ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

State Implementation Plan for Air Quality (SIP)

To Address Infrastructure Requirements of Section 110(a)(2)(A)-(M) of the Clean Air Act To Implement the 1997 and 2006 $PM_{2.5}$ NAAQS and the 1997 and 2008 Ozone NAAQS

"Infrastructure SIP"

Adopted
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SECTION 110 INFRASTRUCTURE REQUIREMENTS

Introduction and Background

Sections 110(a)(1) and (2) of the federal Clean Air Act (CAA), 42 U.S.C. § 7410(a)(1) and (2) hereafter referred to as the "Infrastructure" State Implementation Plan (SIP) requirements, requires states to submit an implementation plan to the United States Environmental Protection Agency (EPA) Administrator that demonstrates their ability and authority to implement, maintain, and enforce each National Ambient Air Quality Standard (NAAQS). Section 110(a)(1) of the CAA addresses the timing requirement for the submissions of any Infrastructure SIP revisions while Section 110(a)(2) of the CAA lists the required elements that comprise the Infrastructure SIP. These elements include: enforceable emission limitations and other control measures; air quality monitoring, compilation, data analysis, and reporting; enforcement and stationary source permitting; interstate transport; resources, conflict of interest, and emergency backstop; stationary source emissions monitoring and reporting; emergency powers and contingency plans; SIP revision for revised air quality standards or new attainment methods; SIP revisions for new nonattainment areas; consultation and public notification; air quality modeling and reporting; major stationary source permitting fees; and consultation with local entities.

On August 15, 2006, the EPA issued guidance[1] on what states should submit in order to comply with Section 110(a)(2)(D)(i) of the CAA. Subsequently, on October 2, 2007, the EPA issued guidance[2] on what states should submit in order to comply with the remaining non-transport-related requirements of Section 110(a)(2) for both the 1997 8-hour ozone and fine particulate matter ($PM_{2.5}$) NAAQS.

The Air Quality Division acting as agent for the Albuquerque – Bernalillo County Air Quality Control Board (Air Board) utilized both of these guidance documents to comply with the infrastructure SIP requirements for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in three areas:

1. On 9/12/07, the Air Board adopted an *Interstate Transport SIP*, pursuant to §110(a)(2)(D)(i). The Air Quality Division submitted this SIP to EPA on 10/24/07. This SIP is available at http://www.cabq.gov/airquality/aqcb/state-implementation-plans-sip

Albuquerque-Bernalillo County is not currently subject to requirements under §§ 115 and 126.

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[1] USEPA. Guidance for State Plan Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards. United States Environmental Protection Agency, August 15, 2006.

[2] USEPA. Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards. United States Environmental Protection Agency, October 2, 2007.

2. On December 11, 2007, the Director of the Environmental Health Department submitted a "certification letter" to the Regional Administrator for EPA Region VI, certifying that Bernalillo County's infrastructure is adequate to enforce the "new" 1997 8-hour ozone NAAQS (See Attachment A). However, on March 27, 2008, EPA published the "*Completeness Findings for Section 110(a) State Implementation Plans for the 8-hour Ozone NAAQS*" [FR Vol. 73, No. 60, 16205-16211]. Their finding for New Mexico, including Bernalillo County, was that:

> "New Mexico: As required by Section 110(a)(2)(C) and (J), the State of New Mexico has failed to submit a SIP addressing changes to the Part C PSD permit program required by the November 29, 2005 (70 FR 71612, page 71699) final rule that made NO_X a precursor for ozone in the Part C regulations at 40 CFR 51.166 and in 40 CFR 52.21."

Therefore, the Air Board's *Prevention of Significant Deterioration* rule, 20.11.61 NMAC must be amended to cure this deficiency. (See Attachment D).

As of 2004, states still had not submitted complete SIPs to satisfy all of the Section 110(a)(2) requirements for the 1997 $PM_{2.5}$ NAAQS (as well as for the aforementioned 8-hour ozone NAAQS). On March 4, 2004, Earth Justice submitted a notice of intent to sue, related to EPA's failure to issue 'findings of failure to submit' related to these requirements. Consequently, EPA entered into a Consent Decree with Earth Justice which required EPA, among other things, to sign a notice for publication in the Federal Register no later than October 5, 2008, announcing EPA's determinations pursuant to Section 110(k)(1)(B) as to whether each state has made complete submissions to meet the requirements of Section 110(a)(2) for the 1997 $PM_{2.5}$ NAAQS.

3. On April 7, 2008, the Governor of New Mexico submitted to EPA, an *Infrastructure SIP* which addressed all the non-transport-related elements of Section 110(a)(2) with respect to the $PM_{2.5}$ NAAQS. (See Attachment B).

Through these efforts, the Air Quality Division determined that it had the authority to implement the Infrastructure SIP requirements outlined in the EPA's guidance documents with respect to both the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS. Furthermore, these actions by the Air Quality Division, acting as agent for the Air Board, satisfied the timing requirement under the Consent Decree for the Section 110(a)(2) elements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.

Then on October 22, 2008, the EPA published its "*Completeness Findings for Section 110(a) State Implementation Plans Pertaining to the Fine Particulate Matter ($PM_{2.5}$) NAAQS*", [Vol. 73, No. 205, 62902-62906]. Their finding was as follows:

"The following states have been determined by EPA to have made complete SIP submissions that address all of the Section 110(a)(2) requirements as of the signature date of this notice: Region VI: Arkansas, Louisiana, New Mexico, Texas."

Thus, EPA is satisfied with the basic infrastructure for $PM_{2.5}$. However, in reviewing the Code of Federal Regulations, the Air Quality Division discovered that there were updates to the federal rule language that had not been incorporated into the Air Board's rules governing PSD and Nonattainment NSR. Therefore, the Air Quality Division proposes to correct these deficiencies found within the Air Board's rules, entitled *Permitting in Nonattainment* Areas, 20.11.60 NMAC, and *Prevention of Significant Deterioration*, 20.11.61 NMAC via proposed amendments shown as Attachments C and D respectively.

Applicable federal rulemaking.

1. On 11/29/05, the EPA published the "*Final Rule to Implement the 8-Hour Ozone Standard-Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to NSR and PSD as They Apply in Carbon Monoxide, PM, and Ozone NAAQS; Final Rule for Reformulated Gasoline*." [FR Vol. 70, No. 228, 71612-71705]

2. On 6/13/07, the EPA published the "*Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Removal of Vacated Elements.*" [FR Vol. 72, No. 113, 32526-32529]

3. On 12/21/07, the EPA published the "*Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping.*" [FR Vol. 72, No. 245, 72607-72617]. This language has been incorporated into the PSD rule proposed by AQD.

4. On 5/16/08, the EPA published the "*Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers* ($PM_{2.5}$)." [FR Vol. 73, No. 96, 28321-28350]

5. On 12/19/08, the EPA published the "*Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Final Rule*." [FR Vol. 73, No. 245, 77882-77902]

6. On 6/1/09, the EPA published the "*Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers* ($PM_{2.5}$) – 'Action: Final Rule: Notice of Grant of Reconsideration and Administrative Stay of Regulation'" [FR Vol. 74, No. 103, 26098-26099] for the 5/16/09 FR. This allows reconsideration of the 5/16/09 amendments, as well as an administrative stay of 40 CFR 52.21(i)(1)(xi) until 9/1/09. If changes are made in the future because of the reconsideration, then this may affect local amendments. However, the section that has been stayed, is not incorporated into either the local PSD or NNSR rules, and so should not be a consideration.

7. On 9/22/09, the EPA published the "*Implementation of the NSR Program for PM Less Than 2.5 Micrometers; Final Rule to Stay the Grandfather Provision for* $PM_{2.5}$." [FR Vol. 74, No. 182, 48153-48156]. This extended the previous stay until 6/22/2010.

8. On 9/30/09, the EPA published the "*PSD and Nonattainment NSR: Reconsideration of Inclusion of Fugitive Emissions*." [FR Vol. 74, No. 188, 50115-50118]. This stayed the provisions of the fugitive emissions rule (12/19/08 FR), until 12/30/09.

9. On 12/11/09, the EPA published "*PSD and Nonattainment NSR: Inclusion of Fugitive Emissions; Interim Final Rule; Stay*." [FR Vol. 74, No. 237, 65692-65696]. This extended the stay of the provisions of the fugitive emissions rule until 3/31/10.

