6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0537; FRL-9974-58-Region 9]

Air Plan Approval; Douglas, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, as part of the State Implementation Plan (SIP) for the State of Arizona, the second 10-year maintenance plan for the Douglas maintenance area for the 1971 National Ambient Air Quality Standards (NAAQS or "standards") for sulfur dioxide (SO_2).

DATES: Any comments on this proposal must be received by **[insert date 30 days after date of publication in the Federal Register**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0537 at https://www.regulations.gov, or via email to Ashley Graham, Air Planning Office at graham.ashleyr@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (*e.g.*, audio or video) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or

comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, EPA Region IX, (415) 972-3877, graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the words "we," "us," or "our" refer to the EPA.

Table of Contents

I. Summary of Action

We are proposing to approve the second 10-year maintenance plan for the Douglas, Arizona SO_2 maintenance area ("Douglas maintenance area").[1] Specifically, the EPA is proposing to approve the Douglas second 10-year maintenance plan for the 1971 NAAQS for SO_2 under sections 110 and 175A of the Clean Air Act (CAA or "Act") based on our determination that the plan fulfills all relevant requirements.

[1] For the definition of the Douglas maintenance area, *see* 40 CFR 81.303.

II. Background

A. What NAAQS Are Considered in Today's Rulemaking?

The NAAQS are health-based and welfare-based standards for certain ambient air pollutants. SO_2 is the pollutant that is the subject of this action, and it is among the ambient air pollutants for which we have established health-based standards. SO_2 causes adverse health effects by reducing lung function, increasing respiratory illness, altering the lung's defenses, and aggravating existing cardiovascular disease. Children, the elderly, and people with asthma are the most vulnerable. SO_2 emissions also contribute to acidic deposition, damage to crops and vegetation, and corrosion of natural and man-made materials.

In 1971 the EPA established both short- and long-term primary NAAQS for SO_2. The short-term (24-hour) standard of 0.14 parts per million (ppm) was not to be exceeded more than once per year. The long-term standard specifies an annual arithmetic mean not to exceed 0.030 ppm.[2] *See* 40 CFR 50.4.

In 2010 the EPA revised the primary SO_2 NAAQS by establishing a new 1-hour standard of 75 parts per billion. The EPA revoked the existing 1971 primary standards at that time because they would not provide additional public health protection (75 FR 35550, June 22, 2010). Today's action relates only to the revoked 1971 NAAQS. The State has requested that we act on this maintenance plan.[3]

---

[2] Secondary NAAQS are promulgated to protect public welfare. The secondary 1971 SO_2 NAAQS (3-hour) of 0.5 ppm is not to be exceeded more than once per year. The Douglas area was not classified nonattainment for the secondary standard, and this action relates only to the primary 1971 SO_2 NAAQS.

[3] This action is consistent with the CAA's anti-backsliding provisions. The EPA's final rule on revocation of the 1971 SO_2 NAAQS discussed that maintenance SIPs would continue being implemented by states until they are subsumed by new planning and control requirements associated with the revised NAAQS, and that the revoked SO_2 NAAQS would be retained for one year following the effective date of the initial designations for the 2010 SO_2 NAAQS in areas designated attainment (75 FR 35520, June 22, 2010). On January 9, 2018, Cochise County was designated Attainment/Unclassifiable for the 2010 SO_2 NAAQS (83 FR 1098).

B. What Is the Background for This Action?

1. When Was the Nonattainment Area Established?

The Douglas maintenance area is located in southern Cochise County near the U.S.-Mexico border. On March 3, 1978, for lack of a State recommendation, we designated Cochise County as a primary SO_2 nonattainment area based on monitored violations of the primary SO_2 NAAQS in the county between 1975 and 1977 (43 FR 8968, March 3, 1978). At the request of the Arizona Department of Environmental Quality (ADEQ), the nonattainment area was subsequently reduced to three townships in and around Douglas (44 FR 21261, April 10, 1979). Thus, the nonattainment area was composed of the following townships: T23S, R27E; T24S, R27E; and T24S, R28E. The remaining townships in Cochise County, T23S, R26E; T23S, R28E; and T24S, R26E, were designated as areas that "cannot be classified."

