Kansas
Department of Health
and Environment

Kansas Air Quality State Implementation Plan Revision for the Implementation, Maintenance, and Enforcement of the 2008 Lead National Ambient Air Quality Standard

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I. Introduction and Background

On October 15, 2008, the U.S. Environmental Protection Agency (EPA) promulgated a revision to the National Ambient Air Quality Standard (NAAQS) for lead, and on November 12, 2008, published the final rule in the *Federal Register* (73 FR 66964). This revision establishes 0.15 micrograms per cubic meter ($\mu g/m^3$) as the primary and secondary standard for lead and is an order of magnitude lower than the previous standard of 1.5 $\mu g/m^3$ set in 1978.

Section 110(a) of the federal Clean Air Act (CAA) requires states to submit an implementation plan to the EPA Administrator that provides for implementation, maintenance, and enforcement of the NAAQS. Section 110(a)(2) lists the elements that are to comprise the State Implementation Plan (SIP).

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

§ 110(a)(2)(A)	Emission limits and other control measures
§ 110(a)(2)(B)	Ambient air quality monitoring/data system
§ 110(a)(2)(C)	Programs for enforcement, PSD, and NSR
§ 110(a)(2)(D)	Interstate and international transport provisions
§ 110(a)(2)(E)	Adequate personnel, funding, and authority
§ 110(a)(2)(F)	Stationary source monitoring and reporting
§ 110(a)(2)(G)	Emergency episodes
§ 110(a)(2)(H)	Future SIP revisions
§ 110(a)(2)(I)	Nonattainment area plan or plan revision under Part D
§ 110(a)(2)(J)	Consultation with government officials, public notification, PSD, and visibility protection
§ 110(a)(2)(K)	Air quality modeling/data
§ 110(a)(2)(L)	Permitting fees
§ 110(a)(2)(M)	Consultation/participation by affected local entities

When the EPA promulgates a new standard or revises an existing standard, as is the case for lead, CAA Section 110(a)(1) requires each state to revise their SIP to demonstrate that they have the authority and programs needed to implement, maintain, and enforce the standard. Several of the elements listed in § 110(a)(2) specifically address this requirement and are sometimes compiled and submitted separately in what is referred to as an Infrastructure SIP. This document is the Kansas Infrastructure SIP for the revised lead NAAQS promulgated on October 15, 2008.

Most of the infrastructure requirements already are addressed in the comprehensive Section 110(a)(2) SIP submitted by Kansas in 1972 in response to the CAA of 1970. The state of Kansas submitted the initial lead SIP in 1981 to incorporate the 1978 standard. The Kansas revision for the 2008 federal lead air quality standard continues to affirm Kansas' commitment to comply with the § 110(a)(2) requirements and is incorporated by reference into the overall Kansas State Implementation Plan.

The following discussions list the statutory and regulatory requirements by each paragraph in Section 110(a)(2) and demonstrate that the Kansas Department of Health and Environment (KDHE) has the

necessary plans, programs, and statutory authority to implement the requirements of Section 110 of the federal Clean Air Act (CAA) as they pertain to lead.

II. Section 110(a)(2)(A) Emission limits and other control measures

"(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter;" [42 U.S.C. 7410(a)(2)(A)[1]]

The Kansas Department of Health and Environment (KDHE) fulfills the requirements of § 110(a)(2)(A) through the Kansas Statutes, Kansas Administrative Regulations, permits, and consent orders and agreements. The Secretary of the KDHE has the power to adopt, amend and repeal rules and regulations implementing air quality standards and to prepare and develop plans for the prevention, abatement, and control of air pollution in Kansas that affects air quality in Kansas, in other states, or both. [K.S.A. 65-3005]

The Kansas Air Quality Program, located within the KDHE's Bureau of Air (BOA), monitors and tracks air pollutants across Kansas to assure that health-based standards set by the EPA are not exceeded. Data is used to develop the appropriate regulatory or outreach strategies to reduce air pollution levels and improve air quality. The program is also responsible for issuing air emission permits for facilities and assuring compliance with state and federal regulations for air pollutants. The statutory authority granted at K.S.A. 65-3010, Emission Control Requirements, as well as Kansas Air Quality Regulations applicable to individual facilities, fulfills the requirements of § 110(a)(2)(A).