10. On 1/19/10, the EPA published a Notice of Proposed Rulemaking (NPRM) [FR Vol. 75, No. 28, 6823-6827] to put in place an additional 18-month stay to the existing stay of the inclusion of fugitive emissions requirements in the federal PSD program published in the Federal Register on 12/19/08 (see item 5 above).

Therefore, none of this language proposed in the fugitive emissions rule has been incorporated into this SIP.

11. On 2/11/10 EPA published a NPRM concerning the implementation of new source review (NSR) for fine particulate matter ($PM_{2.5}$) [FR Vol. 75, No. 28, 6827-6836]. The agency is proposing to repeal the grandfathering rule, which allows sources that applied for a permit before July 15, 2008, but have not yet received it, to use prevention of significant deterioration (PSD) requirements for particulate matter PM_{10} rather than those for $PM_{2.5}$. EPA is also proposing to end the PM_{10} Surrogate Policy sooner than currently scheduled. The Surrogate Policy currently allows sources to substitute PM_{10} PSD requirements in order to demonstrate compliance with the $PM_{2.5}$ requirements.

12. On 3/31/10, the EPA published "*PSD and Nonattainment NSR: Inclusion of Fugitive Emissions; Final Rule; Stay*." [FR Vol. 75, No. 61, 16012-17]. This extended the stay of the provisions of the fugitive emissions rule until 10/3/11.

This plethora of rulemaking has resulted in a volatile regulatory landscape. As such, the current proposed amendments do not include every change that has been made to the federal rules to date. Any rule revisions that are not addressed here, will be addressed in the future when there is more regulatory certainty on implementation of rules currently in flux.

In addition, on October 17, 2006, EPA promulgated a new 24-hour standard for $PM_{2.5}$, which became effective on 12/18/06 [Federal Register, Vol. 71, No. 200, 61144-61233]. Then on March 27, 2008, the EPA promulgated a new 8-hour standard for ozone, which became effective on May 27, 2008 [Federal Register, Vol. 73, No. 60, 16436-16514]., Thus, this SIP will also demonstrate that the Air Quality Division has the ability and authority to implement, maintain, and enforce these additional new NAAQS.

Interstate Transport. Section § 110(a)(2)(D)(i) of the Clean Air Act

Each state's SIP must contain adequate provisions prohibiting any source, or other type of emissions activity, within the State from emitting any air pollutants in amounts that will:
1) Contribute significantly to nonattainment of the NAAQS for areas in another state or interfere with the maintenance of the NAAQS by another state;

2) Interfere with measures required to meet the state implementation plan for any other state related to prevention of signification deterioration (PSD); or,

3) Interfere with measures required to meet the state implementation plan for any other state related to Regional Haze and Visibility.

To comply with provisions 1) and 2), the Air Board adopted an *Interstate Transport SIP* on September 12, 2007, and the Air Quality Division submitted it to EPA on October 24, 2007. This SIP is available at http://www.cabq.gov/airquality/aqcb/state-implementation-plans-sip

Provision 3) *The Regional Haze and Visibility Interference Requirement*

$PM_{2.5}$ is one of the main components of regional haze. Therefore, the Regional Haze SIP impacts the visibility requirements of Section 110(a)(2)(D)(i). However, the EPA's transport guidance initially relieved the Air Quality Division from compliance with this Section 110(a)(2)(D)(i) requirement regarding visibility until such time that the Air Quality Division submitted it's Regional Haze SIP, which was due to the EPA by December 31, 2007. Since that time the Air Quality Division has submitted a revised Regional Haze SIP to EPA (See http://www.cabq.gov/airquality/aqcb/state-implementation-plans-sip).

Bernalillo County's Regional Haze SIP, demonstrates that, emissions from Bernalillo County will not significantly contribute to non-attainment or interfere with the maintenance of, the 8-hour ozone or $PM_{2.5}$ NAAQS in any Class I Areas within New Mexico. Therefore, Bernalillo County meets the PSD and protection of visibility requirements under CAA Section 110(a)(2)(D)(i).

NAAQS for $PM_{2.5}$ and Ozone

The EPA finalized its rule for implementation of the 1997 $PM_{2.5}$ NAAQS on April 25, 2007.[3] But on 10/17/06 EPA changed the $PM_{2.5}$ NAAQS again [*National Ambient Air Quality Standards for Particulate Matter*, FR Vol. 71, No. 200, 61144-61233 & 61236-61328]. EPA revised the level of the 24-hour $PM_{2.5}$ standard to 35 micrograms per cubic meter ($\mu g/m^3$) and retained the level of the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$. With regard to primary standards for PM_{10}, EPA retained the 24-hour PM_{10} standard, and revoked the annual PM_{10} standard. This rule became effective on 12/18/06. Consequently, the Governor of New Mexico has attested to the fact that Bernalillo County is in attainment of this $PM_{2.5}$ standard (See Attachment E). In addition, the EPA required that any changes that need to be made to our 'infrastructure' in order to implement, maintain and enforce this new NAAQS, be made by September 21, 2009.

Even though EPA finalized its rule for implementation of the 1997 $PM_{2.5}$ NAAQS on April 25, 2007,[4] no final $PM_{2.5}$ requirements for the Nonattainment New Source Review

[3] Clean Air Fine Particle Implementation Rule, 72 Federal Register 20586-667, April 25, 2007.

[4] 72 Federal Register 20586-667, April 25, 2007.

(NNSR) program were included. The EPA issued interim guidance[5] [6] calling for use of coarse particulate matter (PM_{10}) as a surrogate for $PM_{2.5}$ in the PSD and NNSR programs until NSR rules were finalized. The EPA issued a portion of the NNSR rule for $PM_{2.5}$ on May 16, 2008[7]. For States with SIP-approved PSD programs, the preamble to the May 2008 final rule stated that SIP-approved States may continue to implement a PM_{10} program as a surrogate to meet the PSD program requirements for $PM_{2.5}$ pursuant to the 1997 (PM_{10} Surrogate Policy) for up to three years (until May 2011) or until the individual revised State PSD programs for $PM_{2.5}$ are approved by EPA, whichever comes first (See 73 FR 28341).

On 2/11/10, in response to a petition for reconsideration, EPA published a NPRM concerning the implementation of NSR for $PM_{2.5}$ [FR Vol. 75, No. 28, 6827-6836]. In their NPRM, the EPA proposed two actions that would end their 1997 policy that allowed sources and permitting authorities to use a demonstration of compliance with the PSD requirements for particulate matter less than 10 micrometers (PM_{10}) as a surrogate for meeting the PSD requirements for particulate matter less than 2.5 micrometers ($PM_{2.5}$). First, in accordance with the Administrator's commitment to the petitioners in a letter dated April 24, 2009, the EPA is proposing to repeal the ''grandfathering'' provision for $PM_{2.5}$ contained in the Federal PSD program. Secondly, EPA is proposing to end early the PM_{10} Surrogate Policy applicable in States that have an approved PSD program in their State Implementation Plan (''SIP approved States''). If EPA prevails in its attempt to end the PM_{10} Surrogate Policy before the end of the original transition period in States with SIP-approved PSD programs, then new and modified major sources seeking permits in such States would thereafter be required to conduct permit-related analyses based on $PM_{2.5}$ rather than PM_{10}.

The ozone NAAQS is also in a state of flux. On 3/27/08, EPA published the "*National Ambient Air Quality Standards for Ozone*" [FR Vol. 73, No. 60, 16436-16513], revising the 8-hour standard to 0.075 ppm, effective 5/27/08. Consequently, the deadline for states to submit designation recommendations to EPA for their areas would have been 3/12/09. However, on 1/19/10, EPA published a NPRM [FR Vol. 75, No. 11, 29936-7] which intends to lower the ozone standard further, from 0.075 down to a range of 0.060 to 0.070 ppm. A final rule is expected to be signed by 8/31/10. Because of the significant uncertainty that the ozone NAAQS reconsideration creates regarding the continued applicability of the 2008 NAAQS, EPA has determined that there is insufficient information to complete designations for those standards by March 12, 2010. Therefore, EPA has extended its area designation deadline until 3/12/11, which will allow

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[5] USEPA Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, "Implementation of New Source Review Requirements in PM-2.5 Nonattainment Areas," April 5, 2005.

[6] USEPA Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Directors, "Interim Implementation of New Source Review for PM2.5," October 23, 1997.