On the date of enactment of the 1990 CAA Amendments, SO_2 areas meeting the conditions of section 107(d) of the Act were designated nonattainment for the SO_2 NAAQS by operation of law. Section 107(d) describes the processes by which nonattainment areas are designated, including the pre-existing SO_2 nonattainment areas. Thus, the Douglas area remained nonattainment for the primary SO_2 NAAQS following enactment of the 1990 CAA Amendments on November 15, 1990.

2. When Was the Douglas Area Redesignated for SO_2?

In 2006 we redesignated the Douglas area using the criteria for SO_2 nonattainment areas that have discontinued ambient monitoring following the closure of the major point source that caused the air quality violations (71 FR 9941, February 28, 2006). The criteria are described in a memorandum from John Seitz titled "Redesignation of Sulfur Dioxide Nonattainment Areas in

the Absence of Monitored Data," ("Seitz Memo").[4]

During its operation, the Phelps Dodge Douglas Reduction Works Smelter (PDDRWS) was the largest point source in the Douglas SO_2 nonattainment area, emitting approximately 330,000 tons of SO_2 in 1985 and contributing more than 99 percent of total SO_2 emissions that year. On January 15, 1987, the PDDRWS was permanently deactivated. The facility was completely dismantled by 1991. On January 30, 1992, the ADEQ confirmed that the facility was dismantled and no longer existed at the former site. On February 28, 2006, the EPA finalized approval of the maintenance plan and redesignation request for the Douglas area, effective May 1, 2006 (71 FR 9941).

3. What is the Current Status of the Area?

The remaining SO_2 point sources in the Douglas maintenance area consist of the Arizona Public Service Fairview Generating Station, which has a facility-wide potential to emit (PTE) of about 70 tons per year (tpy) of SO_2; the Bisbee Douglas International and Douglas Municipal airports; and the Arizona State Prison Complex at Douglas. The 50-kilometer (km) buffer area required by the Seitz Memo to be evaluated includes areas within Arizona and Mexico. Most of the point sources in the Arizona portion are airports; non-airport sources include the Lhoist North America mine/lime plant, the Freeport Copper Queen mine, and the Fiesta Canning Co. food processing plant. The non-airport sources have a combined PTE of 4,425 tpy SO_2. The largest contributors of SO_2 in the Mexican portion of the 50-km buffer area are the Agua Prieta II power plant and the Mexicana de Cobre mine/lime plant, which as of 2014, have estimated facility-wide

[4] Memorandum dated October 18, 2000, from John Seitz, Director, EPA Office of Air Quality Planning and Standards, to Regional Office Air Division Directors, Subject: Redesignation of Sulfur Dioxide Nonattainment Areas in the Absence of Monitored Data.

PTEs of 30 tpy SO_2 and 1,852 tpy SO_2, respectively.[5]

Currently, no ambient SO_2 monitors operate in the Douglas area. However, we do not expect the cumulative impact of the sources in and around Douglas to cause a violation of the NAAQS because the area's emissions are sufficiently low. No new sources of SO_2 that are similar in size to the PDDRWS have located in the area since our redesignation of the area to attainment in 2006.

C. What Are the Applicable Provisions for Second 10-Year Maintenance Plans for SO_2?

1. What Are the Statutory Provisions?

Section 175A of the CAA provides the general framework for maintenance plans. The initial 10-year maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures necessary to ensure such maintenance. In addition, maintenance plans are to contain contingency provisions necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the state will implement all control measures contained in the nonattainment SIP prior to redesignation.

Section 175A(b) of the CAA requires states to submit a subsequent maintenance plan revision ("second 10-year maintenance plan") eight years after redesignation. The Act requires only that this second 10-year maintenance plan maintain the applicable NAAQS for 10 years after the expiration of the first 10-year maintenance plan. Beyond these provisions, section 175A of the CAA does not define the content of a second 10-year maintenance plan.

