



Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

APR 26 2013

Mr. Karl Brooks
Regional Administrator
U.S. EPA, Region VII
11201 Renner Boulevard
Lenexa, KS 66219

Dear Mr. Brooks:

The Missouri Air Conservation Commission has recently revised or promulgated the following air quality plan contained in the Missouri State Implementation Plan (SIP). The following is enclosed for your review and approval into the SIP:

Revision to the Missouri State Implementation Plan - Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standard (NAAQS)

This revision to the SIP is to satisfy the requirements of Section 110 of the federal Clean Air Act Amendments of 1990 (CAA) throughout the state for the NO₂ NAAQS that was revised by the U.S. Environmental Protection Agency (EPA) on February 9, 2010. Section 110(a) of the Act requires that each state submit to EPA a SIP revision for the implementation, maintenance, and enforcement of each new or revised NAAQS within three years of the promulgation of the new or revised standard. This plan demonstrates that Missouri has the infrastructure necessary to implement these Section 110 infrastructure requirements for the 2010 revised NO₂ NAAQS via the referencing of specific corresponding applicable state statutes, regulations, programs or resources.

This plan is intended to satisfy all Section 110(a) elements of the CAA for the 2010 NO₂ NAAQS except for Section 110(a)(2)(D)(i)(I) of the CAA, often referred to as the "good neighbor" or "interstate transport" provisions of the infrastructure SIP. However, as discussed in Section 2.2.D. of the plan, Missouri does demonstrate that it has the infrastructure and authority in place to address this CAA requirement if EPA quantifies a significant contribution obligation for the 2010 NO₂ NAAQS in the future.

The commission adopted the enclosed plan action on April 25, 2013 after considering program staff testimony at the public hearing. Ten written comments were received from the U.S. Environmental Protection Agency (EPA) during the public comment period. The commission has full legal authority to develop the SIP pursuant to Section 643.050 of the Missouri Air Conservation Law. The state followed all applicable administrative procedures in proposing and

Mr. Karl Brooks
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adopting the plan action. Enclosed are the required SIP submittal elements for determination of plan completeness per 40 CFR Part 51, Appendix V.

In order to comply with Attachment A of the "Regional Consistency for the Administrative Requirements of State Implementation Plan Submittals and the Use of Letter Notices" memo dated April 6, 2011, a searchable pdf version of this document will be emailed to the EPA Regional Office and will be posted on our website at <http://www.dnr.mo.gov/env/apcp/sips.htm> under the "Nitrogen Dioxide 2010 Standard" subheading.

The Missouri Department of Natural Resources requests that the Environmental Protection Agency amend the SIP to incorporate this plan.

Thank you for your attention to this matter. If you have any questions regarding this submittal, please contact Wendy Vit, Missouri Department of Natural Resources' Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by phone at (573) 751-4817. E-mail inquiries may be forwarded to wendy.vit@dnr.mo.gov.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Original signed by Kyra L. Moore

Kyra L. Moore
Director

KLM:jw

Enclosures: Copy of Plan
Copy of commission signature page certifying Missouri Air Conservation Commission adoption
Copies of public hearing notice
Copy of public hearing transcript introductory statement
Copy of proposal for adoption – (summary of comments and responses)

c: Missouri Air Conservation Commission

**Section 110 Infrastructure Requirements for the
2010 Nitrogen Dioxide
National Ambient Air Quality Standard**

A Missouri State Implementation Plan Revision

Prepared for the
Missouri Air Conservation Commission



**MISSOURI
DEPARTMENT OF
NATURAL RESOURCES**

Adopted
April 25, 2013

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List of Acronyms and Abbreviations

Air Program	Missouri Department of Natural Resources' Air Pollution Control Program
CAA	Clean Air Act
CAIR	Clean Air Interstate Rule
CFR	Code of Federal Regulations
CSR	Code of State Regulations
CSAPR	Cross-State Air Pollution Rule
department	Missouri Department of Natural Resources
director	Director of the department, unless specified otherwise
EPA	U.S. Environmental Protection Agency
ESP	Environmental Services Program
MACC	Missouri Air Conservation Commission
MACC rules	Missouri regulations in Title 10, Division 10 of the CSR
Missouri Air Law	Missouri Air Conservation Law
MOEIS	Missouri Emissions Inventory System
NAAQS	National Ambient Air Quality Standard
NO ₂	Nitrogen Dioxide
NO _x	Oxides of Nitrogen
NSR	New Source Review
PM _{2.5}	Fine Particulate Matter – less than or equal to 2.5 microns in diameter
ppb	parts per billion
PSD	Prevention of Significant Deterioration
RSMo	Revised Statutes of Missouri
SIP	State Implementation Plan
SO ₂	Sulfur Dioxide

1. EXECUTIVE SUMMARY

1.1 Introduction & Purpose

The purpose of this document is to fulfill the requirements of Section 110 of the Clean Air Act (CAA). Section 110 of the CAA requires that each state submit to the U.S. Environmental Protection Agency (EPA) a state implementation plan (SIP) revision for the implementation, maintenance, and enforcement of each new or revised national ambient air quality standard (NAAQS). The intent of the CAA in requiring this plan submittal pursuant to Section 110(a)(1), is to obligate the state to demonstrate that it has the ability, authority, and resources to implement the infrastructure elements listed in Section 110(a)(2) for each criteria pollutant. For this reason, these Section 110 plan submittals are commonly referred to as ‘infrastructure SIPs’. This document is the State of Missouri’s infrastructure plan for the 2010 oxides of nitrogen (NO_x) NAAQS. Compliance with the NAAQS for the criteria pollutant NO_x is determined using Nitrogen Dioxide (NO₂) as an indicator. Therefore, throughout this document the 2010 NAAQS for NO_x will be referred to as the 2010 NO₂ NAAQS.

This plan is intended to satisfy all Section 110(a) elements of the CAA for the 2010 NO₂ NAAQS except for Section 110(a)(2)(D)(i)(I) of the CAA, often referred to as the “good neighbor” or “interstate transport” provisions of the infrastructure SIP. However, as discussed in part 2.2.D.i of this document, Missouri does demonstrate that it has the infrastructure in place to address the CAA element of Section 110(a)(2)(D)(i)(I) even though the SIP may not currently include provisions to satisfy this element of the CAA for the 2010 NO₂ NAAQS.

A. 2010 NO₂ NAAQS

On February 9, 2010, the EPA promulgated a revised NAAQS for NO₂ (75 FR 6474). The revision retained the primary and secondary annual standards of 53 ppb and created an additional primary standard based on a 1-hour averaging time. The 1-hour primary standard for NO₂ was set at 100 ppb and is based on a design value, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. For a full year of data, the 98th percentile corresponds to the 8th highest 1-hour daily maximum concentration.

B. State Area Designations

The CAA requires Missouri to recommend NO₂ boundary designations based on air quality monitoring data. On December 30, 2010, Missouri submitted its recommendations to the EPA based on 2007 – 2009 ambient air quality monitoring data. All areas of the state were recommended to be designated unclassifiable, meaning there is insufficient data to determine whether or not an area is attaining the NAAQS. The reason for the “unclassifiable” recommendation is that the 2010 NO₂ NAAQS rule required near-roadway monitors to be placed in high traffic concentration areas, and these monitors were not sited and operating until 2013.

In a letter to the Governor dated June 28, 2011, EPA outlined its preliminary decision for the designations in Missouri. EPA proposed to designate all areas in Missouri, as well as the rest of the country, as attainment/unclassifiable rather than unclassifiable. EPA stated that based on 2008-2010 air quality data all monitored areas in the country were attaining the 2010 NO₂ NAAQS and therefore the attainment/unclassifiable designation better reflected the current air

quality conditions. However, EPA did acknowledge that without the near-roadway monitoring network in place they did not have adequate evidence to determine that every area was meeting the new NAAQS. The letter also stated that under the CAA, EPA has the authority to redesignate areas, as appropriate, after sufficient data is obtained from the new monitoring network. Finally, EPA stated that they interpreted Missouri's recommendation letter to mean that the entire state was a single boundary all classified as attainment/unclassifiable. EPA recommended that the state carefully consider the implications on the state's Prevention of Significant Deterioration (PSD) permitting program of having the entire state designated as a single area as opposed to smaller individual areas such as counties or groups of counties. EPA gave the state until August 29, 2011, to respond with any comments prior to finalizing their designations.

Missouri submitted a response to EPA's letter on June 28, 2011. In this response, Missouri concurred with EPA's initial proposal, but in order to clarify Missouri's recommendation of boundary areas, the state submitted a list of all Missouri counties and clearly stated that each was to be considered its own boundary area to be classified attainment/unclassifiable. On January 20, 2012 EPA signed the final designations and each county in Missouri and the rest of the country was designated attainment/unclassifiable.

More information on Missouri's NO₂ boundary designation recommendations may be found at: <http://www.epa.gov/airquality/nitrogenoxides/designations/region/region7.html>.