Specific emission limits or other control measures to address lead nonattainment are not part of the Infrastructure SIP. Lead nonattainment will be addressed through a nonattainment SIP required under Part D of Title I in the federal Clean Air Act (CAA). The nonattainment SIP submittal will be due within 18 months after the effective date of the lead nonattainment designation. The EPA is expected to finalize a lead nonattainment designation for a portion of Saline County to be effective by the end of December 2011.

III. Section 110(a)(2)(B) Ambient air quality monitoring/data system

"(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

(i) monitor, compile, and analyze data on ambient air quality, and

(ii) upon request, make such data available to the Administrator;"[42 U.S.C. 7410(a)(2)(B)]

The Kansas ambient air monitoring network, operated by the KDHE's Bureau of Air and local air quality agencies, fulfills the requirements of 110(a)(2)(B). Monitoring data from 21 sites across the

[1] The Clean Air Act (CAA) was incorporated into the United States Code (U.S.C.) as Title 42, Chapter 85. Both the CAA and U.S.C. references are provided. See http://www.epa.gov/air/caa for more information.

state is analyzed to determine compliance with federal standards for criteria pollutants and to evaluate air quality trends. The quality assured data is compiled and reported to the EPA.

Each year, in accordance with 40 C.F.R. Part 58, KDHE submits the annual monitoring network plan to EPA for approval. The *2010-2011 Kansas Ambient Air Monitoring Network Plan*, which included lead monitoring requirements, was approved by EPA in April 2011. EPA-approved monitoring plans can be found on the following EPA website: http://www.epa.gov/region07/air/quality/quality.htm. The *2011-2012 Kansas Ambient Air Monitoring Network Plan* proposal was posted for public comment and EPA review in July 2011. The proposed plan includes updates to the lead monitoring requirements as published in the *Federal Register* on December 27, 2010. [75 FR 81126]

KDHE operates one lead monitor in Salina near the Exide Technologies facility in accordance with the source-oriented lead monitoring requirements of 40 C.F.R. Part 58, Appendix D, paragraph 4.5(a). Non-source-oriented monitoring at the JFK NCore site in Kansas City, Kansas, is scheduled to begin by December 27, 2011, as required.

A nonattainment designation for the 2008 NAAQS for lead has been proposed for a portion of Salina and Saline County. The KDHE Bureau of Air has posted information related to this designation on the following website for public access: http://www.kdheks.gov/bar/air-monitor/lead/lead.html. Lead monitoring data from near the Exide facility is available on this site.

The collection of emissions monitoring data is authorized by K.S.A. 65-3005, and authorization for the public availability of this data is provided by K.S.A. 65-3015.

KDHE commits to continue operating an air quality monitoring network that complies with EPA requirements and to provide quarterly reports of compiled and analyzed air quality monitoring data to the EPA.

IV. Section 110(a)(2)(C) Programs for enforcement, PSD, and NSR

"(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter;" [42 U.S.C. 7410(a)(2)(C)]

Kansas fulfills the requirements of Section 110(a)(2)(C) with the implementation of a program for the enforcement of control measures associated with the State Implementation Plan and a permit program for stationary sources. KDHE's Bureau of Air implements and manages these programs through its Air Compliance and Enforcement Section and its Air Permitting Section in coordination with the Bureau of Environmental Field Services district offices.

The Air Compliance and Enforcement Section (ACES) is responsible for determining compliance and, if needed, issuing enforcement actions due to non-compliance as authorized by K.S.A. 65-3011. Air emissions sources in Kansas are subject to state and federal air quality regulations. Depending on the type and quantity of emissions, sources are required to obtain permits and conduct activities such as

testing, monitoring, recordkeeping, and reporting to demonstrate compliance as authorized by K.S.A. 65-3008 and 65-3008b. The ACES staff uses a combination of inspections, performance test evaluations, report reviews, technical assistance, and enforcement actions to ensure facilities comply with the applicable air quality regulations and permits. Staff from KDHE's district offices, as well as the cooperating local agencies, conduct inspections and investigate complaints, as authorized by K.S.A. 65-3009, and forward the results to the ACES staff for review and response. The ACES staff oversees performance tests through approval of proposed test plans, on-site observation of performance tests, and review and approval of the reported test results. Periodic reports are evaluated for compliance. The ACES staff also provides public outreach and compliance assistance. When a source violates an air quality standard, the ACES staff issues a formal enforcement action and works with the source to return them to a compliant regulatory status as authorized by K.S.A. 65-3011. Information about the compliance and enforcement program is available at http://www.kdheks.gov/air-permit/indexCE.html.

