

highest concentration in the nonattainment area.

2. The SIP for the Area Must Be Fully Approved Under Section 110(k) of the Act and Must Satisfy All Requirements That Apply to the Area

The Grant County SO₂ SIP revision was approved by EPA on May 5, 1982 (47 FR 19332) and contained limits pertaining to the sole source of SO₂, the Hurley Smelter. The EPA approved changes to New Mexico's SO₂ plan for Grant County on September 26, 1997 (62 FR 50514).

3. The EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions

Air quality improvement in the Grant County SO₂ nonattainment area is attributed to the SO₂ emission limits in the SIP and to the operating restrictions within the Title V permit imposed on the facility that contributed to the nonattainment status. Reductions in emissions are therefore permanent and enforceable.

4. The State Has Met All Applicable Requirements Under Section 110 and Part D of the Act That Were Applicable Prior to Submittal of the Complete Redesignation Request

The requirements under Section 110 and Part D are met with the prior approval of the SIP revisions for the source in the area in 1982, the approval of revisions in 1997 (62 FR 50514), and with the detailed study of the modeling generated by the NMED in 1997.

5. EPA Is Fully Approving a Maintenance Plan, Including a Contingency Plan, for the Area Under Section 175A of the Act

Maintenance Plan

Section 175A of the Act requires states to submit a SIP revision which provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan.

a. Attainment Inventory

The state's submittal contains the emission inventory of SO₂ sources in the Grant County nonattainment area, dating back to 1997. It clearly shows that Grant County has not exceeded the SO₂ NAAQS since 1997.

b. Maintenance Demonstration and Verification of Continued Attainment

Maintenance of the SO₂ NAAQS in the Grant County nonattainment area has been achieved through the SIP and Title V permit requirements. The SO₂ emitting source involved in the Grant County SO₂ redesignation (the Hurley Smelter) is meeting the SO₂ emission limits identified in the SIP rules and permit. NMED will track the maintenance plan through the semi-annual review of permit conditions, air emission inventory and state regulations 20.2.41 NMAC and 20.2.3 NMAC which verify that the State of New Mexico has the continued legal authority needed to implement and enforce air quality controls to maintain the SO₂ NAAQS in Grant County.

c. Monitoring Network

After a detailed study of the modeling generated by the NMED in 1997 for placement of a new monitor in the Grant County nonattainment area, the Regional Office determined (in a letter to NMED dated August 26, 2002) that "the monitor was placed where modeling indicated the highest concentration was likely to occur." A copy of this letter is being attached to our TSD for reference purposes. Therefore, the NMED will use the current SO₂ air monitoring station located in Hurley, New Mexico to verify continuing attainment of the NAAQS in the area. The Hurley monitoring station meets 40 CFR Part 58. The SO₂ monitoring station located in Bayard, New Mexico will be discontinued.

d. Contingency Plan

Section 175A of the Act requires that the maintenance plan include contingency provisions to correct any violation of the NAAQS after redesignation of the area. However, the General Preamble for the Implementation of Title I of the Act Amendments of 1990 (57 FR 13498) states that SO₂ provisions require special considerations. A primary reason is that SO₂ control methods are well established and understood. Therefore, contingency measures for SO₂ need only consist of a comprehensive program to identify sources of violations of the SO₂ NAAQS and to undertake an aggressive follow-up for compliance and enforcement.

Upon verification of a violation of either the 24-hour or 3-hour SO₂ NAAQS, if the Hurley Smelter is responsible for the violation, NMED will work with this source to ensure that the violation will not occur again. If necessary, NMED will write and adopt

rules or amend the company's Title V permit to control SO₂ emissions at the company.

The State will be utilizing both the currently approved SIP requirements and Title V permit as tools for implementation of SO₂ Maintenance Plan. The State will be utilizing both Title V reporting, testing, compliance certification, and recordkeeping controls combined with the Continuous Emission Monitoring System (CEMS) data for SO₂ emissions as its Contingency Plan. It is EPA's finding that these reporting, testing, compliance certification, recordkeeping controls and the CEMS data requirements are a comprehensive program for identifying violations caused by the smelter. The February 21, 2003 submittal does not propose to remove or relax any of the existing SIP approved measures for controlling SO₂ emissions. A new major source of SO₂ or an existing source with major modification, including a process that may have been shut down or ceased operation, will not only have to comply with the existing federally approved SO₂ SIP provisions, it will also need to comply with terms and conditions that may be more stringent than existing SIP requirements imposed on the source in its air permit to ensure the area will continue maintaining the attainment status.

As detailed above, the State has met the maintenance plan requirements of Section 175A of the Act and the maintenance plan is fully approvable. The contingency measures plan is also fully approvable.

Final Action

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Act, and EPA regulations, and conforms to EPA policy. Therefore, we are approving the State of New Mexico's request to redesignate Grant County from a primary and secondary SO₂ nonattainment area to an SO₂ NAAQS attainment area. We are also approving the maintenance and contingency measures plans for Grant County into the New Mexico SIP. Furthermore, we are approving the NMED's request to discontinue the current SO₂ monitoring in Bayard, NM.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the Maintenance Plan if relevant adverse