1.2 Plan Summary

Section 110(a)(1) of the CAA requires that states submit an infrastructure plan such as this within three years of the promulgation of the revised criteria pollutant standard.

This document is administrative in nature and demonstrates that Missouri has the ability and authority to implement each of the required infrastructure elements pursuant to Section 110 of the CAA as outlined below for the 2010 NO₂ NAAQS via the referencing of specific corresponding applicable state statutes, regulations, programs or resources.

2. INFRASTRUCTURE REQUIREMENTS

This section of the plan provides an explanation of how the State of Missouri fulfills each applicable Section 110(a)(1) and (2) infrastructure element requirement of the CAA.

2.1 Plan Submittal and Timing Requirements: Section 110(a)(1)

Section 110(a)(1) of the CAA requires that states submit to EPA plans to implement, maintain and enforce each of the NAAQS promulgated by EPA within three years after promulgation of a new or revised standard.

This document is the State of Missouri's plan to implement, maintain and enforce the revised 2010 NO₂ NAAQS.

2.2 Infrastructure Elements: Section 110(a)(2)

Section 110(a)(2) of the CAA states that each SIP submittal shall be adopted by the state after a reasonable notice and public hearing.

In accordance with this provision, prior to submittal to the EPA, this plan underwent a public hearing before the Missouri Air Conservation Commission (MACC) on March 28, 2013. The plan was posted online for public review and comment on February 25, 2013 at the following web address: <http://www.dnr.mo.gov/env/apcp/stateplanrevisions.htm>. The public comment period was open through April 4, 2013, which was seven (7) days after the public hearing.

A. Enforceable Emission Limits & Control Measures: Sec. 110(a)(2)(A)

Section 110(a)(2)(A) of the CAA requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each NAAQS.

The State of Missouri's statutes and regulations, via the Missouri Air Conservation Law (Missouri Air Law) and MACC rules, authorize the department to regulate air quality and implement air quality control regulations. Chapter 643 of the Revised Statutes of Missouri (RSMo) is dedicated to Missouri Air Law. These statutes authorize the establishment of necessary regulations to execute these laws. Timetables for compliance are also found in these regulations as appropriate. The MACC rules are codified in Title 10, Division 10 of the Missouri Code of State Regulations (CSR).

The Missouri Air Conservation Law is available for viewing at:
<http://www.moga.mo.gov/statutes/chapters/chap643.htm>

The Missouri Air Conservation Commission rules are available for viewing at:
<http://www.sos.mo.gov/adrules/csr/current/10csr/10csr.asp#10-10>

Section 643.030 RSMo authorizes the "Air Conservation Commission of the State of Missouri", also known as the MACC, to control air pollution, which is defined in Section 643.020 RSMo to include air contaminants, which cause or contribute to injury to public health or welfare.

Section 643.050 RSMo authorizes the MACC to classify and identify air contaminants. Furthermore, Section 643.050 of the Missouri Air Law authorizes the MACC to regulate the use of air contaminant sources and to establish emissions limitations for air contaminant sources. In the MACC rules, 10 CSR 10-1.010 *General Organization* reiterates the MACC's responsibility to establish air quality control regions as well as adopt, promulgate, amend and rescind rules. 10 CSR 10-1.010 also tasks department staff with carrying out the policies of the MACC:

The director of the DNR, the staff director of the Air Pollution Control Program and the program staff enforce the rules and implement the policy of the Air Conservation Commission.

Below are some other references to MACC rules used to implement and enforce the NAAQS:

- 10 CSR 10-6.020 *Definitions and Common Reference Tables* is used to define terms, such as 'NAAQS' and 'criteria pollutants or standards,' necessary to classify pollutants and implement and enforce standards.
- 10 CSR 10-6.030, *Sampling Methods for Air Pollution Sources* establishes the appropriate sampling method for nitrogen oxides (NO_x) from air pollution sources to be the EPA's Test Method 7. Similarly, Subsection (4)(F) of 10 CSR 10-6.040 *Reference Methods* refers to the appropriate respective federal reference method for determining the concentration of Nitrogen Dioxide in the ambient air.
- 10 CSR 10-6.045, *Open Burning Requirements* establishes restrictions on open burning that apply throughout the entire state.
- 10 CSR 10-6.050 *Start-Up, Shutdown, and Malfunction Conditions* provides that sources may submit information relating to excess emissions during startup, shutdown or malfunction events, but expressly provides that nothing in this rule limits the ability of the department or the MACC to take appropriate enforcement action.
- 10 CSR 10-6.060 *Construction Permits Required* provides construction permit requirements for new emission sources and existing sources that make modifications.
- 10 CSR 10-6.070 *New Source Performance Regulations* incorporates by reference numerous federal standards applicable to new sources for numerous source categories and is routinely updated/amended to ensure that all federal new source performance standards are incorporated into the SIP.
- 10 CSR 10-6.110 *Reporting Emission Data, Emission Fees, and Process Information* establishes emission reporting requirements for sources operating in the state along with applicable fees for pollutants emitted by sources operating in the state.
- 10 CSR 10-6.130 *Controlling Emissions During Episodes of High Air Pollution Potential* establishes federal breakpoint values for the air quality index for several air pollutants

including NO₂. This rule requires that the air quality index be reported to the public in large Metropolitan Statistical Areas on a daily basis and establishes procedures and emissions reductions objectives for episodes when the air quality index reaches certain breakpoint levels.

- 10 CSR 10-6.200 *Hospital, Medical, Infectious Waste Incinerators* provides emission limits for these types of sources including NO_x emissions limits. This rule also provides approved EPA test methods to demonstrate compliance with emission limits.
- 10 CSR 10-6.230 *Administrative Penalties* establishes penalties for sources that violate Air Program permit conditions, Missouri Air Law, or any rule of the MACC.
- 10 CSR 10-6.362 *Clean Air Interstate Rule Annual NO_x Trading Program* establishes requirements in order to satisfy the state's SIP obligations to address interstate transport of NO_x emissions as a precursor to fine particulate matter (PM_{2.5}) concentrations from electric generating units. Although this rule was written to limit NO_x emissions as a precursor to PM_{2.5} concentrations in downwind states the NO_x emissions limits provide co-benefits for NO₂ concentrations.
- 10 CSR 10-6.364 *Clean Air Interstate Rule Seasonal NO_x Trading Program* establishes requirements in order to satisfy the state's SIP obligations to address interstate transport of NO_x emissions as a precursor to ground-level ozone concentrations from electric generating units and a small number of non-electric generating boilers. Although this rule was written to limit NO_x emissions as a precursor to ground-level ozone concentrations in downwind states the NO_x emissions limits provide co-benefits for NO₂ concentrations.
- 10 CSR 10-6.380 *Control of NO_x Emissions From Portland Cement Kilns* provides NO_x emissions limits for these types of sources that operate in the state.
- 10 CSR 10-6.390 *Control of NO_x Emissions From Large Stationary Internal Combustion Engines* provides NO_x emissions limits for these types of sources that operate in the state.

Infrastructure plans are not intended to identify nonattainment emission controls. Additionally, the entire State of Missouri has been designated attainment/unclassifiable for the 2010 NO₂ NAAQS. Should any areas in Missouri be designated nonattainment of the 2010 NO₂ NAAQS in the future, the emissions limitations and other control measures to bring such areas back into attainment of the 2010 NO₂ NAAQS would be developed under a separate SIP submittal with its own submittal schedule and process.

B. Ambient Air Quality Monitoring: Section 110(a)(2)(B)

Section 110(a)(2)(B) of the CAA requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and making these data available to EPA upon request.

The State of Missouri operates and maintains an extensive air quality monitoring network for various pollutants with over 100 instruments at more than 50 locations.

Within the Missouri Air Law, Section 643.050 RSMo provides the general authority necessary for Missouri to fulfill the requirements of Section 110(a)(2)(B) of the CAA. This is itemized further within the MACC rules: For the purposes of air quality monitoring data collection and submittal, 10 CSR 10-1.010 *General Organization* restates the MACC's statutory authority to investigate facts and require the submission of relevant information. Additionally, this rule outlines the roles, duties and obligations of the Air Program. Responsibilities relevant to air quality monitoring outlined in this rule include –

- Obtain air quality data, update EPA AIRS (Air Information Retrieval System, now referred to as the Air Quality System) database and disseminate data
- Coordinate with the Environmental Services Program (ESP), which provides the MACC and Air Program staff with specific laboratory services for the establishment and maintenance of air monitoring sites
- Provide air quality data for other sections in the Air Program
- Conduct and coordinate Ambient Air Monitoring network reviews
- Maintain the air monitoring SIP
- Coordinate air quality data input from local air pollution control agencies and the ESP
- Prepare the air quality annual report

Thus, as authorized, the Air Program maintains an Air Quality Monitoring Unit which was created to fulfill the requirements of Section 110(a)(2)(B) of the CAA. The Air Program developed the 2012 annual monitoring network plan that fulfills the roadside monitoring requirements for NO₂. This plan was most recently submitted to EPA in May of 2012. The first near-road monitoring site in Missouri began operation in January 2013 in St. Louis. The second near-road site, to be located in Kansas City, is expected to begin operation sometime later in 2013 and a third near-road site, to be located in the St. Louis area, is expected to begin operation in the future pursuant to EPA requirements once funding is secured.

