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Executive Summary

A State Implementation Plan (SIP) identifies how the state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved by EPA on May 31, 1972 [FR Vol. 37, No. 105, pp. 10842-10906]. A state may revise its SIP with EPA approval as necessary. The federally enforceable SIP for New Mexico (including Bernalillo County) is compiled in 40 CFR Part 52 Subpart GG.

The following SIP matrix outlines the requirements of Sections 110(a)(2)(A) through (M) of the federal Clean Air Act (CAA) [codified at U.S. Code: Title 42, Chapter 85, Subchapter I, Part A, §7410, *State Implementation Plans For National Primary And Secondary Ambient Air Quality Standards*] and addresses how Albuquerque-Bernalillo County, New Mexico will implement, maintain and enforce the 2008 lead NAAQS.

Legislative authority for Albuquerque-Bernalillo County's air quality program is codified in Chapter 74 (*Environmental Improvement*) of the New Mexico Statutes, which gives the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) and the Albuquerque Environmental Health Department's Air Quality Division (AQD) the authority to implement the CAA in New Mexico.

The regulatory authority to implement CAA programs is contained in the New Mexico Administrative Code (NMAC), specifically Title 20, *Environmental Protection*, Chapter 11, *Albuquerque-Bernalillo County Air Quality Control Board*. The regulations codified at 20.11.XX NMAC are part of the approved Albuquerque-Bernalillo County, New Mexico SIP and are cited in 40 CFR § 52.1620(c) unless otherwise stated.

Those requirements of CAA § 110(a)(2) that are in the approved SIP or recently submitted SIP revisions relate to enforceable emission limits and schedules for compliance; monitoring, source testing and emissions reporting; recordkeeping and reporting requirements; and permit fees. Some requirements, such as intergovernmental consultation, air quality modeling, and compliance with Part D of Title I of the CAA, are fulfilled during the development and submission to EPA as a SIP revision of attainment plans.

Albuquerque-Bernalillo County, New Mexico
§110(a)(2) SIP Requirements for the Lead NAAQS

§ 110(a) Element	Summary of Element Requirements	Provisions in the Current SIP
§ 110(a)(2)	*Each implementation plan submitted by a State under this Chapter shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—*	
§ 110(a)(2)(A) Emission Limits & Other Control Measures	*include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Chapter.*	Albuquerque-Bernalillo County's enforceable emission limitations and other control measures are authorized by the New Mexico Air Quality Control Act (Air Act) and those provisions of New Mexico Administrative Code (NMAC) Title 20, *Environment Protection*, Chapter 11, *Albuquerque-Bernalillo County Air Quality Control Board.* Enacted in 1967, the Air 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 Bernalillo County boundaries. "The City of Albuquerque and Bernalillo County adopted parallel ordinances by which they accepted the authority delegated by the Air Act, established the Air Board, and specified that the board shall adopt regulations consistent with the Air Act and adopt a plan for the regulation, control, prevention or abatement of air pollution." The regulations authorized by Chapter 74-*Environmental Improvement* -- of the New Mexico Statutes Annotated [NMSA 1978] are duly adopted by the Air Board. Where these provisions relate to Clean Air Act (CAA) Section 110 requirements, SIP revisions have been submitted to and approved by EPA [codified at 40 CFR Part 52, Subpart GG]. The City of Albuquerque's Air Quality Division (AQD) 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. AQD has determined that no reductions in lead emissions are required for maintenance of the 2008 lead NAAQS. AQD does not exempt from enforcement excess emissions that occur during start-up, shutdown, maintenance, or malfunction. Emissions in excess of permit or regulatory limits are presumptively violations, subject to affirmative defenses with the burden of proof on the respondent. See

