

federal RFG regulations in December 1997 (62 FR 68196).⁷

- The area subject to the program was redefined to include all of Maricopa County as well as some western portions of Pinal County and a small part of southern Yavapai County.⁸

III. CAA Requirements for SIP Approval of State Fuel Measures

In determining the approvability of any SIP revision, we must evaluate the proposed revision for consistency with the requirements of the CAA and EPA regulations, as found in CAA section 110 and Title I, Part D and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). Section 110(a)(2) contains the general requirements for SIPs (e.g., enforceable emissions limits,⁹ ambient monitoring, permitting of new sources, adequate funding).

Of particular relevance for today's action, where EPA is considering revisions to requirements currently approved into the SIP, is the requirement of section 110(l). Section 110(l) allows revisions to a SIP as long as the revisions do not interfere with any applicable requirement of the Act, including requirements concerning attainment and reasonable further progress. Thus, revisions to SIPs must meet the general requirements applicable to all SIPs including: reasonable notice and public hearing; necessary assurances that the implementing agencies have adequate personnel, funding, and authority under section 110(a)(2)(E)(i) and 40 CFR 51.280; and a description of enforcement methods as required by 40 CFR 51.111. In addition, EPA will consider the effect of these proposed SIP revisions on the ability of the State to attain the NAAQS and demonstrate reasonable further progress.

For SIP revisions addressing certain fuel measures, an additional statutory requirement may apply. CAA section 211(c)(4)(A) generally prohibits state regulation of a motor vehicle fuel characteristic or component for which

EPA has adopted a control or prohibition under section 211(c)(1), unless the state control is identical to the federal control. Section 211(c)(4)(C), however, provides an exception to this preemption if EPA approves the state requirements in a SIP.

IV. The CBG Program's Compliance With CAA SIP Approval Requirements

The following sections present a condensed discussion of our evaluation of the Arizona CBG program's compliance with applicable CAA requirements for fuels programs. Our complete evaluation is found in the TSD for this proposal. We encourage anyone wishing to comment on this proposal to review the TSD along with today's **Federal Register** notice. A copy of the TSD can be downloaded from our Web site or obtained by calling or writing the contact person listed above.

A. General SIP Requirements

Reasonable Notice and Public Hearing. Sections 110(a)(2) and 110(l) require that SIP measures be adopted by the State after reasonable notice and public hearing. The revisions to the CBG rule contained in the various State SIP submittals all followed reasonable notice and a public hearing. A public hearing for the "CBG Permanent Rules" was held on December 11, 1997. A public hearing for the "CBG Wintertime Rules" was held on June 8, 1999. A public hearing for the "Summertime Minimum Oxygen Content Removal" submittal was held on November 20, 2000.

Enforceable Emission Limits and Program for Enforcement. Section 110(a)(2)(A) and (C) require that measures adopted into the SIP be enforceable and that the State have a program for enforcing the measures. In addition, section 110(a)(2)(E) requires that the State provide necessary assurances that it has adequate personnel, funding, and authority to implement the rules. The CBG rules, as revised, contain an extensive description of the standards and what would constitute a violation, recordkeeping and reporting requirements, the enforcement methods to be used, and the fines to be imposed for noncompliance.

For the most part, the enforcement provisions of the revised CBG rule are the same as the interim rule. The most notable change is the deletion the requirement for wintertime NO_x surveys and the increase of summertime NO_x and VOC surveys. The State deleted the wintertime NO_x survey requirement because, after November 15, 2000, only CBG Type 2 (similar to CARB Phase 2

RFG) could be sold in the Maricopa County nonattainment area in the wintertime, and there are no NO_x performance standards for this gasoline. Consistent with EPA's December 31, 1997 final revisions to the federal RFG program (62 FR 68196), however, the revised rules increase the number of gasoline quality surveys during the summer wherever CBG is sold. We conclude that the CBG program continues to be enforceable with these revisions.

The February 1999 "CBG Permanent Rules" submittal contains assurances that ADEQ and the Arizona Department of Weights and Measures (ADWM) have adequate personnel, funding, and authority to implement the rules. These assurances have not changed with the subsequent submittals. We have concluded that the provisions contained in the revised CBG rules confer on the State the requisite authority to enforce compliance.

B. Section 110(l): Interference With Attainment or Reasonable Further Progress

Section 110(l) prohibits EPA from approving a SIP revision if the revision would interfere with any applicable requirement of the Act including requirements concerning attainment and reasonable further progress (RFP). In applying section 110(l) to a particular SIP revision, we need not focus solely on the SIP revision's impact on emissions; rather, we may look at whether the entire SIP still provides for expeditious attainment of the NAAQS. We believe Arizona's CBG program, as modified, will continue to reduce ozone, PM-10 and wintertime CO concentrations, and, along with the other SIP measures, will be consistent with the Maricopa County area's continued or planned attainment of the ozone, PM-10 and CO NAAQS.

Ozone. In April 2001, EPA determined that the Phoenix area had attained the 1-hour ozone standard by its statutory deadline of November 15, 1999. See 66 FR 29230 (May 30, 2001). The area has continued in attainment since 1999 with no recorded exceedances of the 1-hour ozone standard and an overall downward trend in ozone levels. See Letter from Nancy Wrona, ADEQ, to Colleen McKaughan, EPA, June 12, 2002.

Because the area attained the ozone NAAQS, Arizona was not required to submit a serious area attainment demonstration;¹⁰ therefore, there is no

⁷ See ADEQ's August 2001 "CBG Wintertime Rules" submittal.

⁸ The definition of the covered area has been changed in several statutory and regulatory revisions. The final definition submitted for EPA approval is described in ADEQ's August 2001 "CBG Wintertime Rules" submittal and reflects statutory changes made by HB 2189.

⁹ Approvable regulations must include clear indications of what constitutes a violation, who is liable, and what defenses are available. In addition, penalties must be large enough to both ensure that any economic benefit due to noncompliance would be limited and include an additional penalty for deterrence.

¹⁰ See Memorandum, John S. Seitz, Director, OAQPS, EPA, to Regional Air Directors, "Reasonable Further Progress, Attainment