EPA regulations require states to prepare and submit an annual monitoring network plan containing a periodic network assessment review. In accordance with this rule, found at 40 CFR 58 Part B, Missouri's 2012 proposed air quality monitoring network plan is available at: <http://dnr.mo.gov/env/apcp/monitoring/monitoringnetworkplan.pdf>. Also, visit EPA Region 7's Air Quality Monitoring Network plan site for more information or to review Missouri's previous approved network plans: http://www.epa.gov/region07/air/quality/quality.htm#mo_air

In addition to the required submittal of the annual monitoring network plan 40 CFR 58 also requires a formal monitoring network assessment to be performed and submitted to EPA every five (5) years. The Air Program last performed and submitted to EPA a formal monitoring network assessment in 2010 as required by 40 CFR 58 Part D. The next monitoring network assessment for the State of Missouri is expected to be performed and submitted in 2015.

For more information on Air Quality Monitoring laboratory services from the department's ESP, please visit: <http://dnr.mo.gov/env/esp/aqm/esp-aqa.htm>

C. Enforcement & Construction Permit Programs: Sec. 110(a)(2)(C)

Section 110(a)(2)(C) of the CAA requires states to include a program or mechanism for (1) enforcement of all SIP measures, (2) minor new source review, and (3) the regulation of construction of new or modified major stationary sources to meet Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) requirements.

i. Enforcement Program

The Air Program staffs and implements a vigorous Compliance/Enforcement Section. Additionally, the department's Division of Environmental Quality maintains considerable staff resources at its five (5) regional and numerous satellite offices to coordinate complaints and inspections.

The Missouri statutes provide authority for the department to enforce the requirements of the Missouri Air Law, and any MACC rules, permits, or final compliance orders issued under the provisions of that law. For example, Section 643.080 RSMo authorizes the department to issue compliance orders for violations of the Missouri Air Law, MACC rules promulgated thereunder (which includes rules comprising the Missouri SIP), and conditions of permits (which includes permits under SIP-approved permitting programs).

Section 643.085 RSMo authorizes the department to assess administrative penalties for violations of the statute, MACC rules, permit conditions, or administrative orders. Section 643.151 RSMo authorizes the MACC to initiate civil actions for these violations, and to seek penalties and/or injunctive relief to prevent any further violation. Section 643.191 RSMo provides for criminal penalties for knowingly violating requirements of the applicable statutes, MACC rules or permit conditions, in addition to other acts described in that section.

In the MACC rules, 10 CSR 10-1.010 *General Organization* reinforces this authority. This rule authorizes the MACC to conduct investigations, make orders and determinations, and refer alleged violations to the attorney general. Similarly, this rule also empowers the director to investigate complaints, issue abatement orders, recommend legal action be taken by the attorney general and enforce provisions of the Missouri Air Law. Lastly, this rule establishes the Air Program's Compliance/Enforcement Section and clearly delineates its duties in fulfillment of Section 110(a)(2)(C) of the CAA.

ii. Minor New Source Review

Missouri has a minor permit program to review smaller sources (See 10 CSR 10-6.060(6)) to ensure, among other things, that such new and modified sources will not interfere with the 2010 NO₂ NAAQS attainment or maintenance. Sources with the potential to emit above the *de minimis* level are required to conduct an ambient air impact analysis to show that they are not adversely impacting the NAAQS. The *de minimis* level for NO_x is 40 tons per year. (See the definition of *de minimis* in the definitions rule at 10 CSR10-6.020(2)(D)5. and Table 1 of 6.020(3)(A)). In accordance with Section (5) of 10 CSR 10-6.060, the department may also require impact analyses for sources lower than these levels that may be likely to adversely affect air quality.

iii. Prevention of Significant Deterioration Program

To prevent significant deterioration of air quality the construction of subject air pollution sources without the appropriate permit is unlawful by statute. To this end, Section 643.075 RSMo authorizes the department to operate a construction permit program and establishes the corresponding functions of that program including fee collecting provisions.

These duties are furthered outlined by Paragraph (2)(D)5. of 10 CSR 10-1.010 *General Provisions* which establishes the Air Program's Permit Section.

Missouri has adopted all necessary provisions to ensure the protection of the NO₂ NAAQS using the PSD program under state rule 10 CSR 10-6.060 *Construction Permits Required*. Missouri has a long-standing and fully implemented NSR permitting program for new major sources and significant modifications of existing sources. This NSR or Construction Permit program in any attainment area is referred to as a PSD permitting program and is governed by Section (8) of 10 CSR 10-6.060. One of the major components of the PSD program is the implementation of Best Available Control Technology on new major sources or significant modification of existing major sources. Missouri has been delegated full authority to implement the PSD program by the EPA for all NSR regulated pollutants including NO₂.

Missouri's NSR permitting program also addresses major sources and modifications in nonattainment areas pursuant to Section (7) of 10 CSR 10-6.060. However, this element need not be addressed in this infrastructure plan. As stated previously, the entire State of Missouri is designated attainment/unclassifiable for the 2010 NO₂ NAAQS. Should any area be designated nonattainment of the 2010 NO₂ NAAQS in the future, the nonattainment area plan elements for those areas would be submitted in their own separate plans and would be addressed appropriately there.

Therefore, Missouri has satisfied the requirements of Section 110(a)(2)(C) of the CAA for the 2010 NO₂ NAAQS through its approved NSR/PSD program enabled by state rule 10 CSR 10-6.060.

D. Interstate Transport: Section 110(a)(2)(D)

Section 110(a)(2)(D)(i) of the CAA requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment in, or interfering with maintenance by, another state with respect to the NAAQS, or from interfering with measures required in another state to prevent significant deterioration of air quality or to protect visibility. Similarly, Section 110(a)(2)(D)(ii) of the CAA requires that the SIP ensure compliance with the applicable requirements of Sections 126 and 115, relating to interstate and international pollution abatement.

i. Section 110(a)(2)(D)(i)(I)

Missouri provides assurance that the state has the infrastructure in place to address all of the elements under of Section 110(a)(2)(D)(i)(I) of the CAA. As stated in paragraph 1.1.B of this document, all areas of the nation are currently designated unclassifiable/attainment for the 2010 NO₂ NAAQS. Therefore, emissions from sources located in the State of Missouri are not currently contributing significantly to nonattainment or interfering with maintenance of the 2010

NO₂ NAAQS in a downwind state. However, it is possible, that air quality in areas in downwind states could worsen or that new monitoring requirements could result in an area in a downwind state being designated nonattainment in the future. If Missouri sources were to be found to be significantly contributing to the NO₂ air quality concentrations in such areas, Missouri's SIP may need to be revised to include sufficient provisions to eliminate such significant contribution.

Addressing the element of Section 110(a)(2)(D)(i)(I) of the CAA regarding significant contribution to downwind state nonattainment areas and interference with maintenance for any NAAQS in downwind states is a very complex task that has been addressed historically by federal regulation. For example, in the past EPA has developed federal emission trading programs that limit ozone season NO_x emissions, annual NO_x emissions, and annual sulfur dioxide (SO₂) emissions at the regional and state levels ensuring that the states participating in these programs eliminate their significant impact to downwind states under historical ozone and fine particulate matter (PM_{2.5}) NAAQS, thus fulfilling their requirements under Section 110(a)(2)(D)(i)(I) of the CAA for those historical NAAQS.

The current federal emission trading programs in place designed to address the Section 110(a)(2)(D)(i)(I) requirements for the 1997 ozone and the 1997 PM_{2.5} NAAQS are the Clean Air Interstate Rule (CAIR) Seasonal NO_x Trading Program, the CAIR NO_x Annual Trading Program, and the CAIR SO₂ Trading Program. Missouri's federally approved SIP includes three rules (10 CSR 10-6.362 *Clean Air Interstate Rule Annual NO_x Trading Program*, 10 CSR 10-6.364 *Clean Air Interstate Rule Seasonal NO_x Trading Program*, and 10 CSR 10-6.366 *Clean Air Interstate Rule SO₂ Trading Program*) that were written in accordance with the federal CAIR Trading Programs (40 CFR 96.101 – 40 CFR 96.388). These rules address ozone season NO_x along with annual NO_x and SO₂ emissions in Missouri and thus are designed to eliminate Missouri's significant impact to downwind states' nonattainment and maintenance areas under the 1997 ozone and the 1997 PM_{2.5} NAAQS. In 2009, CAIR was remanded to EPA by the U.S. District of Columbia Circuit Court of Appeals. Since then, EPA has addressed the remand by proposing and finalizing the Cross-State Air Pollution Rule (CSAPR) to replace CAIR in addressing interstate transport obligations under the 1997 ozone and the 1997 PM_{2.5} NAAQS.