The Air Permitting Section (APS) is responsible for reviewing air quality control permit applications and issuing permits for air emissions in accordance with state and federal air quality regulations. The state authority is granted at K.S.A. 65-3008. The APS issues construction permits and approvals prior to construction or modification. The construction permit application allows the APS to determine if or what requirements need to be established for the facility (or emission source) when equipment is constructed or modified. Whether a construction permit or an approval is required depends on the potential-to-emit (PTE) of the proposed construction or modification. The proposed construction or modification is reviewed to assure that potential emissions from the new or modified equipment will comply with the requirements of state and federal regulations. The construction permit program is also the vehicle by which Kansas implements several other federal programs that have been delegated to the state and are applicable to new or modified sources. These include the New Source Performance Standards (NSPS), 40 C.F.R. Part 60, and the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 C.F.R. Parts 61 and 63. Part 63 is based on maximum achievable control technology and is usually referred to as the MACT regulations.

The Air Permitting Section also issues operating permits. The PTE of the facility determines the type of operating permit required, if any. The two types of operating permits are Class I (also known as a Title V permit) and Class II (also known as a federally enforceable state operating permit). The Kansas Class I operating permit program satisfies the requirements of the federal Title V program and closely parallels the requirements of 40 C.F.R. Part 70. A Class I operating permit is required for major sources of air pollution and provides a complete listing of all air quality regulatory requirements in one document. The Class II operating permit program provides a method to reduce the PTE of a source below the major source thresholds and thereby allows the source to operate without a Class I operating permit.

The Department of Air Quality of the Unified Government of Wyandotte County assists in the permitting process by issuing construction and operating permits in Wyandotte County.

Federally approved Kansas air quality regulations K.A.R. 28-19-300 through 304 apply to preconstruction permits and approvals, K.A.R. 28-19-350 applies to prevention of significant deterioration (PSD), and K.A.R. 28-19-500 *et seq.* apply to operating permits. Kansas adopted the requirements of the federal *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule* as published on June 3, 2010, in the *Federal Register*. [75 FR 31514] The Kansas

regulations, K.A.R. 28-19-200a and K.A.R. 28-19-350, were published as final regulations in the *Kansas Register* on November 11, 2010, and became effective on January 2, 2011. [*Kansas Register* Vol. 29, No. 45, pages 1634-1636] A Kansas SIP revision reflecting these changes was submitted in a final version to EPA on December 23, 2010. EPA published its approval of the SIP revision in the *Federal Register* on February 22, 2011. [76 FR 9658] In the final action, EPA stated: "The SIP revision Kansas submitted on December 23, 2010, (1) provides the state with the authority to regulate GHGs under its PSD program, and (2) establishes appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting stationary sources in accordance with EPA's Tailoring Rule. EPA has made the determination that the December 23, 2010, SIP revision is approvable because it is in accordance with the CAA and EPA regulations, including regulations pertaining to PSD permitting for GHGs." [76 FR 9663]

The Kansas Department of Health and Environment (KDHE) commits to continued enforcement of control measures for which it has jurisdiction and to the continued oversight of local agency permitting and enforcement programs with respect to measures required by the CAA.

V. Section 110(a)(2)(D) Interstate and international transport provisions

"(D) contain adequate provisions—

(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility,

(ii) insuring compliance with the applicable requirements of sections 7426 and 7415 of this title (relating to interstate and international pollution abatement);" [42 U.S.C. 7410(a)(2)(D)]

No complex chemistry is needed to form lead or lead compounds in the ambient air. Lead is a pollutant that does not undergo atmospheric transformation. Due to its physical properties, lead does not transport over significant distances. Lead particles settle out quickly with localized impacts. Lead concentrations are typically highest in the immediate vicinity of the emission source, with concentrations sharply decreasing with distance from the source. According to EPA's air quality trends report, *Our Nation's Air – Status and Trends Through 2008* (http://www.epa.gov/airtrends/2010/), the average lead concentration near a source is about eight times the concentration at a site not near a source.