		20.11.49 NMAC, *Excess Emissions.*
§ 110(a)(2)(B)	*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.*	AQD maintains a monitoring network for the NAAQS and submits an annual Network Assessment to EPA which describes how it has complied with monitoring requirements and explains any proposed changes. AQD is not required to operate any *source-oriented* lead samplers because there are no 0.5 TPY or larger sources of lead in New Mexico (including Bernalillo County). However AQD is required to perform *non-source-oriented* lead monitoring, due to the presence of a CBSA (Core Based Statistical Area) with a population of more than 500,000 people, within Bernalillo County (i.e. Albuquerque). This sampler is scheduled to begin operation by December 27, 2011. Ambient levels of lead will be evaluated using an EPA-approved Federal Reference Method Sampler and an EPA-approved Federal Equivalent Method for detection All samplers are subjected to the quality assurance requirements of 40 CFR Part 58, Appendix A, and located at AQS Site Number 35-001-0023, Del Norte NCore Site which meets the minimum siting requirements of Part 58, Appendix E. Data will be submitted to EPA's Air Quality System (AQS) system in accordance with the schedule prescribed by 40 CFR Part 58.
§ 110(a)(2)(C)	*include a program to provide for enforcement of the measures in § 110(a)(2)(A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in Parts C and D of this Subchapter.*	AQD has established regulations governing the enforcement of control measures, including attainment plans and permitting programs that regulate construction and modification of stationary sources. See 20.11.41 NMAC, 20.11.60 NMAC and 20.11.61 NMAC. AQD's Prevention of Significant Deterioration (PSD) program applies to sources that emit greenhouse gases in accordance with EPA's tailoring rule. See 20.11.61.7.CCC NMAC.
§ 110(a)(2)(D) Interstate Transport	*contain adequate provisions-* *(i) prohibiting any source or other type of emissions activity 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*	Bernalillo County currently does not have any lead nonattainment areas nor is the county in close proximity to any other lead nonattainment areas. The closest lead nonattainment area to New Mexico is approximately 450 miles from the New Mexico border (640 miles from Albuquerque), in northern Texas, located in the County of Collin, in the town of Frisco. New Mexico (including Bernalillo County) does not have any major sources of lead. Total point source emissions for lead in New Mexico equal less than 0.5 tons per year (TPY) and less than 0.05 TPY for area source emissions (based on the 2005 National Emission Inventory). Due to the limited amount of point and area source lead emissions in New Mexico (including Bernalillo County) and the lack of lead nonattainment areas in New Mexico (including Bernalillo County) or within close proximity,

	measures required to be included in the applicable implementation plan for any other State under Part C of this Subchapter to prevent significant deterioration of air quality or to protect visibility, *(ii) insuring compliance with the applicable requirements of CAA Sections § 126 and 115 [Sections 7426 & 7415 of this Title] (relating to interstate and international pollution abatement).*	AQD has concluded that lead emissions from Bernalillo County: 1) Do not significantly contribute to nonattainment in or interfere with maintenance for any other state with regards to the lead NAAQS; 2) Do not interfere with the measures required to implement prevention of significant deterioration or for the protection of visibility in any other state; and 3) Do not preclude the state from insuring compliance with CAA Section § 126 and 115. Consistent with 40 CFR 166(q)(2)(iv), Albuquerque-Bernalillo County's PSD program requires AQD to notify potentially affected states, tribes, and federal land managers of its intent to approve or disapprove a PSD permit application. 20.11.61.21 NMAC.
§ 110(a)(2)(E)(i)	*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),*	New Mexico Statute § 74-2-5 "Duties and powers; environmental improvement board; local board" gives the Air Board authority to develop, implement and enforce the SIP. § 74-2-5 provides the Air Board adequate legal authority to adopt emission standards and compliance schedules applicable to regulated entities, and to adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards. § 74-2-5 also provides the Air Board adequate legal authority to enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief. In addition, § 74-2-5.1 provides the department legal authority to enforce applicable laws, regulations, standards, and compliance schedules. The resources to carry out the implementation plan are provided through General Funds, Permit Fees, and the CAA §§ 105 grant process. Permit fees are collected under the authority of § 74-2-7. No organizations outside of AQD will participate in implementing or enforcing this SIP. AQD has adequate personnel to implement the SIP with respect to lead requirements. Should EPA determine that AQD lacks adequate personnel to carry out the SIP, EPA may issue a finding with respect to that deficiency, which AQD would have a legal obligation to correct. AQD anticipates the need for additional resources to implement the plan for the lead standard beyond those which have been utilized for the preparation of the plan and plan revisions submitted to EPA and other current programmatic demands (e.g. EPA subcontractor for Performance Evaluation Program (PEP)(3rd party auditing); sampling equipment; laboratory analysis, etc.).

§ 110(a)(2)(E)(ii)	*(ii) requirements that the State comply with the requirements respecting State boards under CAA Section 128 [Section 7428 of this Title], and*	NMSA 1978 § 74-1-4 provides that the Air Board contain 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 or who appear before the board on issues related to the CAA or Air Act. Board members are required to recuse themselves from rule-makings in which their impartiality may reasonably be questioned [20.11.82.14 NMAC].
§ 110(a)(2)(E) (iii)	*(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.*	Albuquerque-Bernalillo County is authorized to carry out all portions of New Mexico's SIP within Bernalillo County [See § 74-2-4]. NMED and the state Environmental Improvement Board retain oversight authority in the event the local authority fails to act [§ 74-2-4 (D)].
§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 [Chapter], 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*, 20.11.60 NMAC, *Permitting in Nonattainment Areas* (pertaining to sampling and testing) and 20.11.49 NMAC, *Excess Emissions*. Requirements in 20.11.47 NMAC, *Emission Inventory Requirements* provide for the reporting of emissions inventories in a format established by AQD on a schedule prescribed by the regulation. Albuquerque-Bernalillo County's enforceable emission limitations and other control measures are addressed in the Air Act and those provisions of Chapter 11 of New Mexico's Administrative Code Title 20. 20.11.90 NMAC, *Source Surveillance; Administration and Enforcement*, establishes the general requirements for maintaining records and reporting emissions, including record keeping, data submissions, and public access to emissions data. [See also: NMSA 74-2-7(D)(1)(a) & (2) -"The department or the local agency may specify conditions to any permit granted under this section, including: (1) for a construction permit: (a) a requirement that such source install and operate control technology, determined on a case-by-case basis, sufficient to meet the standards, rules and requirements of the Air Quality Control Act and the federal act.. . .(2) for an operating permit, terms and conditions sufficient to ensure compliance with the applicable standards, rules and requirements pursuant to the Air Quality Control Act and the federal act."; NMSA 74-2-11, *Confidential Information*; NMSA 74-2-13, *Inspection*; and *The Inspection Of Public Records Act*, NMSA 1978, Chapter 14, Article 2]