Prior to CSAPR implementation, the U.S. District of Columbia Circuit Court of Appeals stayed CSAPR in December 2011, and directed EPA to continue to implement CAIR until the legal decision regarding CSAPR is resolved. In August 2012, the U.S. District of Columbia Circuit Court of Appeals issued a decision vacating CSAPR and directed EPA to continue to implement CAIR until they can implement a new replacement rule that addresses the Court's concerns. It is noted, that EPA had petitioned the court requesting a rehearing *en banc* of the court decision to vacate CSAPR, and that on January 24, 2013 the U.S. District of Columbia Circuit Court of Appeals denied the petition for the rehearing *en banc*.

Per the August 2012 Court decision to vacate CSAPR,

An upwind State will not know what it needs to do to meet its good neighbor obligation until it learns the level of air pollution in downwind States, and further learns how much it is contributing to the problems in the downwind States. EPA plays the critical role in gathering information about air quality in the downwind States, calculating each upwind State's good

neighbor obligation, and transmitting that information to the upwind State. With that information, the upwind State can then determine how to meet its good neighbor obligation in a new SIP or SIP revision. (EME HOMER CITY GENERATION, L.P. vs. ENVIRONMENTAL PROTECTION AGENCY, August 21, 2012)

Furthermore, on November 19, 2012, EPA issued a memorandum regarding [“Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule.”](#) In this memo, Ms. Gina McCarthy with the EPA noted that “the recent CSAPR decision made certain holdings regarding the requirement for states to submit SIPs addressing the provisions of CAA Section 110(a)(2)(D)(i)(I), the good neighbor provision that addresses upwind emissions linked to NAAQS attainment problems in downwind states. The decision states that a SIP cannot be deemed deficient for failing to meet the good neighbor obligation before the EPA quantifies that obligation.” Ms. Gina McCarthy further declared that “at this time the EPA does not intend to make findings that states failed to submit SIPs to comply with Section 110(a)(2)(D)(i)(I). To the extent states may inquire about their obligations to submit SIPs addressing this provision, we believe it would be appropriate to convey that at this time we do not intend to make such findings with respect to section 110(a)(2)(D)(i)(I).”

Missouri will comply with the requirements of Section 110(a)(2)(D)(i) of the CAA in a manner consistent with this EPA memo, the court decision, and subsequent EPA policy. If in the future EPA determines that Missouri has a significant impact on downwind states monitoring violations or problems with maintenance of the 2010 NO₂ NAAQS and quantifies the level of emissions that would eliminate such significant contribution, Missouri’s intention would be to revise the SIP to control emissions to address Missouri’s significant contribution.

Missouri has demonstrated its ability to implement interstate transport rules in a timely fashion in response to past federal requirements relating to interstate transport. For example, Missouri responded to the NO_x SIP call in a timely fashion by developing a statewide NO_x rule as well as a rule to implement the federal NO_x budget trading program back in the early 2000s. Similarly, as discussed above, the state developed three separate CAIR rules in order to incorporate the federal CAIR Programs into the Missouri SIP. Finally, prior to the CSAPR litigation, Missouri had proposed a SIP revision to assume allocation authority under CSAPR that was later withdrawn after CSAPR was stayed by the federal court. These past actions by the state to work in a timely manner to revise the SIP in response to federal requirements demonstrate the state’s authority, infrastructure, and willingness to address interstate transport for all NAAQS, including NO₂, when EPA determines such action is required.

ii. Section 110(a)(2)(D)(i)(II)

Missouri provides assurance that the SIP includes provisions to satisfy all of the elements under Section 110(a)(2)(D)(i)(II) of the CAA. To address the PSD element of interstate transport (Section 110(a)(2)(D)(i)(II) of the CAA), as previously stated, Missouri maintains a fully implemented NSR/PSD program for new major sources and major modifications in all areas of the state for the 2010 NO₂ NAAQS (see part 2.2.C.ii. of this document).

The Missouri SIP also includes provisions to protect visibility in Class I areas in downwind states, and in Missouri, as required under 110(a)(2)(D)(i)(II). On June 26, 2012, EPA published final approval of the State of Missouri Regional Haze Plan, which was submitted in August 2009, with supplemental information provided in February 2012 (77 FR 38007, June 26, 2012). All associated Regional Haze Plan documents are available in the regulatory docket under the following docket identification number: EPA-R07-OAR-2012-0153. EPA determined the plan submitted by Missouri satisfies the requirements of the CAA for states to prevent any future, and remedy any existing, anthropogenic impairment of visibility in mandatory Class I areas caused by emissions of air pollutants located over a wide geographical area. The State of Missouri intends to provide a five-year progress report for the Regional Haze Plan by August of 2014, and a SIP revision by July 31, 2018, and a revision every ten years thereafter. More information regarding Missouri's Regional Haze Plan can be found on the following website: <http://www.dnr.mo.gov/env/apcp/sips.htm#regionalhaze>.

In addition, as stated above, EPA has been directed by the U.S. District of Columbia Circuit Court of Appeals to continue implementing CAIR until a replacement rule can be implemented to address the court's concerns. Missouri has three CAIR rules to control emissions of NO_x and SO₂ from electric generating units operating in Missouri, which provides further protection of visibility in Class I areas located in Missouri and downwind states.

iii. Section 110(a)(2)(D)(ii)

Missouri provides assurance that the SIP includes provisions to satisfy the elements of Section 110(a)(2)(D)(ii) of the CAA. Missouri, being in the center of the country, is not near enough to any international borders to have a significant impact to any other country from NO₂ air pollution, thus the element of Section 110(a)(2)(D)(ii) of the CAA pertaining to Section 115 of the CAA regarding international transport under the 2010 NO₂ NAAQS does not apply.

Section 643.050.3(7) RSMo authorizes the MACC to be Missouri's representative in all matters pertaining to interstate air pollution abatement. Consistent with 110(a)(2)(D)(ii) of the CAA pertaining to requirements under Section 126 of the CAA, MACC rules require that affected states receive notice prior to the commencement of any construction or modification of a source. Section (6) of 10 CSR 10-6.060 *Construction Permits Required* provides that the review of all PSD permit applications follow the procedures of 10 CSR 10-6.060(12)(A), Appendix A. This rule also requires that the permitting authority notify affected states once a draft permit is made available for public comment.

E. Adequate Resources: Section 110(a)(2)(E)

Section 110(a)(2)(E) of the CAA requires that SIPs provide for the following: (1) necessary assurances that the state (and other entities within the state responsible for implementing the SIP) have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) state compliance with the requirements relating to state boards, pursuant to section 128 of the CAA; and (3) necessary assurances that the state has responsibility for implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

i. Personnel

The Air Program has adequate personnel to carry out the required SIPs. As discussed above in paragraph 2.2.A. of this document, Missouri Air Law empowers the MACC to control air pollution and promulgate appropriate regulations. MACC rules assign the department and the Air Program the task of carrying out the MACC's policy. 10 CSR 10-1.010 outlines the organization and administrative aspects of the Air Program. The Air Program personnel who develop and implement SIPs consist primarily of environmental specialists and environmental engineers. To support SIP development and implementation, 10 CSR 10-1.010 provides that the appropriate Air Program personnel shall –

- Develop and quality assure the emission inventory for the purposes of the EPA National Emissions Inventory as well as Air Program use.
- Coordinate with the department's ESP and local air pollution control agencies for the establishment, operation, and maintenance of air monitoring sites
- Provide modeling, air quality analysis and maintain the air monitoring SIP

Additionally, 10 CSR 10-1.010 establishes the Air Program's Planning Section to, among other things –

- Develop and propose rules, amendments and rescissions to be adopted by the MACC
- Meet all public participation requirements of state and federal laws involving rulemaking actions and SIP revisions
- Provide SIP coordination and maintenance, and prepare SIP revisions

The Air Program's Air Quality Monitoring personnel are described in paragraph 2.2.B. of this document. Additional support for monitoring and air quality assurance data comes from the department's ESP.

As addressed above in part 2.2.C.i. of this document, 10 CSR 10-1.010 describes the Enforcement Section's duties. Some of these duties include –

- Perform or oversee source compliance testing
- Track and determine compliance of air pollution sources
- Resolve violations through out-of-court settlements with the assistance of the Attorney General's Office

The Permit Section was introduced in part 2.2.C.ii. of this document. According to 10 CSR 10-1.010, some of this section's additional responsibilities include –

- Receive, evaluate, and make recommendations to the Air Program director to approve, approve with conditions, or deny applications for construction permits
- Process operating permit applications, amendments, and modifications in a timely manner according to the MACC rules and requirements
- Maintain the Missouri CAA Title V Program to ensure continued authorization of the program in Missouri

ii. Funding

The Air Program receives funding from several mechanisms that support the implementation of the SIP. Section 643.079 RSMo requires the MACC to establish an annual air pollution emission fee to fund the reasonable cost of administering the Missouri Air Law. This statute provides for the deposit of fees into appropriate subaccounts for implementing the corresponding various programs. For example, there is a subaccount for the Title V operating permit program used for Title V activities and a subaccount for non-Title V activities. There are no significant changes to these funding streams anticipated for the foreseeable future.