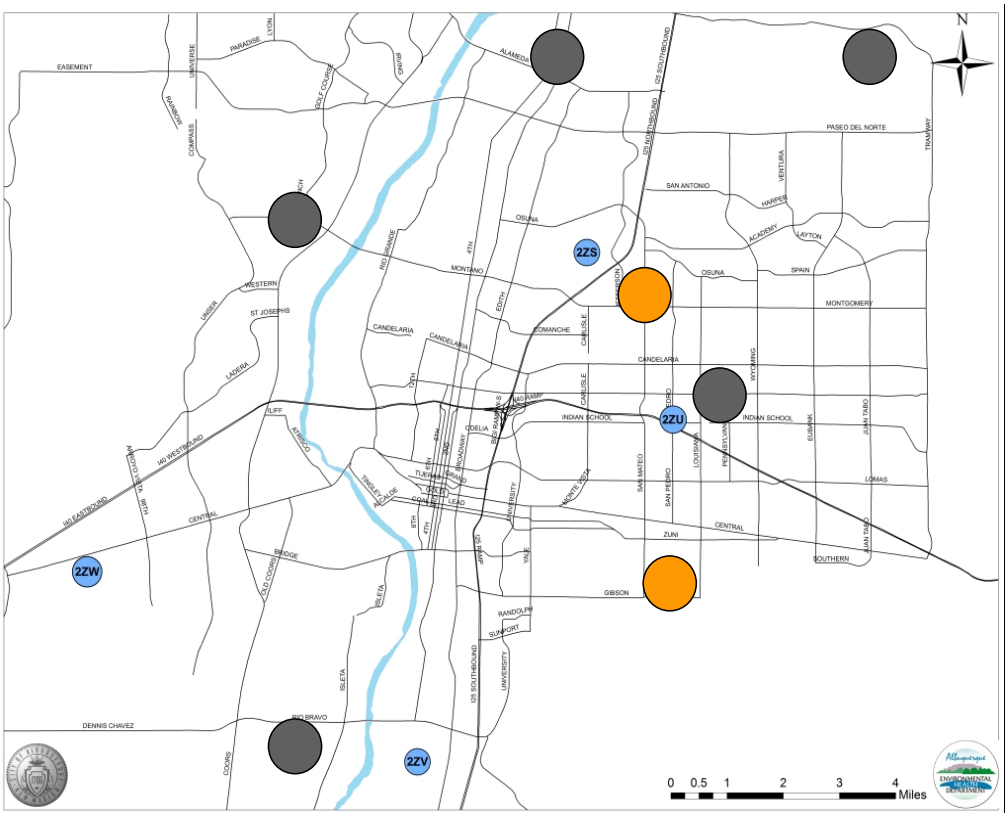
[7] Implementation of the NSR Program for $PM_{2.5}$, 73 Federal Register 28321-350, May 16, 2008.

EPA to complete its reconsideration of the 2008 ozone NAAQS before determining whether designations for those standards are necessary. The implementation of the 2008 NAAQS for ozone and the 2006 NAAQS for PM should not require any additional changes to the 'infrastructure', over and above what is already required for the aforementioned changes to the 1997 NAAQS for ozone and $PM_{2.5}$. However, the incorporation of these new standards will need to be codified within the local air quality rule, *Ambient Air Quality Standards*, 20.11.8 NMAC.

The $PM_{2.5}$ monitoring network for Bernalillo County is shown as Figure 1.