Section 110 of the CAA requires states to make SIP revisions available for public review

[5] Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards, Douglas Maintenance Area (2016 Douglas Second Maintenance Plan), page A-21. Prior to 2014, the Mexicana de Cobre facility included two boilers and a kiln, with an estimated PTE of 1,065 tpy SO_2. In 2014, a second kiln was authorized at Mexicana de Cobre, resulting in a post-2014 estimated facility-wide PTE of about 1,852 tpy.

and comment and to hold a public hearing or provide the public the opportunity to request a public hearing. The Act requires the plan be adopted by the state and submitted to the EPA by the governor or his/her designee.

2. What General EPA Guidance Applies to SO_2 Maintenance Plans?

The primary guidance on maintenance plans and redesignation requests is a September 4, 1992 memorandum from John Calcagni, titled "Procedures for Processing Requests to Redesignate Areas to Attainment" ("Calcagni Memo").[6] Specific guidance on SO_2 redesignations also appears in a January 26, 1995 memorandum from Sally L. Shaver, titled "Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas" ("Shaver Memo").[7]

Guidance on SO_2 maintenance plan requirements for an area lacking monitored ambient data, and where the area's historic violations were caused by a major point source that is no longer in operation, is found in the Seitz Memo (*see* section II.C.2). The Seitz Memo exempts eligible areas from the maintenance plan requirements of continued ambient air quality monitoring.

While the Seitz Memo primarily addresses redesignations, we find it is appropriate to apply the Seitz Memo to second 10-year maintenance plans for areas that were redesignated in accordance with the memo and continue to experience similar conditions to those at the time of redesignation.

[6] Memorandum dated September 4, 1992, from John Calcagni, Director, EPA Air Quality Management Division, to Regional Office Air Division Directors, Subject: Procedures for Processing Requests to Redesignate Areas to Attainment.

[7] Memorandum dated January 26, 1995, from Sally L. Shaver, Director, EPA Air Quality Strategies and Standards Division, to Regional Office Air Division Directors, Subject: Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas.

3. What are the Requirements for Maintenance Plans for Single-Source SO_2 Nonattainment Areas in the Absence of Monitored Data?

Our historic redesignation policy for SO_2 has called for eight quarters of clean ambient air quality data as a prerequisite to redesignation of any area to attainment. The Seitz Memo provides guidance on SO_2 maintenance plan requirements for an area lacking monitored ambient data and where the area's historic violations were caused by a major point source that is no longer in operation. To allow for these areas to qualify for redesignation to attainment, this policy requires that the maintenance plan address otherwise applicable provisions, and include:

(1) emissions inventories representing actual emissions when violations occurred, current emissions, and emissions projected to the tenth year after redesignation; all three inventories should include estimates of emissions in, and within a 50-km buffer zone of, the nonattainment area boundaries;

(2) dispersion modeling showing that no SO_2 NAAQS violations will occur over the next 10 years and that the retired source was the dominant cause of the high concentrations in the past;

(3) evidence that if the retired source resumes operation, it would be considered a new source and be required to obtain a permit under the Prevention of Significant Deterioration (PSD) provisions of the CAA; and

(4) a commitment to resume monitoring before any major SO_2 source commences operation.

III. The EPA's Evaluation of the Arizona Submittal

A. Did the State Meet the CAA Procedural Requirements?

On December 14, 2016, the ADEQ submitted to the EPA the "Maintenance Plan

Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards, Douglas Maintenance Area" ("2016 Douglas Second Maintenance Plan"). The State verified that it had adhered to its SIP adoption procedures in Appendix C to the 2016 Douglas Second Maintenance Plan, which includes the notice of public hearing, the agenda for the December 9, 2016 public hearing, the sign-in sheet, the public hearing officer certification and transcript of the hearing, and the State's responsiveness summary.