Also, the basic federal support grant is made under authority of Section 105 of the CAA. Funds provided under this authority (with required state matching funds), do not fully support all the activities necessary to maintain primacy for the delegated programs. Other grants (e.g. Section 103 of the CAA) and other state sources (e.g. matching funds from General Revenue and Air Fees) are used to support the core functions. As a result, grant work plans contain only those activities that are paid for with the federal funding and corresponding state matching funds.

iii. Authority

Chapter 643 RSMo provides the authority necessary to carry out the SIP requirements. Missouri has asserted that it has the authority to implement the SIP for the 2010 NO₂ NAAQS in paragraph 2.2.A. of this document. See that section for more details.

iv. Conflicts of Interest

Section 110(a)(2)(E) of the CAA also provides that the state must meet the requirements of Section 128 of the CAA, relating to representation on state boards and conflicts of interest by members of such boards.

In August 2012, the State of Missouri submitted a Section 128 SIP revision to EPA. This SIP revision implements all of the requirements of Section 128 of the CAA and is applicable for all pollutants, thus satisfying this element of the infrastructure SIP for the 2010 NO₂ NAAQS. Missouri's Section 128 SIP can be found online at the following website:
<http://www.dnr.mo.gov/env/apcp/docs/sect-128-epa-submittal1.pdf>.

The following discussion shows how Missouri generally meets the requirements of Section 128 of the CAA.

Section 128 requires that a SIP implementing body which approves permits or enforcement orders under the CAA must have at least a majority of members who represent the public interest.

The Missouri Air Law Section 643.040 RSMo creates the MACC and states that –

All members shall be representative of the general public and shall have an interest in and knowledge of air conservation and the effects and controls of air contaminants.

and

The commission shall establish rules of procedure which specify when members shall exempt themselves from participating in and voting on issues before the commission due to potential conflict of interest.

Consequently, the Missouri Air Conservation Commission Operation Policies manual (www.dnr.mo.gov/env/apcp/MACC_Policy.pdf) states that–

Commissioners will avoid both actual and perceived conflicts of interest in their quasi-judicial role and will avoid ex parte contact with other parties, including department staff, to pending disputes.

If a commissioner publicly takes or expresses a position on a specific issue, party or permit that later comes before the commission on an appeal, the commissioner will recuse himself on the record from any discussion, deliberation, or decision making on the issue.

The Operations Policies manual also states that “Commissioners shall comply with all applicable statutory requirements regarding conflict of interest, including RSMo Chapter 105.” Specifically, Section 105.452 RSMo outlines prohibited acts by elected and appointed public officials and employees. Section 105.454 RSMo provides additional prohibited acts (and exceptions) by elected or appointed public officials and employees. Chapter 105 RSMo is applied to the MACC, as well as the director of the department. Here is the link to Chapter 105 RSMo: <http://www.moga.mo.gov/STATUTES/C105.HTM>

The department’s Administrative Policies and Procedures manual states that no department employee should–

“engage in any personal, business, or professional activity or receive or retain any direct or indirect financial interest that places them in a position of conflict between their private interests and the public interests of the department related to the duties and responsibilities of their jobs.”

F. Stationary Source Monitoring System: Section 110(a)(2)(F)

Section 110(a)(2)(F) of the CAA requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. It also requires that the state correlate the source reports with emission limitations or standards established under the CAA and make reports available for public inspection.

The requirements of this element are fulfilled through the Missouri Air Law and by various requirements within the MACC rules. For example, Section 643.050.1(3)(a) RSMo authorizes the state–

To require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to rate, period of emission and composition of effluent.

Also, Section 643.192.2 RSMo requires an annual report that summarizes changes in air quality.

As discussed in paragraph 2.2.A. of this document, 10 CSR 10-6.030 *Sampling Methods* establishes the appropriate sampling method for nitrogen oxides (NO_x) from air pollution sources to be the EPA's Test Method 7, which is the method prescribed in 40 CFR Part 60 Appendix A.

10 CSR 10-6.110 *Reporting Emission Data, Emission Fees, and Process Information* requires permitted sources to file an annual report on air pollutant emissions to include emissions data, process information, and annual emissions fees. In turn, the Air Program submits the emissions data to the EPA's publicly-available National Emissions Inventory database and uses the data for tracking progress towards attaining and maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with emissions regulations as well as other EPA requirements. The Air Program also makes data, including NO_x emissions data, available to the public upon request.

Lastly, to satisfy the public reporting requirements of this element, 10 CSR 10-6.210 *Confidential Information* specifically excludes emissions data from confidential treatment. Under that rule, emissions data includes monitoring results from required monitors. Therefore, information regarding monitoring results from required monitors must be reported by sources under MACC rules.

G. Emergency Authority: Section 110(a)(2)(G)

Section 110(a)(2)(G) of the CAA requires states to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment including contingency plans to implement the emergency provisions in their SIPs.

The state's ability and authority to enact emergency provisions consistent with element 110(a)(2)(G) of the CAA is once again found in both Missouri Air Law and the MACC rules. At the core of the statutory authority is Section 643.090 RSMo which authorizes the MACC or the director to declare an emergency where the ambient air, due to meteorological conditions and a buildup of air contaminants, may present an "emergency risk" to public health, safety, or welfare. The MACC or director may, with the written approval of the governor, by order prohibit, restrict or condition all sources of air contaminants contributing to the emergency condition, during such periods of time necessary to alleviate or lessen the effects of the emergency condition. The statute also enables the MACC to promulgate implementing regulations. Even in the absence of an emergency condition, Section 643.090 RSMo allows the director to issue "cease and desist" orders to specific persons engaging in activities which involve a discharge of air contaminants, or a risk of air contamination, that presents a danger to public health or welfare.

In fulfillment of this element and by using this statutory authority, the MACC has adopted appropriate corresponding emergency regulations, to include some of the following:

- 10 CSR 10-1.010 *General Organization* enlists the MACC to develop, and the director to enact, air pollution emergency alert procedures.

- For many pollutants, including NO₂, Missouri’s SIP-approved rule 10 CSR 10-6.130 *Controlling Emissions During Episodes of High Air Pollution Potential* establishes action levels and contingency measures for several criteria pollutants. This rule specifies the conditions that establish an air pollution alert, watch or emergency and the associated procedures and emissions reduction objectives for dealing with each.

H. Future SIP Revision Authority: Section 110(a)(2)(H)

Section 110(a)(2)(H) of the CAA requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

In addition to its general enabling authority, as discussed in paragraph 2.2.A. of this document, Section 643.050 RSMo, also authorizes the MACC to—

Prepare a general comprehensive plan for the prevention, abatement and control of air pollution

Section 643.055 RSMo further authorizes the MACC to promulgate rules, and establish standards and guidelines, to ensure that the state complies with the provisions of the CAA. Moreover, this provision specifically addresses the necessity of a SIP to be developed to bring a nonattainment area into compliance and to maintain compliance when needed to have an EPA approved plan.

This is codified in the MACC rules by 10 CSR 10-1.010 *General Organization* which enables the MACC to promulgate and revise rules as necessary. This rule restates the director’s responsibility to submit revisions of the SIP to the EPA for approval.

Lastly, as mentioned previously in part 2.2.E.i. of this document, the Air Program’s Planning Section was created specifically to develop and coordinate SIP revisions in satisfaction of Section 110(a)(2)(H) of the CAA.

I. Nonattainment Area Plans: Section 110(a)(2)(I)

Section 110(a)(2)(I) of the CAA requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of Part D of the CAA, relating to SIP requirements for designated nonattainment areas.

This document is a statewide NO₂ infrastructure plan. As stated in paragraph 2.2.A of this document, infrastructure plans are not intended to identify nonattainment area emission controls. In addition, the entire State of Missouri has been designated attainment/unclassifiable. Should any areas in Missouri be designated nonattainment of the 2010 NO₂ NAAQS in the future, the emissions limitations and other control measures to bring areas designated nonattainment back into attainment of the 2010 NO₂ NAAQS would be developed under a separate SIP submittal with its own schedule and process.

Pursuant to Part D of the CAA, nonattainment SIPs are due on a different schedule than infrastructure SIPs. Therefore, this infrastructure plan does not address Section 110(a)(2)(I) as

this element is not applicable for this type of SIP. SIP submittals containing control measures developed specifically for attaining the relevant standard are due at the time the nonattainment area planning elements are due (typically 18 months following the designation of nonattainment areas for NO₂).

J. Consultation Process, Public Notification et al.: Section 110(a)(2)(J)

Section 110(a)(2)(J) of the CAA requires SIPs to meet the applicable requirements of the following CAA provisions: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) Section 127, relating to public notification of NAAQS exceedances and related issues; and (3) Title I Part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection. For the reasons stated below, Missouri has addressed the applicable requirements of Section 110(a)(2)(J) of the CAA for the 2010 NO₂ NAAQS:

i. Interagency Consultation

For the purpose of implementing air pollution control responsibilities, Section 643.050.3(6) RSMo requires the MACC, to—

Advise, consult, and cooperate with other agencies of the state, political subdivisions, industries, other states and the federal government, and with interested persons or groups.