FIGURE 1

PM2.5 Monitoring in Bernalillo County

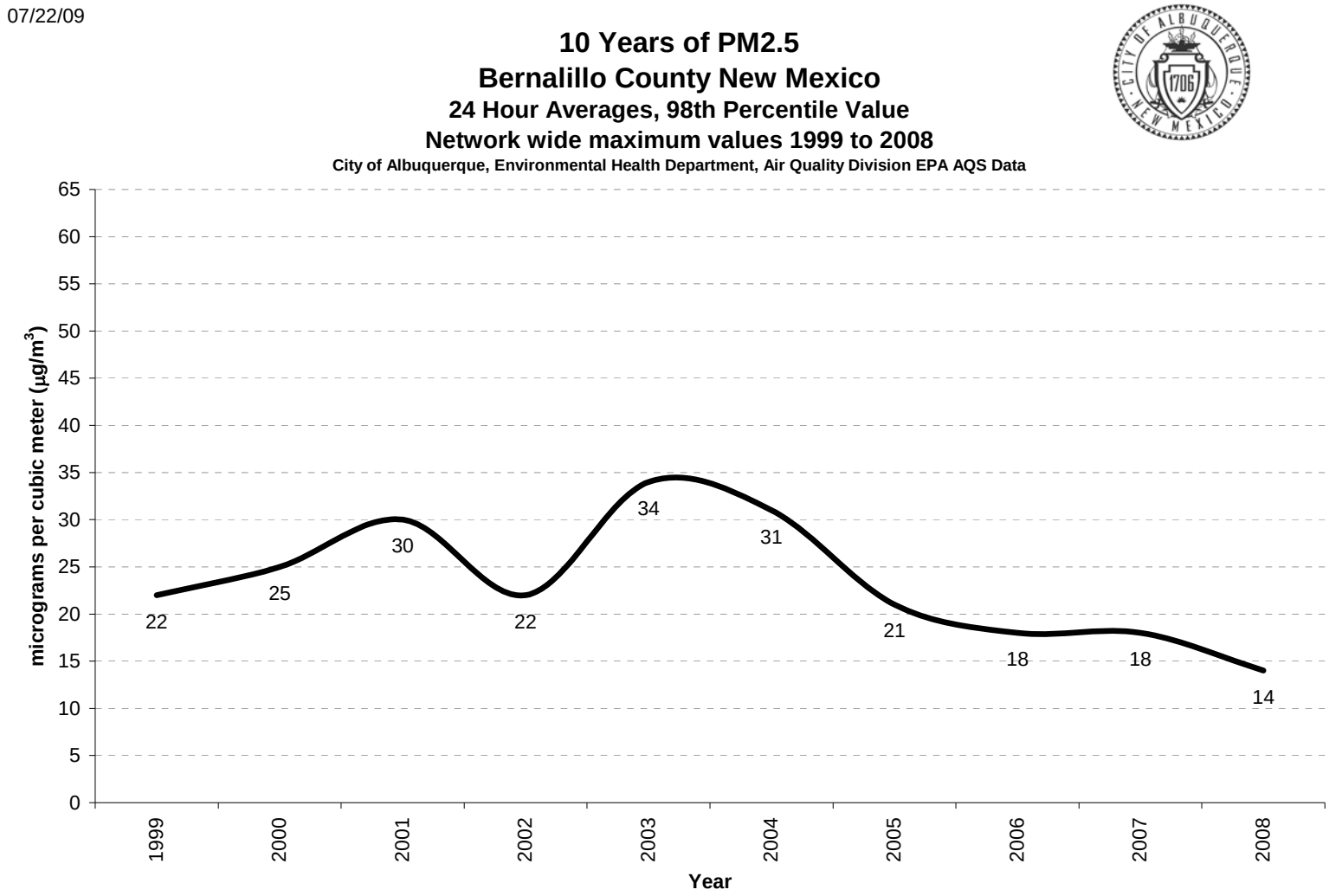


Federal Reference Sampler

Air Quality Index Reporting Site

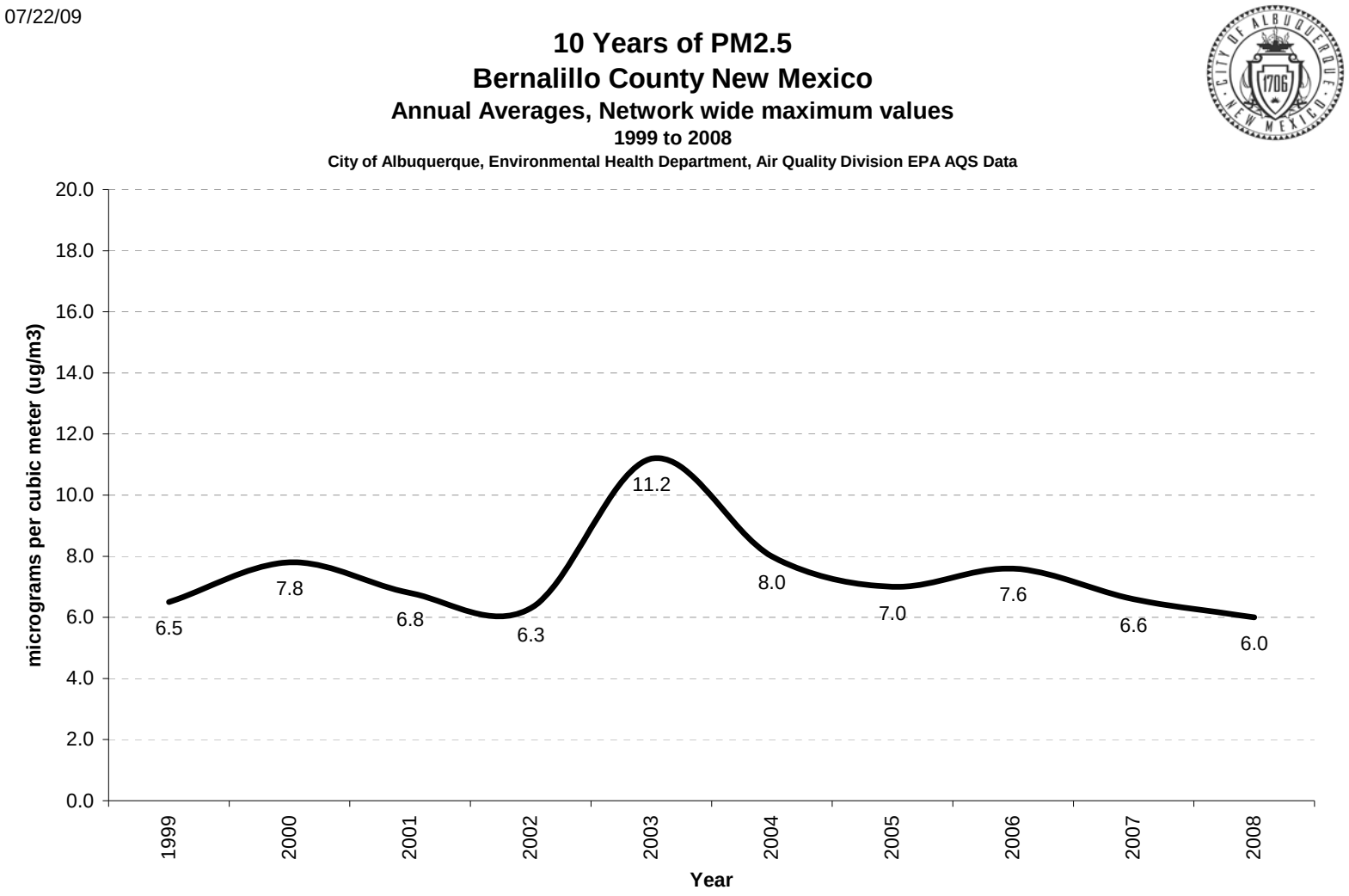
Trend data for $PM_{2.5}$ 24-Hour standard is shown as Figure 2.

FIGURE 2



Trend data for Annual $PM_{2.5}$ is shown in Figure 3.

FIGURE 3



1997 and 2008 NAAQS for Ozone

The EPA promulgated the 8-hour ozone primary and secondary NAAQS on July 18, 1997 [62 FR 38855-38896]. On April 30, 2004 EPA finalized designations for the 1997 ozone standard [69 FR 23858-23951] and issued the first of its implementation regulations for the 8-hour ozone standard [69 FR 23951-24000] both of which became effective June 15, 2004. Section 110(a)(1) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by the EPA, within three years of promulgation of a new NAAQS.

However, implementation of the standards was delayed due to subsequent litigation. On March 10, 2005, the EPA entered into a Consent Decree with the Environmental Defense Fund and the American Lung Association to address Section 110 SIP requirements. Consequently, the EPA published its "*Finding of Failure To Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and* $PM_{2.5}$ *"* [70 FR 21147, April 25, 2005]. The EPA's finding effectively started a 24-month clock for the EPA to either issue a final Federal Implementation Plan ('FIP') to address the specific requirements of Section 110(a)(2)(D)(i), [42 U.S.C.A. §7410(a)(2)(D)(i)], or to approve a SIP revision addressing the 'Interstate Transport' requirements by May 25, 2007.

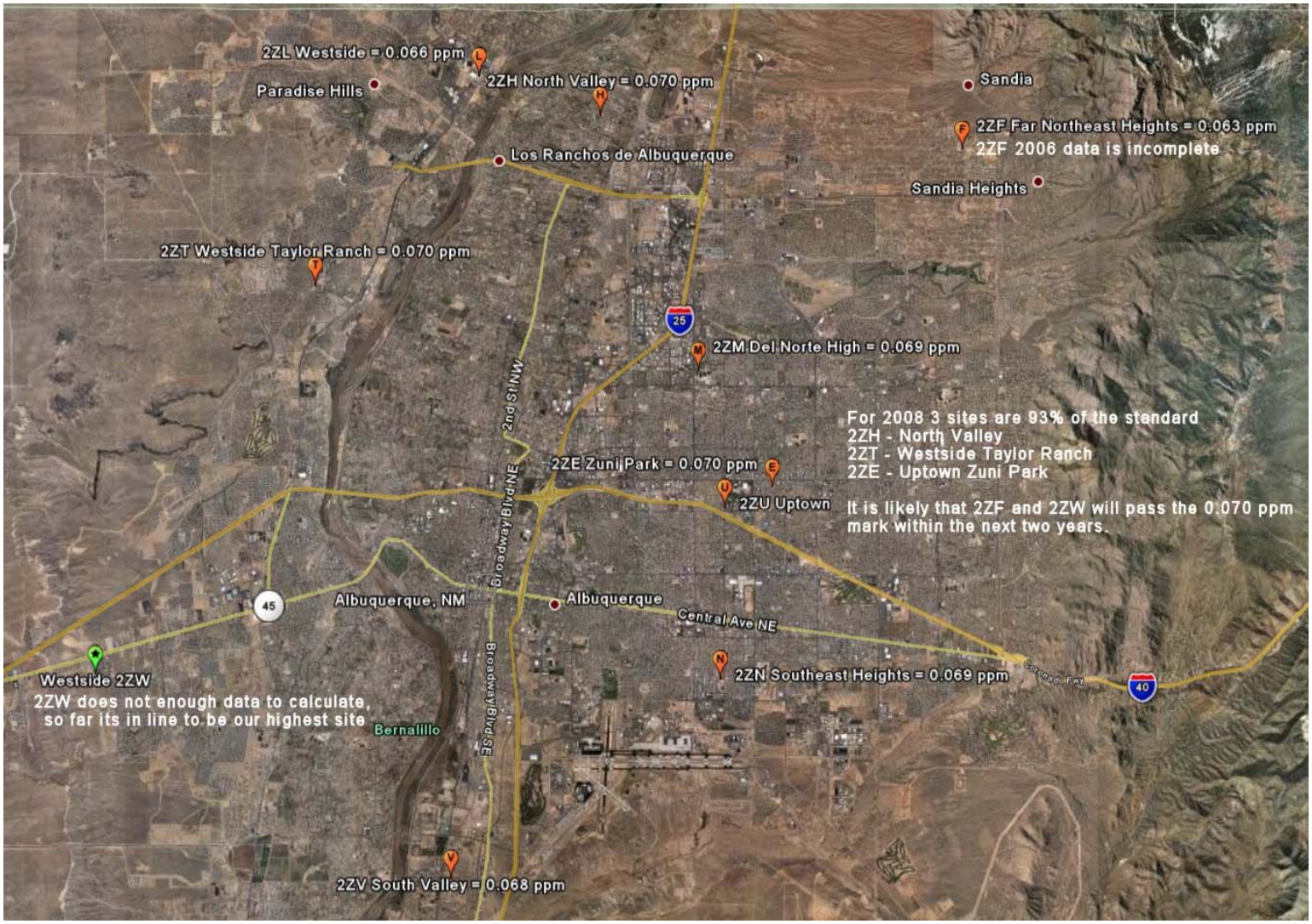
A revision to New Mexico's SIP detailing how the Air Quality Division will ensure that the revised ozone standard is maintained in Bernalillo County was required to be submitted to EPA by June 15, 2007. On December 11, 2007, the Director of the Environmental Health Department wrote a letter to the Regional Administrator for EPA Region VI, attesting to the fact that the Air Quality Division /Air Board had the necessary 'infrastructure' to enforce the 1997 ozone NAAQS.