On June 14, 2017, the 2016 Douglas Second Maintenance Plan was deemed complete by operation of law. *See* 40 CFR part 51, Appendix V, for the EPA's completeness criteria, which must be satisfied before formal review of the SIP.

B. Has the State Met the Substantive Maintenance Plan Requirements?

1. Were the Area's Violations Caused by a Major Point Source of SO_2 Emissions that Is No Longer in Operation?

As discussed above, the only major source of SO_2 emissions within the Douglas nonattainment area was the PDDRWS, which ceased operation in 1987. When the facility was in operation in 1985, the source emitted approximately 330,000 tons of SO_2. The last recorded 24-hour or annual average exceedances of the primary NAAQS occurred in 1986, the last year of extensive monitoring. All but one monitor were removed before 1987 and all the remaining monitors owned and operated by Phelps Dodge and by the ADEQ near the PDDRWS were removed by 1988. The smelter operating permits expired, the smelting equipment was removed over a period of years, and the smelter was completely dismantled by 1991. No new sources of SO_2 that are similar in size to the PDDRWS have located in the area. Thus, Douglas meets this criterion for review under the Seitz Memo.

2. Has the State Met the Requirements for Second 10-Year Maintenance Plans?

The 2016 Douglas Second Maintenance Plan covers the second 10 years of the 20-year maintenance period, as required by section 175A(b) of the CAA. As discussed below, the State has addressed the requirements in the Seitz Memo for emissions inventories, modeling, permitting of major new sources, and agreement to commence monitoring if a new major source locates in the Douglas area. We provide more details on each requirement and how the 2016 Douglas Second Maintenance Plan meets each requirement in the following sections.

a. Emissions Inventories

On December 14, 2001, the ADEQ submitted to the EPA the "Douglas Sulfur Dioxide State Implementation and Maintenance Plan" and request to redesignate the area to attainment ("2001 Douglas Maintenance Plan"). Following our request for additional information on emissions inventories and modeling, the ADEQ submitted a series of supplements to the EPA containing additional and revised technical information to support its redesignation request. The ADEQ's "Douglas Sulfur Dioxide Nonattainment Area State Implementation Plan, Emissions Inventory and Air Quality Dispersion Modeling Update, September 2005" ("2005 Supplement") included emissions inventories for sources in, and within 50 km of, the Douglas maintenance area for 1985 when PDDRWS was operating and SO_2 NAAQS violations occurred.

In addition to reproducing emissions for 1985, the 2016 Douglas Second Maintenance Plan includes an emissions inventory representing current emissions for 2011 for sources in, and within 50 km of, the Douglas maintenance area. The ADEQ rolled the base 2011 inventory forward to generate an inventory for 2015, the final year of the first maintenance period, and similarly developed inventories for 2020, 2025, and 2030 to extend through the second 10-year maintenance period.

The emissions inventories in the 2016 Douglas Second Maintenance Plan (*see* Section 3 and technical support document in Appendix A) include estimates of SO_2 from all relevant source categories, which the plan divides among stationary, mobile, event-related, and area source categories. The ADEQ used the EPA's 2011 National Emissions Inventory and 2008 Inventario Nacional de Emisiones de México to identify point sources in, and within 50 km of, the maintenance area. The plan includes a description of current facility types, emitting equipment, permitted emissions limits, operating rates, and emissions calculation methods.

Table 1 presents a summary of actual SO_2 emissions for 1985 and 2011, and projected emissions for 2030 for sources in, and within 50-km of, the Douglas SO_2 maintenance area. When the smelter was in operation in 1985, SO_2 emissions exceeded 330,000 tons. The ADEQ identified 965 tons of SO_2 emissions in, and within 50-km of, the Douglas SO_2 maintenance area in 2011, and projected a maximum of 6,380 tons of SO_2 emissions in 2030 based on growth projections and facility PTEs. Point source emissions in 2011 are lower than projected emissions in 2030 because facilities have not operated at their maximum PTE in recent years.