Missouri also has appropriate interagency consultation regulations in the NSR permit program. For example, Subsection (12)(B) of 10 CSR 10-6.060 requires that when a permit is made available for public comment, the permitting authority must provide notice to local air pollution control agencies, the chief executive of the city and county where the installation or modification would be located, any comprehensive regional land use planning agency, any state air program permitting authority, and any Federal Land Manager whose lands may be affected by emissions from the installation or modification.

ii. Public Notification

Section 127 of the CAA requires public notification during periods of NAAQS exceedances. As discussed in paragraph 2.2.G. of this document in regards to emergency authority, MACC rules are established requiring the development and implementation of air pollution emergency alert procedures including provisions for public notification of elevated levels of various air pollutants, and suggestions for measures which can be taken by the public to reduce emissions.

As previously stated, Section 643.050.3(6) RSMo requires the MACC to coordinate and consult with all interested parties or groups.

iii. Title I Part C of the CAA Requirements: Prevention of Significant Deterioration and Visibility

In part 2.2.C.ii. of this document, the department has noted how the Missouri SIP meets the PSD requirements by establishing a state rule which incorporates the applicable federal code by reference.

With respect to the visibility component of Section 110(a)(2)(J) of the CAA, the visibility element has already been addressed in paragraph 2.2.D. of this document. In addition, since Missouri must meet Title I Part C of the CAA requirements separately and independently from this plan and because the visibility requirements (in contrast to the PSD element) of Title I Part C are not directly related to the promulgation of, or revision to, a NAAQS, the visibility element is considered to be outside the scope of infrastructure SIP actions required pursuant to Section 110(a) of the CAA.

In other words, because of the specific independent SIP requirements contained in Sections 169A and 169B of the CAA (Title I Part C), the visibility protection requirements are not “applicable requirements” within the meaning of CAA Section 110(a)(2)(J) and Missouri’s infrastructure SIP is not required to be revised with respect to visibility protection merely due to promulgation of a revised NO₂ NAAQS.

As previously stated, Missouri has three CAIR rules to control emissions of NO_x and SO₂ from electric generating units operating in Missouri, which provides protection of visibility in Federal Class I Areas located in Missouri and downwind states. Finally, on June 26, 2012, EPA published final approval of the State of Missouri’s Regional Haze Plan, which was submitted in August 2009, with supplemental information provided in February 2012 (77 FR 38007, June 26, 2012).

K. Air Quality Modeling: Section 110(a)(2)(K)

Section 110(a)(2)(K) of the CAA requires SIPs to provide for the performance of air quality modeling as the EPA Administrator may prescribe for the purpose of predicting the ambient air quality impacts for any NAAQS and to provide for the submission of modeling related data to EPA upon request.

The infrastructure to perform air quality modeling is found in the Missouri Air Law. Section 643.050 RSMo provides the authority to secure necessary scientific and technical services as well as to conduct studies, investigations and research.

As stated throughout this document, 10 CSR 10-1.010 *General Organization* details the various duties of Air Program staff. This rule establishes air quality modeling functions for the Air Program. The department employs air quality modeling staff in both the Planning and Permits Sections of the Air Program. Routine modeling staff duties include performing air quality modeling and related activities, such as collecting, quality assuring, and analyzing model input data specific to impacted facilities – including but not limited to emissions data, meteorology, topography, geographic coordinates data, etc., and coordinating such efforts with the EPA.

Thus, as authorized, the Air Program utilizes air quality modeling staff, including several staff in the Planning Section’s SIP Unit, to fulfill the requirements of Section 110(a)(2)(K) of the CAA for the 2010 NO₂ NAAQS.

L. Permitting Fees: Section 110(a)(2)(L)

Section 110(a)(2)(L) of the CAA includes a SIP requirement for the owner or operator of each major stationary source to pay the permitting authority a fee(s) per the EPA Administrator's approval of a fee program under Title V of the CAA.

The department's fee-collecting authority is found at Section 643.079 RSMo. In addition, the Air Program has a fully EPA-approved Title V operating permit program as authorized by Section 643.078 RSMo. The approved fee program for major stationary sources in Missouri includes permit application fees as codified in 10 CSR 10-6.065 *Operating Permits*, and annual Emissions Inventory Questionnaire fees pursuant to 10 CSR 10-6.110 *Reporting Emission Data, Emission Fees, and Process Information*. In addition to the fees directly related to implementation and enforcement of Missouri's Title V program, additional construction permit fees are assessed and collected per state rule 10 CSR 10-6.060 *Construction Permits Required* which is discussed in greater detail in part 2.2.C.ii. of this document.

Appropriate subaccounts for the Title V program are discussed in part 2.2.E.iii. of this document. Therefore, Missouri has satisfied the requirements of Section 110(a)(2)(L) of the CAA for the 2010 NO₂ NAAQS through its approved Title V program and collection of fees authorized by the applicable state statutes and MACC rules.

M. Consultation / Participation of Local Entities: Section 110(a)(2)(M)

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

As noted in part 2.2.J.i of this document regarding interagency consultation, Section 643.050 RSMo requires the MACC to consult and coordinate with political subdivisions. Also pursuant to this statute, some of the other relevant powers and duties of the MACC include –

- Conduct public hearings as required by Sections 643.010 to 643.190 RSMo
- Coordinate with any board, department or other agency of any political subdivision or state or the federal government to secure necessary scientific, technical, administrative and operation services; provide assistance to political subdivisions

Furthermore, state rule 10 CSR 10-1.010 directs the Air Program's Planning Section to–
Meet[s] all public participation requirements of state and federal laws involving rulemaking and SIP revisions.

In addition to public hearings required by Missouri statutes and rules for certain activities including rulemakings, permits and variances, the MACC regularly conducts public hearings for all SIP elements submitted to EPA. Additionally, Air Program staff, under the direction of the MACC, routinely conducts public outreach meetings and coordination efforts with political subdivisions, industries and interested persons or groups.

As an example of coordination activities with local entities, the Air Program consults with and participates in Air Quality Forum meetings with major source industries, Small Business

Compliance Advisory Committee meetings, and in meetings with Metropolitan Planning Organizations throughout the state.

In summary, Missouri has satisfied the requirements of Section 110(a)(2)(M) of the CAA for the 2010 NO₂ NAAQS through the public hearing, outreach and coordination efforts outlined in state statutes and regulations as executed by the MACC and the department.

3. CONCLUSION

The State of Missouri acknowledges its responsibilities related to Section 110(a) of the CAA. Through this plan, the State of Missouri hereby certifies that it has the authority and resources to implement, maintain and enforce the 2010 NO₂ NAAQS. Furthermore, this plan demonstrates that with the exception of requirements under Section 110(a)(2)(D)(i)(I) of the CAA, which are discussed in detail in part 2.2.D.i of this document, the state has addressed and fulfilled all the applicable requirements of Sections 110(a)(1) and (2) of the CAA in regard to this revised NAAQS.

Compliant with 643.055 RSMo, the Missouri Air Conservation Commission has determined that this action is needed to have a U.S. Environmental Protection Agency approved State Implementation Plan.

The State Implementation Plan – Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard is hereby adopted by the Missouri Air Conservation Commission this 25th day of April, 2013.

Original signed by Commissioners:	
Jack C Baker	Chairman
Gary J Pendergrass	Vice Chairman
Mark Garnett	Member
David C. Zimmermann	Member
	

_____, Member

_____, Member

_____, Member

Jay Nixon, Governor
Sara Parker Pauley, Director

Air Pollution Control Program



State Plan Actions

[On Public Notice](#) | [Proposed for Adoption](#)

On Public Notice

Missouri State Implementation Plan - Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standard

This plan was developed to fulfill the requirements of Section 110(a) of the Clean Air Act for the newly revised (2010) National Ambient Air Quality Standard (NAAQS) for Nitrogen Dioxide (NO₂). Section 110(a) (1) requires states to submit a state implementation plan (SIP) revision such as this after the promulgation of a new or revised NAAQS to address the implementation, maintenance, and enforcement infrastructure elements of Section 110(a)(2) for that NAAQS. This plan is administrative in nature and demonstrates Missouri's ability and authority to implement these infrastructure elements for the 2010 revised NO₂ standard via the referencing of specific corresponding applicable state statutes, regulations, programs or resources.

[2010 NO₂ Infrastructure SIP \(Proposed\)](#)

[Appendix A](#)

[Appendix B](#)

[Submit comments now](#)

A public hearing is scheduled for this plan action on March 28, 2013. Comments about this plan action will be accepted through the close of business on April 4, 2013.