On March 27, 2008, the EPA revised the 8-hour standard for ozone to 0.075 ppm, effective May 27, 2008 [73 FR 16436-16514]. Bernalillo County is currently in attainment with the 8-hour ozone primary and secondary standards (See Attachment F). This SIP revision demonstrates that the Air Quality Division as agent for the Air Board has the necessary plans, programs, and statutory authority to implement the requirements of Section 110 of the CAA of 1990 as they pertain to both the 1997 and the 2008 primary and secondary NAAQS for 8-hour ozone.

Ozone Design Values and Monitoring Network

The ozone design value at a monitoring site is determined by calculating the three-year average of the annual 4th highest annual daily maximum 8-hour values. A monitoring site must have a design value less than, or equal to, 0.075 parts per million (ppm) to be considered in attainment with the 2008 ozone NAAQS. Since the 2008 8-hour ozone NAAQS was promulgated, no monitor in Bernalillo County has recorded a violation. The most recent ozone design value for the period 2006-2008 is 0.070, or 93% of the 2008 standard (see Figure 4).

FIGURE 4. Ozone Design Values: 2006-2008



Ozone Monitoring Network

Vehicular traffic in large urban areas produces significant amounts of oxides of nitrogen (NO_x) and volatile organic compounds (VOCs). During the summer, high temperatures and clear skies facilitate photochemical reactions that convert NO_x and VOCs into ozone. These photochemical reactions take time to occur; and maximum ozone levels due to urban emissions often develop 10 to 30 miles away from the upwind boundary of the urban area. In order to determine if elevated ozone levels arise from a particular urban area or are transported from a distant air shed, it is helpful to have monitors that are located upwind of the urban areas in order to characterize transport into the urban areas. Another important objective of ozone monitoring is to assess population exposure in urban and rural areas. Ozone monitors are typically sited with the objectives of determining maximum impact from an urban area, assessing population exposure or characterizing transport, in mind.

EPA has established minimum requirements for state ozone monitoring networks in 40 CFR Part 58 Appendix D. These requirements apply to urban areas known as Metropolitan Statistical Areas (MSAs). If a MSA has a population ranging from 350,000 to 4,000,000 residents, then at least one ozone monitor must be sited inside the MSA to determine the maximum impact associated with the MSA. If monitored levels equal or exceed 85% of the NAAQS, then a second monitor must be added to assess population exposure in the MSA. Bernalillo County contains an MSA with population that falls within the range of 350,000 to 4,000,000, and so these requirements apply. (EPA does not currently require ongoing ozone monitoring for an MSA which has 50,000 to 350, 000 residents, unless maximum impact sites record design values that equal or exceed 85% of the NAAQS). The Air Quality Division works closely with EPA and New Mexico's Air Quality Bureau to insure that its monitoring network meets these federal requirements. The current ozone monitoring network is indicated below (See Figure 5). Trend data for ozone is shown in Figure 6.

On 7/16/09, the EPA proposed changes to the 2008 monitoring protocol for ozone [FR Vo. 74, NO. 135, 34525-34539]. One of the proposed changes is to require monitors in Micropolitan Statistical Areas, defined as areas having at least one urban cluster of at least 10,000 but less than a population of 50,000. This will be taken into consideration when future SIP revisions are drafted to address the 2010 ozone NAAQS.

FIGURE 5. Bernalillo County Monitoring Network, June 2009

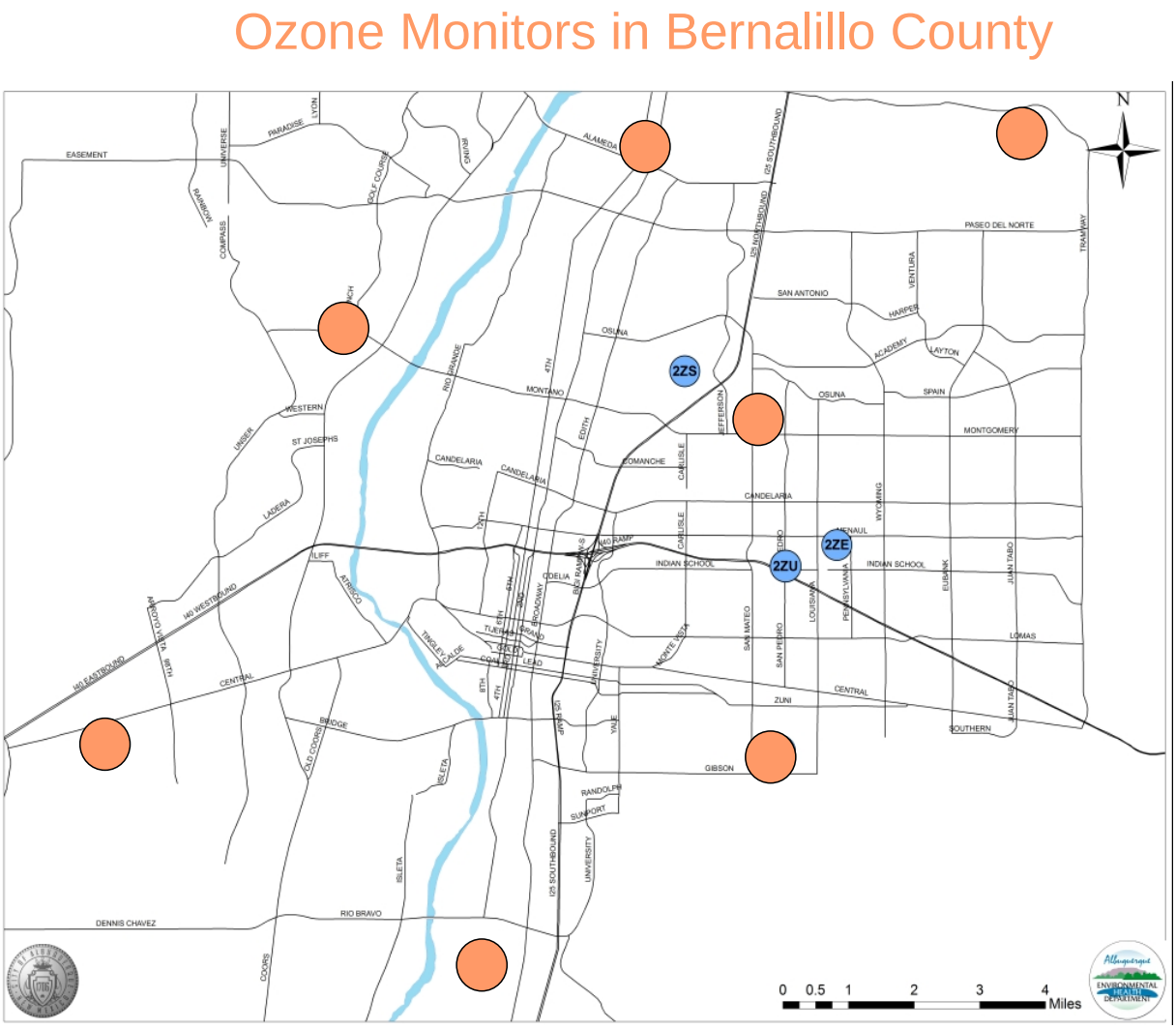
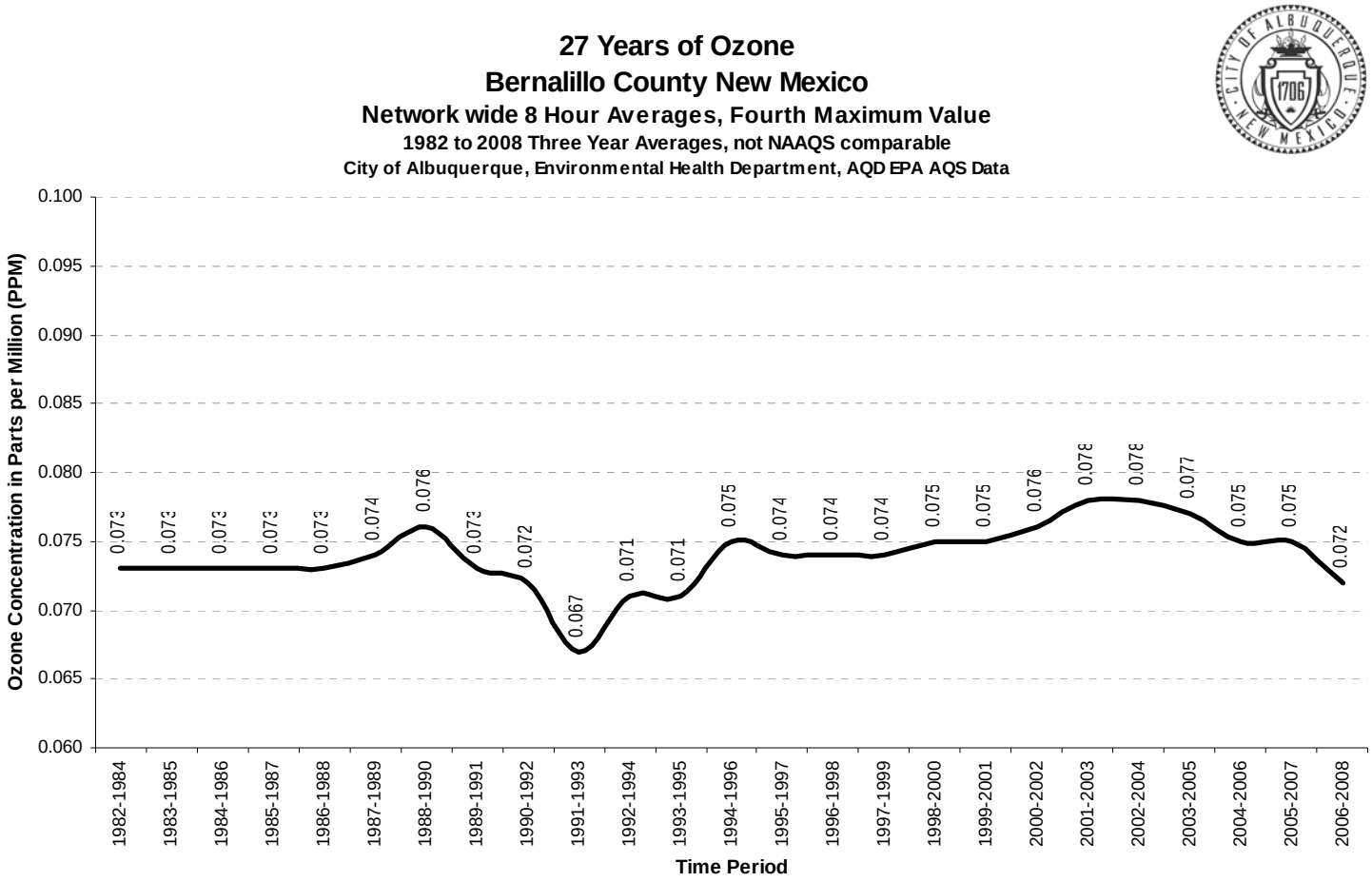