Lead emissions do not have a transport impact unless the source is in close proximity to state or international boundaries. Transport is not an issue for Kansas since its only recommended nonattainment area, consisting of a portion of Saline County, is more than 80 miles from the nearest state or international border. The technical document supporting the nonattainment designation for Salina-Saline County includes air quality dispersion modeling and can be found on EPA's lead designations website (http://www.epa.gov/leaddesignations/2008standards/rec/region7R.html).

With respect to visibility, significant impacts from lead emissions from stationary sources are expected to be limited to short distances from the source and most, if not all, lead stationary sources are located at distances from Class I areas that result in negligible impacts. EPA has stated that infrastructure SIPs for the lead NAAQS are not expected to address visibility due to this insignificant impact.

New or modified major sources in Kansas are subject to state and federally approved PSD and, in Salina-Saline County, nonattainment new source review programs for the 2008 lead NAAQS. Section 126(a) of the Clean Air Act (CAA) directs that the SIP include provisions requiring a new or modified source to notify neighboring states of potential impacts from the source. Kansas fulfills this requirement with a regulatory provision in K.A.R. 28-19-350(k)(2) that is consistent with 40 C.F.R. 51.166(q)(2)(iv).

VI. Section 110(a)(2)(E) Adequate personnel, funding, and authority

"(E) provide

(i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof),

(ii) requirements that the State comply with the requirements respecting State boards under section 7428 of this title, and

(iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;" [42 U.S.C. 7410(a)(2)(E)]

The Kansas Department of Health and Environment (KDHE) has adequate personnel, funding, and authority to fulfill the requirements of the SIP. Details regarding legal authority are provided in "II. Section 110(a)(2)(A) Emission limits and other control measures" of this document. The Bureau of Air (BOA) program's budget is funded by the State General Fund, EPA grants authorized under CAA Sections 103 and 105, and Title V fees.

The Kansas Legislature annually approves KDHE's funding and personnel resources for carrying out the programs of the SIP. The annual budget process provides a periodic update that enables KDHE and the local agencies to adjust funding and personnel needs. While it is not legally possible for KDHE and the local agencies to provide specific commitments about future budgets (funding and staff resources), the annual budget appropriations process undertaken by the Kansas State Legislature enables KDHE to present a request for resources required to meet the mandates of the CAA. Since KDHE's CAA-mandated programs have received state funding for more 40 years, and since there is consistent public support in Kansas for providing clean air, it is reasonable to assume that implementation of the CAA mandates in Kansas will continue to obtain the necessary funding.

The majority of the BOA budget currently consists of dedicated funds that are collected from regulated emission sources and can only be used for air pollution control. These dedicated fees are periodically

adjusted in order to provide necessary funding for the BOA programs. Collectively, the 2011-2012 BOA and local agency budgets total about $8.6 million with about 53 full-time equivalent staff positions.

Kansas Statutes from Chapter 46, Article 2, specify conflict of interest requirements for members of KDHE. These requirements specifically prohibit all state and local public officials from participating in governmental decisions for which they have a substantial financial interest as defined at K.S.A. 46-229.

The statutes found at K.S.A. 46-247 *et seq.* require the Secretary of KDHE to file a statement of substantial interests. These statutes fulfill the CAA Section 128 (42 U.S.C. 7428) requirements referenced in Section 110(a)(2)(E) for disclosure of financial interests by the "head of an executive agency" responsible for issuing permits and enforcement orders.

The KDHE oversees local agencies to implement the Kansas Air Quality Act (Kansas Statutes Chapter 65, Article 30) and to provide air quality protection services. Partner agencies include:

- City of Wichita Department of Environmental Services
- Johnson County Environment Department
- Shawnee County Health Agency
- Unified Government of Wyandotte County and Kansas City-Kansas Health Department.

The KDHE commits to actively maintain programs for the enforcement of control measures included in the approved State Implementation Plan (SIP) and measures required by the Clean Air Act (CAA).

VII. Section 110(a)(2)(F) Stationary source monitoring and reporting

"(F) require, as may be prescribed by the Administrator—

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and

(iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection;" [42 U.S.C. 7410(a)(2)(F)]

The KDHE maintains a database with emissions inventory data for more than 900 stationary source facilities in Kansas. The inventory includes lead emissions data. KDHE posts a summary report of emissions from stationary sources, both major and minor, for the National Emissions Inventory Year on its website (http://www.kdheks.gov/emission/data.html). This data is reported to the EPA every three years.