Table 1. Actual (1985 and 2011) and Projected (2030) Douglas Maintenance Area SO_2 Emissions (in tpy)[a]

	Source Category	1985	2011	2030
Maintenance Area	Area, Mobile, and Event Sources	93.02	5.60	3.22
	Point	330,000.14	0.30	69.75
50-km buffer	Point (U.S.)	21.02	0.43	4,424.98
	Point (Mexico)	904.84	959.02	1,882.25
	Total	331,019.02	965.35	6,380.20

[a] Source: 2016 Douglas Second Maintenance Plan, Tables 7, 8, and 10.

Based on our review of the emissions inventories in the 2016 Douglas Second Maintenance Plan, including the supporting information in Appendix A, we conclude that the inventories are complete, accurate, and consistent with applicable CAA provisions and the Seitz

Memo.

b. Dispersion Modeling

Past EPA policy memoranda on SO_2 redesignations recommend dispersion modeling to show that the NAAQS is met and will be maintained. The Seitz Memo recommends dispersion modeling of all point sources within 50 km of the nonattainment area boundary. Screening modeling can be used to conservatively estimate each source's contribution to average SO_2 concentrations in the area.

For the 2005 Supplement to the 2001 Douglas Maintenance Plan, screening dispersion modeling was performed using the SCREEN3 model run with conservative assumptions about source parameters and meteorology. In the 2005 Supplement, the ADEQ identified seven existing stationary sources in, and within 50 km of, the Douglas nonattainment area. The modeling analysis for emissions projected to 2015 indicated that the impact of these sources would not exceed 61 percent and 64 percent of the 1971 annual and 24-hour SO_2 NAAQS, respectively.

The Seitz Memo also requires a modeling analysis that shows that the retired point sources were the dominant sources contributing to high SO_2 concentrations in the airshed. Since the emissions of non-smelter sources in the area had changed relatively little since the time that the smelter ceased operations, this same screening modeling was used to show that the smelter was the dominant source contributing to past high SO_2 concentrations.

For the 2016 Douglas Second Maintenance Plan, the ADEQ conducted a modeling analysis similar to the analysis for the 2005 Supplement. Five facilities for which SO_2 emissions were projected to total at least 0.5 tpy in any future year were modeled. The ADEQ used the conservative approach of assuming that each facility would emit the maximum allowable SO_2 in

each future year. Other point sources were not modeled because of their small or negligible emissions; however, the collective impacts of such sources, in addition to area, mobile, and biogenic sources, were estimated based on SO_2 concentrations observed by ambient air monitors in neighboring counties.

The ADEQ used the EPA-recommended AERSCREEN dispersion model (version 15181) to estimate the SO_2 impacts of the five facilities on maintenance in the Douglas planning area.[8] AERSCREEN provides conservatively high concentration estimates by using worst case meteorology from among a range of meteorological conditions. The ADEQ used the conservative approach of summing the maximum AERSCREEN concentrations from each source, effectively assuming all concentration maxima occur at the same time and place. The results of the AERSCREEN modeling indicate a cumulative potential impact from 2015 to 2030 of the existing sources of less than 61 percent and 77 percent of the 1971 annual and 24-hour SO_2 NAAQS, respectively. *See* 2016 Douglas Second Maintenance Plan, p. 41-43.

One way that the ADEQ modeling was potentially not conservative was in its assumption of simple terrain. Terrain with elevations above stack height, *i.e.*, "complex terrain," can sometimes experience higher air quality impacts than simple terrain. While the Douglas Maintenance Area has low relief, it is not flat; it has a few isolated modest hills and elevations increase on its eastern edge towards the Perilla Mountains. To ensure that predicted SO_2 concentrations meet the NAAQS when terrain variability is considered, the EPA re-ran AERSCREEN for the sources with the largest maximum allowable emissions.[9] Using a