Figure 6. Trend Data for Ozone



Elements of §110(a)(2)

Section 110 (a) of the CAA requires states to submit an implementation plan to the EPA Administrator that provides for implementation, maintenance, and enforcement of national ambient air quality standards. Section 110(a)(2) lists the elements that must comprise the implementation plan. Several of the elements in §110(a)(2) specifically address the need for states to demonstrate their ability to implement, maintain, and enforce the air quality standards. These elements are sometimes compiled and submitted separately in what is referred to as an "infrastructure" SIP. This document comprises the infrastructure SIP for the 1997 and 2008 8-hour ozone as well as the 1997 and 2006 $PM_{2.5}$ air quality standards.

The elements of §110(a)(2) are listed below.

- Enforceable Emission Limitations and Other Control Measures [§110(a)(2)(A)]
- Air Quality Monitoring, Compilation, Data Analysis, and Reporting [§110(a)(2)(B)]
- Enforcement and Stationary Source Permitting [§110(a)(2)(C)]
- Interstate Transport [§110(a)(2)(D)]
- Resources, Conflict of Interest, and Emergency Backstop [§110(a)(2)(E)]
- Stationary Source Emissions Monitoring and Reporting [§110(a)(2)(F)]
- Emergency Powers and Contingency Plans [§110(a)(2)(G)]
- SIP Revision for Revised Air Quality Standards or
  New Attainment Methods [§110(a)(2)(H)]
- SIP Revisions for New Nonattainment Areas [§110(a)(2)(I)]
- Consultation and Public Notification [§110(a)(2)(J)]
- Air Quality Modeling and Reporting [§110(a)(2)(K)]
- Major Stationary Source Permitting Fees [§110(a)(2)(L)]
- Consultation with Local Entities [§110(a)(2)(M)]

Most of these elements are already codified in the New Mexico SIP submitted to comply with the CAA of 1970 and approved by EPA. This submittal affirms the Air Quality Division's continued commitment to comply with all §110(a)(2) requirements.

The following discussion outlines elements required by the 1990 CAA Amendments and additional commitments required by the adoption of a new ozone and $PM_{2.5}$ air quality standard.

§110(a)(2)(A) Enforceable Emission Limitations and Other Control Measures

States are 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 the 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 at 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 (Air Board) as a local board and gave it authority to administer and enforce its air quality regulations within the boundaries of Bernalillo County. The regulations filed under New Mexico Administrative Code (NMAC), Title 20—*Environment Protection*, Chapter 11—*Albuquerque – Bernalillo County Air Quality Control Board*, were duly adopted by the Air Board. Where these provisions relate to Section 110 requirements, SIP revisions have been submitted to EPA for approval. 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.

§110(a)(2)(B) Air Quality Monitoring, Compilation, Data Analysis, and Reporting

States are to establish and operate devices, methods, systems, and procedures to monitor, compile, and analyze ambient air quality data and to provide the data to EPA.

Bernalillo County has an extensive air quality monitoring network operated by the Air Quality Division that collects air quality data that are compiled, analyzed, and reported to EPA. The Air Quality Division's website contains up-to-date information about air quality monitoring, including a description of the network and information about monitoring of ozone and $PM_{2.5}$, as well as the daily Air Quality Index (AQI). See http://www.cabq.gov/airquality/ with links to all elements of the program.

In addition to the current network of federally-approved reference monitors that measure $PM_{2.5}$ mass, the Air Quality Division also operates a continuous $PM_{2.5}$ mass monitor. The Air Quality Division collects speciation filters every 6th day from this prospective New Mexico NCore site in Bernalillo County, and then sends these filters to the EPA national contractor, RTI for analysis.

The Air Quality Division is committed to managing the grant and City of Albuquerque-match resources so that the air quality monitoring network continues to comply with EPA requirements and quarterly reports of compiled and analyzed air quality monitoring data are provided to EPA. Current resource levels do not allow for any expansion of the network or program services.

§110(a)(2)(C) Enforcement and Stationary Source Permits

Section 110(a)(2)(C) requires states to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet Prevention of Significant Deterioration (PSD) and nonattainment NSR requirements.

The Air Quality Division commits to the continued enforcement of control measures for which it has jurisdiction and the continued operation of permitting and enforcement programs with respect to measures required by the CAA.

Evidence of the Air Quality Division's commitment, is shown by its submittal of proposed changes to the current PSD and NNSR rules as well as this submittal of a complete infrastructure SIP to address $PM_{2.5}$ and ozone. These amendments will cure the deficiency noted by EPA requiring that NO_x be delineated as a precursor to ozone formation.

§110(a)(2)(D) Interstate Transport
(A separate SIP was required to fulfill these requirements. See Page 8 for details.)

§110(a)(2)(E) Resources, Conflict of Interest, and Emergency Backstop

States are to provide assurances that (i) adequate personnel, funding, and legal authority will be available to carry out the SIP; (ii) a majority of its state board members represent the public interest and do not derive a significant portion of their income from entities that are subject to permits, and that conflicts of interest of members be adequately disclosed; and (iii) the State has responsibility for ensuring adequate implementation of plan provisions to be carried out by local districts.

(i) Adequate personnel, funding, and legal authority will be available to carry out the SIP

Funding and Personnel

Funding and personnel resources for carrying out the programs of the SIP to demonstrate attainment of the $PM_{2.5}$ and 8-hour ozone standards are provided by the City of Albuquerque and EPA. Budgets are approved annually by the City Council. The annual budget process provides a periodic update that enables the Air Quality Division to adjust funding and personnel needs. The annual budget appropriations process undertaken by the Mayor and the City Council, enables the Air Quality Division to present a request for resources required to meet the mandates of the Clean Air Act (CAA).

The Clean Air Act authorizes the federal government to provide grants for up to 60% of the cost of state and local air quality programs, while states must provide a 40% match (per Section 105).

The Air Quality Division assures EPA that it has adequate personnel and funding to carry out the SIP.