The federal Air Emissions Reporting Requirements rule requires that states collect and report lead emissions data for facilities emitting more than 5 tons of lead per year. Kansas requires Class I and Class II sources to report any emissions of lead or lead compounds (i.e., no de minimus).

Emissions monitoring data provide a basis for determining whether facilities meet established performance standards. KDHE uses this data to identify sources and emission levels, determine compliance with regulations and other enforceable requirements, develop control and maintenance strategies, and analyze progress in maintaining the NAAQS.

KDHE commits to its continued oversight of the stationary source monitoring requirements and to the reporting of data collected by such monitoring activities as authorized respectively by K.S.A. 65-3007 and 65-3015.

VIII. Section 110(a)(2)(G) Emergency episodes

"(G) provide for authority comparable to that in section 7603 of this title and adequate contingency plans to implement such authority;" [42 U.S.C. 7410(a)(2)(G)]

Kansas meets the requirements of Section 110(a)(2)(G), which requires states to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or to the environment and adequate contingency plans to implement such authority. This authority is provided to the KDHE Secretary in the Kansas air quality statutes, specifically K.S.A. 65-3012 and 65-3005.

Upon receipt of evidence that emissions present an imminent and substantial endangerment to public health or welfare or to the environment or that a violation is imminent or has occurred, the Secretary is granted authority by K.S.A. 65-3012 to direct the source owner or operator to take the necessary steps to prevent the act or eliminate the practice. The Secretary is authorized by K.S.A. 65-3005 to promulgate implementing regulations and to prepare and develop plans for the prevention, abatement, and control of air pollution, including emergency episodes.

Emergency episodes involving lead emissions are different in nature to those of other pollutants. Due to its physical properties, lead emissions in air tend to settle quickly and do not transport over significant distances. Any air pollution emergency episodes involving releases of lead emissions are expected to be very localized, limited to an area near the emissions source. Regardless of the nature and scope of the emergency episode, the Secretary of KDHE has the authority to respond as necessary and appropriate.

IX. Section 110(a)(2)(H) Future SIP revisions

"(H) provide for revision of such plan—

(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter;" [42 U.S.C. 7410(a)(2)(H)]

The Kansas Department of Health and Environment (KDHE) is submitting a revised State Implementation Plan (SIP) that responds to revised air quality standards for lead. As authorized by

K.S.A. 65-3005(a)(5), KDHE commits to submit SIP revisions whenever revised air quality standards are promulgated by the EPA or when existing provisions are found to be inadequate.

X. Section 110(a)(2)(I) Nonattainment area plan or plan revision under Part D

"(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas);" [42 U.S.C. 7410(a)(2)(I)]

As per EPA guidance, nonattainment area plans required under part D are required on a different schedule from the Section 110 infrastructure elements and will be reviewed and acted upon through a separate process.

XI. Section 110(a)(2)(J) Consultation with government officials, public notification, PSD, and visibility protection

"(J) meet the applicable requirements of section 7421 of this title (relating to consultation), section 7427 of this title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection);" [42 U.S.C. 7410(a)(2)(J)]

Section 121 requires a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any affected federal land manager in carrying out CAA requirements. The Secretary of KDHE is authorized by K.S.A. 65-3005(a)(8) to provide consultation assistance, and KDHE is required by K.A.R. 28-19-350(k) to consult with local governments, officials, and federal land managers before the issuance of a permit under the PSD program.

The Bureau of Air's rulemaking process for public participation fulfills the requirements of 110(a)(2)(J) and is conducted under the statutory authority at K.S.A. 77-421. KDHE commits to maintaining a process of consultation with parties designated under CAA Section 121 (42 U.S.C. 7421).

The State's rulemaking process includes:

- Department approvals
- Review and approval by the Secretary of Administration and Attorney General
- Notification to municipalities, counties, school boards, and neighboring states
- Public hearings and comments
- Filing regulations with the Secretary of State
- Publication in the *Kansas Register*
- Review by Joint Committee on Administrative Rules and Regulations

Section 127 (42 U.S.C. 7427) requires measures that will be effective to notify the public during any calendar year on a regular basis of instances or areas in which any air quality standard is exceeded or was exceeded during any portion of the preceding calendar year, to advise the public of the health hazards associated with such pollution, and to enhance public awareness of measures that can be taken to prevent such standards from being exceeded.