[8] AERSCREEN has replaced SCREEN3 as the EPA's preferred screening model. *See* memorandum dated April 11, 2011, from Tyler Fox, Leader, U.S. EPA Air Quality Modeling Group to EPA Regional Modeling Contacts, Subject: AERSCREEN Released as EPA Recommended Screening Model, in the docket for today's action.
[9] A modeling technical support document, which is available in the docket to this action, provides a detailed discussion of our analysis and findings.

conservative approach that assumes worst-case meteorology and that all facility maxima occur at the same time, while more realistically accounting for where each facility maxima occurs in space, the EPA modeled maximum 24-hour and annual SO_2 concentrations in the Douglas maintenance area that are below the NAAQS. The EPA's modeling results support the ADEQ's finding of continued attainment through 2030.

c. Treatment of New Sources of SO_2 Emissions

Section 172(c)(5) of the CAA requires New Source Review permits prior to the construction and operation of new major stationary sources and prior to major modifications at existing major stationary sources in nonattainment areas. However, in attainment areas, major sources and major modifications require PSD permits in accordance with section 165 of the CAA. The PSD program requires stationary sources to apply the best available control technology (BACT) and ensure that projects will not cause or contribute to a violation of a NAAQS or a maximum allowable increase.

The ADEQ has a PSD permitting program (*i.e.*, Arizona Administrative Code (A.A.C.) R18-2-406) that was established to preserve the air quality in areas where ambient standards have been met. The PSD program requires stationary sources to undergo preconstruction review, install BACT, and conduct modeling demonstrating protection of the SO_2 NAAQS. The program applies to any major source or major modification in the Douglas area. New minor sources are required to obtain a permit under A.A.C. R18-2-334, Arizona's Minor New Source Review program. Updates to the State's PSD and Minor New Source Review programs were approved into the SIP on November 2, 2015 (80 FR 67319). Thus, the ADEQ's existing PSD program satisfies the preconstruction permit provision of the Seitz Memo.

d. Commitment to Resume Monitoring

The ADEQ commits to resume monitoring before any major source of SO_2 commences to operate in the Douglas maintenance area. *See* 2016 Douglas Second Maintenance Plan, p. 26. Moreover, the PSD permit program requires that permit applicants conduct preconstruction monitoring to identify baseline concentrations. Together, these commitments address the monitoring provision of the Seitz Memo.

3. Other CAA Requirements

a. Contingency Plan

As discussed above, section 175A of the CAA sets forth the statutory requirements for maintenance plans, and the Calcagni, Seitz, and Shaver memos cited above contain specific EPA guidance. The only maintenance plan element not covered by the Seitz Memo is the contingency provisions element. Section 175A(d) of the CAA requires that maintenance plans contain contingency provisions deemed necessary by the Administrator to assure that the state will promptly correct any violation of the standards that occurs after the redesignation of the area as an attainment area. The Calcagni Memo provides additional guidance, noting that although a state is not required to have fully-adopted contingency measures that will take effect without further action by the state for the maintenance plan to be approved, the maintenance plan should ensure that the contingency measures are adopted expeditiously once they are triggered. Specifically, the maintenance plan should clearly identify the measures to be adopted, include a schedule and procedure for adoption and implementation of the measures, and contain a specific time limit for action by the state. In addition, the state should identify specific indicators or triggers that will be used to determine when the contingency measures need to be implemented.

The 2016 Douglas Second Maintenance Plan includes the State's commitment to continue

to track maintenance of the SO_2 NAAQS through updates to the emissions inventory. *See* 2016 Douglas Second Maintenance Plan, p. 44-45. Additionally, the ADEQ commits to reestablish an appropriate air quality monitoring network before any major source of SO_2 begins operations in the Douglas maintenance area. *See* 2016 Douglas Second Maintenance Plan, p. 26.

Since there are no remaining sources of SO_2 emissions that are similar in size to the PDDRWS, the primary cause of any potential future violations of the 1971 SO_2 NAAQS in the area would be from modified or new point sources. The ADEQ's current operating permit program places limits on SO_2 emissions from existing sources. Should a new facility be constructed in the Douglas area or an existing facility want to upgrade or increase SO_2 emissions, the facility would also be subject to PSD as required by the Calcagni Memo.

