



Janice K. Brewer
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Benjamin H. Grumbles
Director

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VIA E-MAIL

August 27, 2010

Gina McCarthy, Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20760

Jared Blumenfeld
Regional Administrator
U.S. EPA, Region IX
75 Hawthorne Street, Air-1
San Francisco, CA 94105

Dear Administrator *Gina* McCarthy and Regional Administrator *Jared* Blumenfeld:

The Arizona Department of Environmental Quality (ADEQ) submits the following in response to the final Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Rule (75 Fed. Reg. 31514) and the August 12, 2010 proposed rule stating EPA's belief that Arizona's PSD program is substantially inadequate to meet Clean Air Act (CAA) requirements because it does not apply requirements to GHG-emitting sources.

Although Arizona's PSD program does not apply requirements to GHG-emitting sources, it still meets CAA requirements. EPA has taken an untenable position with regards to "tailoring" limits expressly set in the CAA through its own rulemaking. ADEQ does not agree that EPA's position has resulted in Arizona's program becoming inadequate. The regulation of GHGs should not occur through a convoluted rulemaking process initiated by EPA. The Agency has stated in its response to comments on the PSD and Title V GHG Rule that "comprehensive climate change legislation is a more effective way to address GHGs than through the [Clean Air Act] ...", yet EPA has continued moving forward with the rule. Changes to limits set in the Clean Air Act require action by Congress, not administrative "tailoring" regulations to resolve "absurd results" created by a decision to regulate GHGs from stationary sources.

To make matters worse, EPA has now put Arizona, and other permitting authorities, in a difficult position by giving us very little time to evaluate and incorporate the "tailoring" regulations into state law. Like most states, Arizona administers the PSD program under rules approved by EPA as part of a state implementation plan (SIP). ADEQ does not have the authority to regulate GHGs under the PSD or Title V permitting programs. As a result, Arizona law would have to be amended before ADEQ could regulate GHGs under its PSD or Title V programs. Completing the rulemaking and SIP approval process in time

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Assistant Administrator McCarthy
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August 27, 2010
Page 2 of 2

to avoid EPA's January 2011 construction ban deadline would be nearly impossible. Furthermore, the lawsuits that have been filed challenging the PSD and Title V GHG Rule make it difficult to justify expending any time on adopting the Rule.

Arizona is also frustrated by EPA's failure to exempt biomass combustion facilities from the new GHG permitting requirements. Regardless of EPA's opinion about the carbon-neutrality of biomass combustion facilities, these facilities do displace emissions from traditional fossil-fuel combustion facilities by burning forest slash and fallen trees that might otherwise be wasted. Arizona sees great opportunity in expanding the number of biomass combustion facilities and associated jobs within the rural areas of the State while taking advantage of the clean, renewable energy byproducts of an effective forest management program. EPA's approach under this rule and other recently proposed CAA rules create mounting disincentives for industries to consider economically viable renewable alternatives to fossil fuels. Arizona is at the forefront in its efforts to promote the use of renewable energy. In January of this year, Governor Brewer issued an executive order directing Arizona agencies to assess impediments to the development and use of renewable energy. It is unfortunate that one of ADEQ's tasks will now be to challenge EPA's attempts to further regulate renewable energy sources like biomass combustion facilities.

Arizona is not in a position to expend significant resources chasing rules contrary to the State's policies on renewable energy and that may not survive legal challenge. This is particularly true as EPA insists on pursuing an unprecedented number of changes to the existing National Ambient Air Quality Standards. Instead, ADEQ plans to focus on problems we can solve using the clear authorities that exist under the CAA and provided to ADEQ by Arizona statutes and rules, and to advance Governor Brewer's "green and grow" strategy through coordination with Arizona citizens, businesses and communities.

If you have any questions, please contact me at (602) 771-2300, or Eric Massey, Air Quality Division Director, at (602) 771-2308.

Sincerely,



Benjamin H. Grumbles
Director

Cc: Deborah Jordan, U.S. EPA Region IX