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Proposed Revision to the Boundary Recommendation of Nonattainment and Unclassifiable Areas per the 2010 1-hour Sulfur Dioxide (SO₂) National Ambient Air Quality Standard

The U.S. Environmental Protection Agency is moving forward with finalizing designations under the 2010 1-hour Sulfur Dioxide (SO₂) NAAQS. Based on the 2010-2012 monitoring period, Missouri plans to submit a revised area boundary recommendation as an amendment to the original boundary recommendation and technical support document submitted to EPA on July 19, 2011. Based on the most recent certified 2010-2012 data from the three SO₂ monitors operating in Greene County, the Springfield area is no longer in violation of the 1-hour SO₂ NAAQS and will be recommended for designation as unclassifiable.

[2010 1-hour SO₂ Boundary Recommendation](#)

[Submit comments now](#)

A public hearing is scheduled for this action on March 28, 2013. Comments about this action will be accepted through the close of business on April 4, 2013.

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Proposed for Adoption

The below items will be presented for adoption at the March 28, 2013, Missouri Air Conservation Commission meeting.

Missouri State Implementation Plan Revision - Early Progress Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground-Level Ozone National Ambient Air Quality Standard

Pursuant to Section 176(c) of the Clean Air Act, this Early Progress Plan establishes transportation conformity motor vehicle emission budgets for Missouri's portion of the St. Louis nonattainment area under the 2008 8-hour Ozone National Ambient Air Quality Standard, or NAAQS. The St. Louis nonattainment area was designated as a marginal nonattainment area for the 2008 8-hour Ozone NAAQS on May 21, 2012. The new motor vehicle budgets are based on a demonstration that emissions are steadily decreasing in the St. Louis area. Although the St. Louis nonattainment area has approved motor vehicle emissions budgets that have been used to demonstrate conformity under the 1-hour and 1997 8-hour Ozone NAAQS, new budgets are needed due to EPA's recent transition from an older on-road mobile source emissions model, or Mobile 6, to the current on-road mobile source emissions model, or MOVES.

A public hearing on this plan action was held on February 5, 2013. Comments about this plan action were accepted through the close of business February 13, 2013. Minor revisions to the plan have been made as a result of comments received. The revised plan and appendices are listed below along with a summary of the comments received and the corresponding responses from the Department.

[Early Progress Plan for the Missouri Portion of the St. Louis Nonattainment Area Appendices A through D](#)

[Summary of Comments and Responses](#)

This plan is scheduled for adoption at the March 28, 2013, Missouri Air Conservation Commission meeting.

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Missouri State Implementation Plan Revision - Attainment Demonstration for the 2008 Lead National Ambient Air Quality Standard - Buick/Viburnum Trend Lead Nonattainment Area

This plan was developed to bring the Buick/Viburnum Trend area into attainment of the 2008 Lead National Ambient Air Quality Standard, or NAAQS, pursuant to Section 172(c) of the federal Clean Air Act. On Nov. 22, 2010, the EPA designated the Buick/Viburnum Trend as nonattainment for the 2008 Lead NAAQS based on air quality data from 2007-2009. This area encompasses portions of Iron, Reynolds and Dent counties and contains a secondary lead smelter, two lead mine/mill operations, and a fourth facility that crushes mineral ore. This plan includes an emissions inventory, control measures, contingency measures and a technical demonstration that the proposed emission controls will result in the attainment of the 2008 Lead NAAQS for the area.

A public hearing on this plan action was held on February 5, 2013. Comments about this plan action were accepted through close of business Feb. 13, 2013.

Revised plan will be posted upon completion.

This plan is scheduled for adoption at the March 28, 2013, Missouri Air Conservation Commission meeting.

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Missouri State Implementation Plan Revision - Attainment Demonstration for the 2008 Lead National Ambient Air Quality Standard - Herculaneum Lead Nonattainment Area

This plan was developed to bring Herculaneum, MO into attainment of the 2008 Lead National Ambient Air Quality Standard, or NAAQS, pursuant to Section 172(c) of the federal Clean Air Act. On Nov. 22, 2010, EPA designated the city limits of Herculaneum as nonattainment for the 2008 Lead NAAQS based on air quality data from 2007-2009. Herculaneum contains the nation's only primary lead smelter, which shall be shutting down its smelting (blast furnace and sinter plant) operations on or before April 30, 2014. This plan includes an emissions inventory, control measures, contingency measures and a technical demonstration that the proposed emission controls will result in the attainment of the 2008 Lead NAAQS for the area.

A public hearing on this plan action was held on February 5, 2013. Comments about this plan action were accepted through close of business Feb. 13, 2013.

Revised plan will be posted upon completion.

This plan is scheduled for adoption at the March 28, 2013, Missouri Air Conservation Commission meeting.

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Bechtel, Cheri

From: Missouri DNR <MODNR@public.govdelivery.com>
Sent: Friday, February 22, 2013 11:05 AM
To: Bechtel, Cheri
Subject: Courtesy Copy: Missouri DNR Air Public Notices Update

This is a courtesy copy of an email bulletin sent by Cheri Bechtel.

This bulletin was sent to the following groups of people:

Subscribers of Air Public Notices (430 recipients)



Having trouble viewing this email? [View it as a Web page.](#)



MISSOURI AIR CONSERVATION COMMISSION WILL HOLD PUBLIC HEARING

JEFFERSON CITY, MO -- The Missouri Air Conservation Commission will hold a public hearing on Thursday, March 28, 2013 beginning at 9 a.m. at the Elm Street Conference Center, 1730 East Elm Street, Lower Level, Bennett Springs Conference Room, Jefferson City, Missouri. The commission will hear testimony related to the following proposed action(s):

- * Proposed Revision to the Boundary Recommendation of Nonattainment and Unclassifiable Areas per the 2010 1-hour Sulfur Dioxide National Ambient Air Quality Standard

This action will be submitted to the U.S. Environmental Protection Agency in order to finalize nonattainment area designations for this standard, but it will not be submitted for inclusion in the Missouri State Implementation Plan.

- * Missouri State Implementation Plan Revision – Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standard

If the Commission adopts the action(s), it will be the Department's intention to submit the action(s) to the U.S. Environmental Protection Agency to be included in Missouri's State Implementation Plan unless otherwise noted above.

Documents for the above item(s) will be available for review at the Missouri Department of Natural Resources, Air Pollution Control Program, 1659 Elm Street, Jefferson City, (573) 751-4817 and in the Public Notices section of the program web site <http://dnr.mo.gov/env/apcp/public-notices.htm>. This information will be available at least 30 days prior to the public hearing date.

The Department will accept written or email comments for the record until 5 p.m. on April 4, 2013. Please send written comments to Chief, Air Quality Planning Section, Air Pollution Control Program, P.O. Box 176,

Jefferson City, MO 65102-0176. Email comments may be submitted via the program web site noted above. All written and email comments and public hearing testimony will be equally considered.

Citizens wishing to speak at the public hearing should notify the secretary to the Missouri Air Conservation Commission, Missouri Department of Natural Resources, Air Pollution Control Program, P.O. Box 176, Jefferson City, Missouri 65102-0176, or telephone (573) 526-3420. The Department requests persons intending to give verbal presentations also provide a written copy of their testimony to the commission secretary at the time of the public hearing.

Persons with disabilities requiring special services or accommodations to attend the meeting can make arrangements by calling the Program directly at (573) 751-4817, the Division of Environmental Quality's toll free number at (800) 361-4827, or by writing two weeks in advance of the meeting to: Missouri Department of Natural Resources, Air Conservation Commission Secretary, P.O. Box 176, Jefferson City, MO 65102. Hearing impaired persons may contact the program through Relay Missouri, (800) 735-2966.

You are subscribed to the Air Public Notices topic for Missouri DNR. This information has recently been updated, and is now available at the link below. Thank you for your interest in the Air Public Notices.

<http://dnr.mo.gov/env/apcp/stateplanrevisions.htm>

Update your subscriptions, modify your password or email address, or stop subscriptions at any time on your [Subscriber Preferences Page](#). You will need to use your email address to log in. If you have questions or problems with the subscription service, please contact support@govdelivery.com.

This service is provided to you at no charge by [Missouri DNR](#).

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BEFORE THE MISSOURI AIR CONSERVATION COMMISSION

PUBLIC HEARING
TRANSCRIPT OF PROCEEDINGS

Thursday, March 28, 2013

9:35 a.m.

Elm Street Conference Center
130 East Elm Street, Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

COMMISSION MEMBERS PRESENT:

- Mr. Jack Baker
- Mr. Mark S. Garnett
- Mr. Gary Pendergrass
- Mr. David Zimmerman

REPORTED BY: Monnie S. Mealy, CCR, CSR, RPR
Midwest Litigation Services
3432 W. Truman Boulevard, Suite 207
Jefferson City, MO 65109
(573) 636-7551

1 Greene County.

2 COMMISSIONER ZIMMERMAN: I guess.

3 COMMISSIONER BAKER: I don't have any
4 people sign-in to comment. So we'll move on to
5 Mr. Mark.

6 MARK LEATH,
7 being first duly sworn to testify the truth, the whole
8 truth, and nothing but the truth, testified as follows:

9 TESTIMONY OF MARK LEATH

10 MR. LEATH: Chairman, members of the
11 Commission, my name is Mark Leath. I am employed
12 as an Environmental Engineer with the Air Pollution
13 Control Program located at 1659 East Elm Street,
14 Jefferson City, Missouri.