Furthermore, the ADEQ anticipates no relaxation of any implemented control measures used to attain and maintain the NAAQS, and they commit to submit to us any changes to rules or emission limits applicable to SO_2 sources. The ADEQ also commits to maintain the necessary resources to promptly correct any violations of the provisions contained in the 2016 Douglas Second Maintenance Plan.

Upon review of the contingency plan summarized above, we find that the ADEQ has established a contingency plan for the Douglas area that satisfies the requirements of the CAA section 175A(d) and the Calcagni Memo.

b. Transportation and General Conformity

Conformity is required under section 176(c) of the CAA to ensure that federal actions are consistent with ("conform to") the purpose of the SIP. Conformity to the purpose of the SIP means that federal activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or interim reductions and milestones.

Conformity applies to areas that are designated nonattainment and to maintenance areas. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. and the Federal Transit Act ("transportation conformity"), and to other federally supported or funded projects ("general conformity").

Transportation conformity applies to projects that require Federal Highway Administration or Federal Transit Administration funding. 40 CFR part 93 describes the requirements for federal actions related to transportation plans, programs, and projects to conform to the purposes of the SIP. Because the EPA does not consider SO_2 a transportation-related criteria pollutant, only the requirements related to general conformity apply to the Douglas area.[10]

Section 176(c)(4) of the CAA establishes the framework for general conformity. Besides ensuring that federal actions not covered by the transportation conformity rule will not interfere with the SIP, the general conformity regulations encourage consultation between the federal agency and the state or local air pollution control agencies before and during the environmental review process; public notification of and access to federal agency conformity determinations; and air quality review of individual federal actions.

Section 176(c) of the CAA requires the states to revise their SIPs to establish criteria and procedures to ensure that federally supported or funded projects in nonattainment and maintenance areas "conform" to the air quality planning goals in the applicable SIP. State implementation plan revisions intended to meet the conformity requirements in section 176(c) are referred to as "conformity SIPs." In 2005 Congress amended section 176(c), and under the

[10] *See* 40 CFR 93.102(b)(1).

amended conformity provisions, states are no longer required to submit conformity SIPs for general conformity, and the conformity SIP requirements for transportation conformity have been reduced to include only those relating to consultation, enforcement, and enforceability. *See* CAA section 176(c)(4)(E).

The EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d)(3)(E)(v) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. Because the Douglas area has already been redesignated for the 1971 SO_2 NAAQS, we believe it is reasonable to apply the interpretation of conformity SIP requirements as not applying for the purposes of redesignation to the approval of the Douglas second 10-year maintenance plan.

Criteria for making determinations and provisions for general conformity are contained in A.A.C. R18-2-1438. Arizona has an approved general conformity SIP (64 FR 19916, April 23, 1999).

The ADEQ commits in the 2016 Douglas Second Maintenance Plan to review and comment, as appropriate, on any federal agency draft general conformity determination it receives consistent with 40 CFR 93.155 for any federal plans or actions in the Douglas area, although none are currently planned for the area. *See* 2016 Douglas Second Maintenance Plan, p. 20.

IV. Proposed Action and Request for Public Comment

The EPA is proposing to approve the Douglas second 10-year SO_2 maintenance plan under sections 110 and 175A of the CAA. As authorized in section 110(k)(3) of the Act, the EPA

is proposing to approve the submitted SIP revision because it fulfills all relevant requirements.

We will accept comments from the public on this proposal for 30 days from the date of publication of this notice, and we will consider any relevant comments in taking final action on today's proposal.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR

43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 2, 2018.

Alexis Strauss,
Acting Regional Administrator,
EPA Region IX.

[FR Doc. 2018-03270 Filed: 2/15/2018 8:45 am; Publication Date: 2/16/2018]