Legal Authority

EPA delegated to the Air Board and the Air Quality Division, overall regulatory authority for Bernalillo County's air quality programs, and will undertake these air pollution control programs if the EPA determines that the Air Board or the Air Quality Division has failed to meet their responsibilities assigned to them by the CAA or by any other provision in State law. Enabling legislation for this arrangement is found within the New Mexico Air Quality Control Act (Air Act) and Albuquerque and Bernalillo County Ordinances.

The Air Quality Division, as agent for the Air Board, is not prohibited by any provision of law from carrying out the SIP.

(ii) A majority of its state board members represent the public interest and do not derive a significant portion of their income from entities that are subject to permits, and that conflicts of interest of members be adequately disclosed

Public interest requirements and safeguards against conflict of interest are codified at:

City of Albuquerque Ordinances, 2-6-1-3(A)(4):
"No person shall be a member of more than one public board, commissions or committee at any one time"; and at:

COA 9-5-1-3(B)(4):
"Nominations and appointments to the Board shall be made as follows: (a) At least a majority of the membership of the Board shall be individuals who represent the public interest and meet the requirements of the state and federal guidelines set forth in the New Mexico Air Quality Control Act, as amended, and the CAA, 42 U.S.C.A. Section 7401, et seq., as amended. Further, to the extent that the requirement does not conflict with this division (a), Board members will be selected for their concerns about, and commitment to, the local ambient air quality. Therefore, selections may be made from a broad range of persons representing the public interest and who are experienced or trained in disciplines including natural sciences, humanities, social studies, finance, medicine and health, engineering or physics, law, law enforcement, education, business and industry. (b) No person employed on a full time basis by either the city or the county shall be a member of the Board. (c) City-appointed members shall be residents of the city and county-appointed members shall be residents of the county." And at:

COA 9-5-1-3(E):
"Any member of the Board who has a conflict of interest regarding a matter before the Board shall disqualify himself or herself from the discussion and shall abstain from the vote on such matter. A conflict of interest means any interest which may yield, directly or indirectly any monetary or other material benefit to the Board member or the member's spouse or minor child.";

These ordinances were incorporated into the SIP by EPA on 6/1/1999, to address CAA Section 128 requirements on representing the public and conflicts of interest. These ordinances are still in effect and have not been revised since 1999.

and at:

Air Board rule, 20.11.81.12.B.(3) NMAC:
"(3) Board member and hearing officer disqualification-recusal-withdrawal:

(a) A board member or a hearing officer shall not perform any function authorized by 20.11.81 NMAC regarding any matter in which a board member or a hearing officer:

(i) has a personal bias or prejudice concerning a party or the outcome of a proceeding;

(ii) has personal knowledge of disputed facts concerning the proceeding;

(iii) is related to a party within the third degree of relationship;

(iv) is an officer, director or trustee of a party or interested participant in the proceeding;

(v) has a financial interest in the proceeding or facility that is the subject of the proceeding or has any other conflict of interest; or

(vi) has performed prosecutorial or investigative functions in connection with a permitting action at issue in the proceeding.

(b) In making its decision regarding whether a board member or hearing officer should be disqualified or recuse himself or herself, the board and hearing officer may rely on applicable legal authority

(c) Disqualification, recusal and withdrawal:

(i) Any party, for a cause included in Subparagraph (a) of Paragraph (3) of Subsection B of 20.11.81.12 NMAC, may file a motion requesting the disqualification of a board member at any time before the final order is filed, or requesting the disqualification of a hearing officer at any time prior to the completion of the evidentiary hearing.

(ii) If a motion is filed pursuant to Paragraph (3) of Subsection B of 20.11.81.12 NMAC, and the motion asks that a board member be disqualified, then, within five days after the hearing officer and the challenged board member receive the motion, the challenged board member may respond to the motion in writing. Within 10 days after the hearing officer and the challenged board member receive the motion regarding the challenged board member, the hearing officer shall file a recommended decision. The board shall vote on the motion. However, the vote of the board shall not include the vote of the challenged board member. If the vote of the majority of a quorum of the board, not including the vote of the challenged board member, determines that the challenged board member is disqualified, the disqualified board member will not participate in the proceeding thereafter.

(iii) If a motion is filed pursuant to Paragraph (3) of Subsection B of 20.11.81.12 NMAC, and the motion asks that a hearing officer be disqualified, then, within 10 days after the hearing officer receives the motion, the

hearing officer may respond to the motion in writing. The board shall vote on the motion. If the vote of the majority vote of a quorum of the board members determines that the challenged hearing officer is disqualified, the disqualified hearing officer will not participate in the proceeding thereafter, and the board may appoint, or authorize the hearing clerk to secure a replacement hearing officer.

(iv) A board member may recuse himself or herself from a hearing, and a hearing officer may withdraw as hearing officer, by filing written notice with the hearing clerk or by making a statement on the record at a hearing or meeting of the board. In making a decision regarding whether to recuse or withdraw, a board member or a hearing officer may rely on applicable legal authority."

And at:

20.11.82.14 NMAC:
"GENERAL PROVISIONS - RECUSAL:

A. No board member shall participate in any action in which his or her impartiality or fairness may reasonably be questioned, and the member shall recuse himself or herself in any such action by giving notice to the board and the general public by announcing the recusal on the record. In making a decision to recuse him or herself, the board member may rely upon any relevant authority.

B. A board member or a hearing officer shall not perform any function authorized by 20.11.82 NMAC regarding any matter in which a board member or a hearing officer:

(1) has a personal bias or prejudice concerning a party;

(2) is related to a party within the third degree of relationship;

(3) is an officer, director or trustee of a party or interested participant in the proceeding; or

(4) has a financial interest in the proceeding or has any other conflict of interest."

(iii) The State has responsibility for ensuring adequate implementation of plan provisions to be carried out by local districts.

The Air Quality Division will maintain programs for the enforcement of control measures included in the approved SIP and measures required by the CAA.

§110(a)(2)(F) Stationary Source Emissions Monitoring and Reporting

States are to require the installation, maintenance, and replacement of equipment to monitor stationary sources of emissions by the owners or operators of these sources and the provision of periodic reports on these emissions.

40 CFR 51.214 requires every SIP to include requirements for the monitoring of emissions from major stationary sources as specified in 40 CFR 51 Appendix P. The Air Board has adopted regulations to implement the requirements of 40 CFR 51.214.

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 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*. All applicable regulations have been submitted to EPA to be incorporated into New Mexico's SIP.

20.11.42 NMAC, *Operating Permits*, encompasses the Title V operating permit program for facilities within Bernalillo County. The Title V program is a delegated program, approved in the Federal Register, and does not reside in the SIP. The Title V program was last approved by EPA on 11/26/96, effective 1/27/97 [FR Vol. 61, No. 229, 60032-60034]. A minor revision to correct the definition of "Major Source", was approved by EPA on 9/8/04 [FR Vol. 69, No. 173, 54244-54247], effective 11/8/04. Proposed revisions to the Title V program in the form of amendments to 20.11.42 NMAC, were submitted to EPA on 7/22/09, and are pending approval under Title V of the CAA.

The Air Quality Division maintains a database with emissions data for all permitted stationary source facilities in Bernalillo County.

The Air Quality Division commits to continue its oversight of stationary source monitoring requirements and to the reporting of data collected by such monitoring activities. (i.e. AFS/ EI Exchange)

§110(a)(2)(G) Emergency Powers and Contingency Plans

States are to provide for authority comparable to that in Section 303, which provides legal authority to the EPA to halt the emission of air pollutants causing or contributing to injury to public health or welfare. EPA is authorized to either bring a lawsuit in federal court or, if such civil action cannot assure prompt protection of public health or welfare, to issue such orders as may be necessary to protect public health or welfare or the environment. In addition, states are to provide for adequate contingency plans to implement such authority.

The authority granted to the EPA Administrator is vested in the Air Board and the Air Quality Division.

The requirement for states to provide for adequate contingency plans to implement such authority is intended to establish emergency episode plans for responding to elevated pollutant levels in urban areas. Emergency episode plans are required in areas that record pollutant concentrations in excess of threshold levels specified in 40 CFR 51.150. On

January 26, 1989, the Air Board adopted an *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.