KDHE maintains air quality data and other information on its website, which is available to the public. (http://www.kdheks.gov/bar/air-monitor) Information that can be found on the website includes:

- An overview of air quality
- Information regarding the NAAQS
- Air pollution sources
- Health effects of poor air quality
- How to find out about Kansas air quality

This website also provides links to the Kansas Air Quality Monitoring Network and to AIRNow (http://www.airnow.gov) for live monitoring data.

Specific to the 2008 NAAQS for lead and the recommended nonattainment area of Salina-Saline County, KDHE has created the following website for public access: http://www.kdheks.gov/bar/air-monitor/lead/lead.html.

KDHE commits to maintaining a public information and education program that satisfies the requirements of Section 127.

KDHE commits to ensuring that PSD regulations are implemented in Kansas. (See also the PSD discussion in "IV. Section 110(a)(2)(C) Programs for enforcement, PSD, and NSR" of this document.) The Kansas PSD program meets the requirements to protect visibility with the adoption of federal regulation 40 C.F.R. 52.21 in K.A.R. 28-19-350. EPA has proposed approval of the Kansas Regional Haze SIP as published in the *Federal Register* on August 23, 2011. [76 FR 52604] Legal authority to implement and develop the PSD program and the Regional Haze SIP exists under K.S.A. 65-3005. In the event of the establishment of a new primary NAAQS, the visibility protection and regional haze program requirements under part C do not change. Therefore, EPA has concluded that there are no new applicable visibility protection obligations under Section 110(a)(2)(J) as a result of the 2008 lead NAAQS.

XII. Section 110(a)(2)(K) Air quality modeling/data

"(K) provide for—

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;" [42 U.S.C. 7410(a)(2)(K)]

Authority to conduct air dispersion modeling for ambient air quality analyses is provided to KDHE by K.S.A. 65-3005(a)(9). Air dispersion modeling is used to predict ground level ambient air concentrations of pollutants for comparison to air quality standards. The preconstruction permitting process uses the results of such modeling to determine the potential impacts of pollution from a proposed source before the source is constructed or modified.

The EPA anticipates that the predominant type of air quality modeling with respect to implementing the lead NAAQS will be source-oriented dispersion modeling with models such as AERMOD. KDHE's air quality modeling work is conducted in accordance with both EPA's and KDHE's currently approved modeling guidance and protocols and with Appendix W of 40 C.F.R. Part 51.

KDHE commits to the continued use of air quality models in accordance with current guidance and protocols and to the continued submittal of data and modeling results to EPA.

XIII. Section 110(a)(2)(L) Permitting fees

"(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—

> *(i) the reasonable costs of reviewing and acting upon any application for such a permit, and*
> *(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter V of this chapter;" [42 U.S.C. 7410(a)(2)(L)]*

The Title V fee program, part of the operating permit program discussed in "IV. Programs for enforcement, PSD, and NSR" of this document, is adequate to meet the requirements of Section 110(a)(2)(L). The Kansas Department of Health and Environment (KDHE) commits to continue to implement major stationary source permit fee regulations as authorized by K.S.A. 65-3022 through 65-3024. The Kansas air program's annual emissions fee regulation, K.A.R. 28-19-202, was last amended on November 5, 2010, implementing a change in fee rate and formulation as necessary to sustain the program.

XIV. Section 110(a)(2)(M) Consultation/participation by affected local entities

"(M) provide for consultation and participation by local political subdivisions affected by the plan." [42 U.S.C. 7410(a)(2)(M)]

KDHE's Bureau of Air has signed State and/or Local Agreements with the following:

- Department of Air Quality, Unified Government of Wyandotte-Kansas City, Kansas
- Wichita Department of Environmental Services
- Shawnee County Health Department
- Johnson County Environmental Department
- Mid-America Regional Council

These agreements establish formal partnerships between the Bureau of Air and local agencies who work together to develop and annually update strategic goals, objectives, and strategies for reducing emissions

and improving air quality. In addition, public participation in the rulemaking process is conducted in accordance with EPA regulations at 40 C.F.R. Part 51, Subpart F, and involves the following entities:

- League of Kansas Municipalities
- Kansas Association of Counties
- Kansas Association of School Boards

This participation enhances the requirements of 110(a)(2)(M).

KDHE commits to maintaining a consultation process with local political subdivisions affected by the SIP as authorized by K.S.A. 65-3016.