15 I am here today to present testimony
16 for a proposed revision to the State Implementation
17 plan, or SIP, for the Section 110 Infrastructure
18 Requirements of the 2010 National Ambient Air
19 Quality Standard (or NAAQS) for Nitrogen Dioxide
20 (or NO2). The plan starts on page 123 of your
21 briefing document.

22 The purpose of this plan is to satisfy the
23 requirements of Section 110 of the Federal Clean
24 Air Act throughout the state for the NO2 air
25 quality standard that was revised by the U.S.

1 Environmental Protection Agency or EPA in 2010.

2 Section 110(a) of the Clean Air Act
3 requires that each state submit to EPA a SIP
4 revision to provide for the implementation,
5 maintenance and enforcement of each new or revised
6 NAAQS within three years of the promulgation of the
7 new or revised standard.

8 On February 9, 2010, the EPA promulgated a
9 revised NAAQS for NO2. The revision added a new
10 primary standard at a level of 100 parts per
11 billion based on a 1-hour averaging period.

12 The purpose of this plan is to demonstrate
13 that the State of Missouri has the ability,
14 authority and resources to implement the
15 infrastructure elements listed in Section 110(a)(2)
16 for the 2010 NO2 NAAQS. For this reason, these
17 Section 110 plan submittals are commonly referred
18 to as "infrastructure SIPs."

19 Elements of the infrastructure SIP
20 include: The ability to implement enforceable
21 Emission Limits and Control Measures, Air Quality
22 Monitoring, Enforcement and Construction Permit
23 Programs, Public Notification/Consultation Process,
24 and Air Quality Modeling.

25 This plan is administrative have in nature



**COMMENTS AND RESPONSES
FOR
PROPOSED REVISION TO
THE MISSOURI STATE IMPLEMENTATION PLAN —
SECTION 110 INFRASTRUCTURE REQUIREMENTS FOR THE
2010 NITROGEN DIOXIDE
NATIONAL AMBIENT AIR QUALITY STANDARD**

On March 28, 2013, the Missouri Air Conservation Commission held a public hearing in Jefferson City, Missouri concerning this proposed revision to the Missouri State Implementation Plan (SIP) for the Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide (NO₂) National Ambient Air Quality Standard (NAAQS). Section 110(a)(1) of the federal Clean Air Act requires states to submit an implementation plan revision such as this after the promulgation of a new or revised NAAQS to address the implementation, maintenance, and enforcement infrastructure elements of Section 110(a) for that NAAQS. This plan is administrative in nature and demonstrates Missouri's ability and authority to implement these infrastructure elements for the 2010 revised NO₂ standard via the referencing of specific corresponding applicable state statutes, regulations, programs or resources. The following is a summary of comments received and the Missouri Department of Natural Resources' corresponding responses. Any changes to the proposed plan are identified in the responses to the comments.

SUMMARY OF COMMENTS: The department's Air Pollution Control Program received 10 comments from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA commented that the department may want to consider including 10 CSR 10-6.010 *Ambient Air Quality Standards* in the list of rules in Section 2.2.A. of the document.

RESPONSE: The program has initiated a rulemaking process to incorporate the 2010 NO₂ NAAQS into the table of standards in 10 CSR 10-6.010; however, since the rule has not yet been amended, it is not appropriate to include it in the list of state rules listed in Section 2.2.A. of the NO₂ infrastructure SIP. The program asserts that not having the 2010 NO₂ NAAQS listed in the table in 10 CSR 10-6.010 in no way impedes the state's authority to implement, enforce, and maintain the 2010 NO₂ NAAQS. As stated in the plan, the state's definition rule 10 CSR 10-6.020 includes definitions for criteria pollutants and national ambient air quality standards to ensure that all regulations pertaining to criteria pollutants or NAAQS, including permitting requirements, also apply to the revised 2010 NO₂ NAAQS. The plan also references state statutes that provide the Missouri Air Conservation Commission the authority to implement and enforce all NAAQS including the 2010 NO₂ NAAQS. No changes to the proposed plan were made as a result of this comment.

COMMENT #2: The EPA commented that the department may want to consider providing a more generic timeline for the operation of the near road NO₂ ambient monitoring network as these monitors are subject to funding availability and may need to be delayed as the result of potential federal funding reductions.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the plan has been changed by revising the language in Section 2.2.B. to add a more generic timeline for the operation of the near road NO₂ monitors and make clear that these are subject to EPA funding and requirements.

COMMENT #3: The EPA commented that the department could include information regarding the five year monitoring assessment that the department performs in Section 2.2.B. of the plan as a provision that helps satisfy the requirements of this Clean Air Act element.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, language has been added to Section 2.2.B. of the plan to include information regarding the five year monitoring assessment review.

COMMENT #4: The EPA commented that Section 2.2.C. of the plan could be reorganized into three subsections to more clearly address the three requirements under Section 110(a)(2)(C) of the Clean Air Act.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Section 2.2.C. of the plan has been reorganized into three parts to more clearly address the three requirements under this Section.

COMMENT #5: The EPA commented that they intended to take action on Section 2.2.D of the plan in a manner consistent with the November 19, 2012 memo issued by Gina McCarthy as this section relates to interstate transport provisions.

RESPONSE AND EXPLANATION OF CHANGE: The November 19, 2012 Gina McCarthy memo was issued to EPA regions in order to communicate EPA's intentions for several issues that arose as a result of the U.S. District of Columbia Circuit Court of Appeals' decision to vacate the Cross-State Air Pollution Rule. Specifically, in the memo Ms. McCarthy stated that in regards to infrastructure SIPs, EPA does not intend to make a finding of failure to submit a SIP to comply with Section 110(a)(2)(D)(i)(I) of the Clean Air Act, commonly referred to as the "good neighbor provision" because the court stated in the decision that a SIP cannot be deemed deficient for failing to meet the good neighbor obligation before the EPA quantifies that obligation. As a result of this comment, the language in the introduction of the plan, Section 2.2.D. of the plan, and the conclusion of the plan have been revised. As part of these revisions, the technical demonstration (including both appendices) that the Missouri SIP satisfies the requirements of Section 110(a)(2)(D)(i)(I) of the Clean Air Act was removed. Instead, language was added demonstrating that the state has the infrastructure and authority in place to address this requirement if EPA quantifies a significant contribution obligation for the 2010 NO₂ NAAQS in the future.

COMMENT #6: The EPA commented that the department should reorganize Section 2.2.D. of the plan to make clear how the state is addressing each of the three sub-elements in Section 110(a)(2)(D) of the Clean Air Act.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Section 2.2.D. of the plan has been reorganized into three parts to address the requirements of 110(a)(2)(D)(i)(I), 110(a)(2)(D)(i)(II), and 110(a)(2)(D)(ii) separately in order to provide further clarity to the state's response under each of these sub-elements of the Clean Air Act.

COMMENT #7: The EPA commented that the department could also cite the state's rules which require electric generating units to comply with the Clean Air Interstate Rule (CAIR) to provide additional assurance that the state is satisfying the requirements for visibility under Section 110(a)(2)(D)(i)(II).

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Section 2.2.D. of the plan has been revised to include language regarding the State's CAIR rules as additional assurance that the visibility requirements under Section 110(a)(2)(D)(i)(II) are satisfied.

COMMENT #8: The EPA commented that in addition to citing the state's SIP submittal for Section 128 the department could list the specific provisions that were included in that submittal in order to address the conflict of interest sub-element of Section 110(a)(2)(E) of the Clean Air Act.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Section 2.2.E. of the plan has been revised to include specific provisions from the Section 128 SIP revision that was submitted to EPA in July of 2012.

COMMENT #9: The EPA commented that the department may want to consider including a reference to 10 CSR 10-6.030 *Sampling Methods* in Section 2.2.F. of the plan, which establishes appropriate sampling methods from air pollution sources.

RESPONSE AND EXPLANATION OF CHANGE: The proposed plan already included a reference to this rule in Section 2.2.F. of the rule; however, as a result of this comment, additional language has been added to Section 2.2.F. to further discuss 10 CSR 10-6.030 and how it relates to this Clean Air Act element.

COMMENT #10: The EPA commented that the department could also cite the state's rules which require electric generating units to comply with the Clean Air Interstate Rule (CAIR) to provide additional assurance that the state is satisfying the requirements for visibility under Section 110(a)(2)(J) as it relates to visibility requirements under Title I Part C of the Clean Air Act.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, Section 2.2.J. of the plan has been revised to include language regarding the State's CAIR rules as additional assurance that the visibility requirements under Section 110(a)(2)(J) as it relates to visibility requirements under Title I Part C of the Clean Air Act are satisfied.