EPA is proposing to amend this regulation to address new ozone and $PM_{2.5}$ standards. Until the Agency finalizes changes to the emergency episode regulations to establish for $PM_{2.5}$ specific levels for classifying areas as Priority I, lA, and II for $PM_{2.5}$, and to establish a significant harm level (SHL), EPA recommends that states through their public processes set Priority levels and emergency action levels for $PM_{2.5}$ necessary to develop emergency episode plans consistent with the requirements in 40 CFR 51.150 through 51.153. EPA further recommends that states consider the levels discussed in the February 12, 2007 EPA issue paper entitled "*Revising the Air Quality Index and Setting a Significant Harm Level for $PM_{2.5}$.*" and to Attachment B of the 9/25/09 guidance memo [http://ct.gov/dep/lib/dep/air/particulate_matter/pm25planning/110(a)_guidance_for_24-hour_pm2_5_naaqs.pdf] in establishing Priority levels and emergency action levels, including a SHL. Using the recommendations in Attachment B, for the purposes of satisfying the requirements of Section 110(a)(2)(G), states would develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140.4 $\mu g/m^3$ since 2006. If this level was never exceeded in any area of the state, the state can certify that it has appropriate general emergency powers to address $PM_{2.5}$-related episodes, and that no specific emergency episode plans are necessary at this time, given the existing monitored levels. States should develop submissions to meet this requirement through appropriate public processes. The Air Quality Division has not monitored any 24-hour levels of $PM_{2.5}$ greater than 140.4$\mu g/m^3$ since 2006, therefore no update to the contingency plan for Bernalillo County is required at this time.

The Air Quality Division commits to submit any necessary revisions to its Air Pollution Emergency Plan upon adoption of amended guidance by EPA.

§110(a)(2)(H) SIP Revisions For Revised or Reconsidered Air Quality Standards Or New Attainment Methods

States are to provide for revision of their SIP when air quality standards are revised or new attainment methods become available or when EPA informs states that current SIPs are inadequate to attain standards or to comply with additional requirements under the CAA.

Therefore, the Air Quality Division is submitting a proposed SIP revision that responds to revised, reconsidered or new air quality standards promulgated for the 1997 and 2008 8-hour ozone NAAQS as well as the 1997 and 2006 $PM_{2.5}$NAAQS. As part of this SIP revision, two Air Board rules are proposed to be amended; 20.11.60 NMAC, *Permitting in Nonattainment Areas* (Nonattainment NSR) and 20.11.61 NMAC, *Prevention of Significant Deterioration* (PSD), shown as Attachment C and D respectively.

The Air Quality Division commits to submit SIP revisions whenever revised air quality standards are promulgated by EPA. As such, an additional SIP revision is necessary

because EPA finalized its proposed changes to the General Conformity rule, on 4/5/10 [75 FR 17254] to address ozone and $PM_{2.5}$.

§110(a)(2)(I) SIP Revisions for New Nonattainment Areas

States are to submit SIP revisions for newly designated nonattainment areas to meet the requirements of Part D - *Plan Requirements for Nonattainment Areas* under CAA Title I - *Air Pollution Prevention and Control*. Part D of the CAA specifies both general requirements for all SIPs and specific requirements for different criteria pollutants.

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.

The Air Quality Division commits to submit SIP revisions if Bernalillo County is ever designated as nonattainment for any federal ambient air quality standard.

§110(a)(2)(J) Consultation and Public Notification

States are to meet the applicable requirements of CAA Section 121 (relating to consultation), Section 127 (relating to public notification), and Part C (relating to prevention of significant deterioration (PSD) of air quality and visibility protection).

Section 121 requires that states provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any affected federal land manager in carrying out CAA requirements.

The Air Quality Division commits to maintaining a process of consultation with parties designated under Section 121.

Public notice is governed by the New Mexico Air Quality Control Act and 20.11.82 NMAC.

Section 127 requires the states to provide measures which will be effective to notify the public on a regular basis of instances or areas in which any air quality standard is exceeded during the preceding calendar year, to advise the public of the health hazards associated with such pollution, and to enhance public awareness of measures that can be taken to prevent such standards from being exceeded.

The Air Quality Division maintains air quality data and other information required by Section 127 on its website, which is continuously available to the public.

The Air Quality Division commits to maintaining a public information and education program that satisfies the requirements of Section 127.

The Air Board 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).

The Air Quality Division commits to ensuring that PSD regulations are implemented in Bernalillo County to satisfy the requirements of Part C. In addition, the Air Quality Division is committed to protecting the visibility in the region as evidenced by the Regional Haze SIP for Bernalillo County, first submitted to EPA on 12/1/03. A revised Regional Haze SIP was submitted to EPA on 9/8/08.

§110(a)(2)(K) Air Quality Modeling and Reporting

States are to provide for the use of air quality modeling to predict the effect of emissions on ambient air quality and to submit data related to such modeling when requested by EPA.

The Air Quality Division's air quality modeling work complies with EPA's final guidance on the use of models in attainment demonstrations for the 8-hour ozone standard and uses EPA's latest draft final guidance for modeling $PM_{2.5}$. This is a rapidly-evolving field in which the Air Quality Division endeavors to use the latest methodology and techniques, and documents information that its staff uses when conducting modeling or when evaluating the performance of air quality models used for this purpose.

The Air Quality Division commits to continue to use air quality models in accordance with EPA's currently approved modeling guidance and protocols and the continued submittal of data and modeling results to EPA.

§110(a)(2)(L) Major Stationary Source Permitting Fees

States are required to assess the owner or operator of each major stationary source with fees sufficient to cover the reasonable costs of reviewing and acting upon any application for such a permit, and if a permit is granted, the reasonable costs of implementing and enforcing the terms and conditions of the permit. Owners or operators are also required to comply with the fee provisions of Title V Sections 501 – 507 of the CAA. Such fees are required to be payable to the permitting authority.

As noted above, the responsibility to issue permits for stationary sources of air pollution is vested with the Air Quality Division. In order to meet major stationary source permitting fee requirements, the Air Board adopted 20.11.2 NMAC, *Fees*, which requires

a fee for facilities subject to Title V requirements. Section 21, *Permit Fees*, was approved by EPA on 4/10/80 [45 FR 24468, codified at 40 CFR 52.1620(c)(11)] effective 04/10/80. Proposed SIP amendments to 20.11.2 NMAC, Fees, were submitted to EPA on 9/7/04, and 2/5/07, and are pending approval.

The Air Quality Division commits to continued implementation of the Air Board-adopted major stationary source permit fee regulation.

§110(a)(2)(M) Consultation with Local Entities

States are to provide for consultation and participation by local political subdivisions affected by the plan.

New Mexico is sub-divided into two air authorities, Bernalillo County and the remaining counties outside Bernalillo County. Each authority is responsible for controlling air pollution emitted by stationary sources within its respective jurisdiction.

The Air Quality Division consults with and provides liaison to the New Mexico Environment Department's Air Quality Bureau and provides frequent and regular communication and consultation with their management and staff.

The Air Quality Division commits to maintaining a consultation process with the Air Quality Bureau when revisions to Bernalillo County's SIP might affect them.

The Air Quality Division is required to conduct public hearings and to solicit testimony from the public when nonattainment plans or rules are adopted by the Air Board for inclusion into the SIP.

Consultation and public involvement are also required by 20.11.3 NMAC, *Transportation Conformity*. Since Bernalillo County is under a Limited Maintenance Plan for Carbon Monoxide, the Metropolitan Transportation Plan (MTP) and Transportation Improvement Plan (TIP) must conform to the State Implementation Plan (SIP). This is certified by a "conformity finding" developed through interagency consultation and approved by the Federal Highway Administration. The interagency group is called the "Transportation Conformity Technical Committee (TCTC) and is comprised of representatives from: the City of Albuquerque's Environmental Health Department, Transit Department, and Planning Department; the EPA; the Federal Highway Administration; the Federal Transit Administration; the Mid Region Council of Governments; and the New Mexico Department of Transportation. The TCTC also evaluates regionally significant projects as well as mobile source models and modeling assumptions. 20.11.3 NMAC also requires that: "Affected agencies making conformity determinations on transportation plans, programs and projects shall establish a proactive public involvement process that provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to

taking formal action on a conformity determination for the MTP and TIP, consistent with these requirements and those of 23 CFR 450.316(b)"[20.11.3.202.F NMAC].

Conclusion

Bernalillo County, New Mexico has complied with EPA guidance in determining that it has the authority to implement its Infrastructure SIP requirements with respect to the 1997 and 2008 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS. Addressing transported emissions, both to and from the State, is critical for New Mexico to attain and maintain health-based ambient air quality standards. Bernalillo County is complying with EPA guidance regarding interstate transport as it relates to the 1997 and 2006 $PM_{2.5}$ NAAQS so as not to interfere with the ability of its neighboring counties to attain and maintain that standard.