requirements of … part C (relating to prevention of significant deterioration of air quality and visibility protection);*	The AQCB has adopted 20.11.61 NMAC, *Prevention of Significant Deterioration*, following the requirements outlined in 40 CFR 52 under Section 161 of the CAA (42 U.S.C.A. § 7471) for prevention of significant deterioration. These provisions were approved by EPA as part of the SIP (effective 5/29/07).	40 CFR 52.1634
§110(a)(2)(K) **Air Quality Modeling/Data**	*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;*	The City of Albuquerque Air Quality Division follows EPA guidelines for air dispersion modeling.	40 CFR 52.1640

Section 110(a) element	Summary of element	Provisions in the current SIP or recent SIP revision submittals	Where codified or approved by EPA
§110(a)(2)(L) **Permitting Fees**	*require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, 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;*	The fee requirements stipulated by 20.11.2 NMAC, *Fees*, were approved by EPA as meeting the CAA requirements and were incorporated into the New Mexico SIP [Bernalillo County, 4/10/80, 45 FR 24468]. Bernalillo County's Title V operating permit program codified at 20.11.42 NMAC, *Operating Permits*, was approved by EPA on 9/8/04 [FR Vol. 69, No. 173, 54244-47, effective 11/8/04].	40 CFR 52.GG