§110(a)(2)(G) Emergency Power	*provide for authority comparable to that in CAA Section 303 [Section 7603 of this Title] and adequate contingency plans to implement such authority.*	Pursuant to 40 CFR 51, Subpart H, *Prevention of Air Pollution Emergency Episodes*, On January 26, 1989, the Air Board adopted the *Air Pollution Episode Contingency Plan for Bernalillo County* [8/21/91, 56 FR 38074; 40 CFR 52.1639, *Prevention of Air Pollution Emergency Episodes*], that covers air pollution episodes and the occurrence of an emergency due to the effects of the pollutants on the health of persons.
§110(a)(2)(H)	*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 substantially inadequate to attain the NAAQS which it implements, or to otherwise comply with any additional requirements established under this Act [Chapter].*	Albuquerque-Bernalillo County's SIP is a compilation of regulations, plans, and submittals that act to improve and maintain air quality in accordance with national standards. The authority to develop or revise the SIP is based on the authority to adopt new regulations, revise existing regulations, to meet the NAAQS. NMSA 1978 § 74-7-5 gives the board authority to perform these functions. § 74-7-5 also provides the board the authority to adopt regulations to abate, control, and prohibit air pollution throughout Bernalillo County in accordance with the provisions of *State Rules Act* [Chapter 14, Article 4, NMSA 1978]. Nothing in New Mexico's statutory or regulatory authority prohibits Albuquerque-Bernalillo County from revising the SIP in the event of a revision to the NAAQS.
§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 of this Subchapter (relating to nonattainment areas);*	Compliance with the lead standard will be evaluated using Air Monitoring FRM Quality Assurance Lead Data submitted with SIP revisions for any future nonattainment areas. SIP revisions related to nonattainment areas will comply with Subpart D requirements, as applicable. The currently approved nonattainment area SIP provisions listed in 40 CFR § 52, Subpart GG also meet Subpart D requirements.
§110(a)(2)(J) PSD	*meet the applicable requirements of CAA § 121 [Section 7421 of this Title] (relating to consultation), CAA Section 127 [Section 7427 of this Title] (relating to public notification), and Part C of this Subchapter (relating to prevention of significant deterioration of air quality and visibility protection);*	All SIP revisions undergo public notice and hearing, which provides for comment by the public, including local political subdivisions. (See 20.11.82 NMAC) Air quality data from AQD's monitoring network is available to the public via EPA's website at: http://www.epa.gov/air/data/geosel.html . Additionally, as part of the 105 grant process AQD is required to submit monitoring data to the Air Quality System (AQS) 90 days after the end of a quarter. Data can also be retrieved via a link through the AQD website: http://www.cabq.gov/airquality/airqualitymonitoringdata.html which also contains information on the air quality index, and on ways the public can participate in regulatory and planning efforts.

		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. [40 CFR 52.1634]. 20.11.61 NMAC includes procedures for protection of visibility in Class I areas. AQD submitted Albuquerque-Bernalillo County's Second Amended Regional Haze SIP to EPA in August, 2011. This submittal will provide further visibility protection and improvements to federal Class I areas.
§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 NAAQS, and* *(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;*	AQD follows EPA guidelines for air dispersion modeling. [40 CFR 52.1640] Upon request, AQD will submit current and future data relating to modeling to 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 [Chapter], 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*	The fee requirements of 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]. Albuquerque-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, pp. 54244-47, effective 11/8/04]

	to such sources by the Administrator's approval of a fee program under Title V [Subchapter V of this Chapter];	
§ 110(a)(2)(M)	*provide for consultation and participation by local political subdivisions affected by the plan.*	New Mexico State Statute § 74-2-5.2 "State air pollution control agency; specific duties and powers of the department," requires advising; consulting; contracting with and cooperating with local authorities, other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control; and initiation of cooperative action between a local authority and the department, between one local authority and another or among any combination of local authorities and the department for control of air pollution in areas having related air pollution problems that overlap the boundaries of political subdivisions; and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. Albuquerque-Bernalillo County's public participation requirements and procedures fulfill the requirements for consultation with local political subdivisions affected by the SIP.