

### 3. What Is the Current Status of the Area?

On April 4, 1985, the PDAI smelter was permanently deactivated. Dismantling of the Ajo facility began in 1995. By February of 1996, the facility was completely dismantled. On October 15, 1997, ADEQ confirmed that the facility was dismantled and no longer existed at the former site. The area remains sparsely settled, and there are only minor industrial or commercial activities in or near the nonattainment area that produce small quantities of SO<sub>2</sub> emissions. The only point source consists of several generators run by Phelps Dodge which have a potential to emit (PTE) of 49.2 tons per year (tpy) of SO<sub>2</sub>. The ADEQ submission also included emissions from a proposed Gila Bend regional landfill, which was expected to have a PTE of 24.1 tpy of SO<sub>2</sub> when built. Because of their potential emissions, ADEQ classified these two sources as point sources. The Phelps Dodge generators are used only as a backup energy source, have emitted less than 1 tpy of SO<sub>2</sub> for the past five years of operation, and are not expected to emit more than 1.2 tpy of SO<sub>2</sub> in 2015. The landfill has not been built, and we were informed by the State on August 8, 2003 that the permit for the landfill was terminated by the permittee on August 28, 2002.

Currently, there are no operating ambient SO<sub>2</sub> monitors in the Ajo area. However, we do not expect the cumulative impact of the sources in and around Ajo to cause a violation of the NAAQS because their emissions are so low. No significant new sources have located in the area, another reason why our action today is appropriate.

### D. What Are the Applicable Clean Air Act (CAA) Provisions for SO<sub>2</sub> Nonattainment Area Plans?

The air quality planning requirements for SO<sub>2</sub> nonattainment areas are set out in subparts 1 and 5 of Part D of title I of the Act. We have issued guidance in a General Preamble describing our views on how we will review SIPs and SIP revisions submitted under title I of the Act, including those containing SO<sub>2</sub> nonattainment area and maintenance area SIP provisions. 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). The General Preamble discusses our interpretation of the title I requirements, and lists SO<sub>2</sub> policy and guidance documents.

#### 1. What Statutory Provisions Apply?

CAA Sections 191 and 192 address requirements for SO<sub>2</sub> nonattainment areas designated subsequent to

enactment of the 1990 CAA Amendments and areas lacking fully approved SIPs immediately before enactment of the 1990 Clean Air Act Amendments. Ajo falls into neither of these categories and is therefore subject to the requirements of subpart 1 of Part D of title I of the CAA (Sections 171–179B). Section 172 of this subpart contains provisions for nonattainment plans in general; these provisions were not significantly changed by the 1990 CAA Amendments. Among other requirements, CAA Section 172 provides that SIPs must assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented as expeditiously as practicable and shall provide for attainment.

### E. What Are the Applicable Provisions for SO<sub>2</sub> Maintenance Plans and Redesignation Requests?

#### 1. What Are the Statutory Provisions?

##### a. CAA Section 107(d)(3)(E).

The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment:

- (1) the area must have attained the applicable NAAQS;
- (2) the area has met all relevant requirements under section 110 and Part D of the Act;
- (3) the area has a fully approved SIP under section 110(k) of the Act;
- (4) the air quality improvement must be permanent and enforceable; and,
- (5) the area must have a fully approved maintenance plan pursuant to section 175A of the Act.

##### b. CAA Section 175A.

CAA section 175A provides the general framework for maintenance plans. The maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation, including any additional control measures as may be necessary to ensure such maintenance. In addition, maintenance plans are to contain such contingency provisions as we deem 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. Beyond these provisions, however, CAA section 175A does not define the content of a maintenance plan.

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

Our primary general guidance on maintenance plans and redesignation requests is a September 4, 1992 memo from John Calcagni, entitled “Procedures for Processing Requests to Redesignate Areas to Attainment” (“Calcagni Memo”). Specific guidance on SO<sub>2</sub> redesignations also appears in a January 26, 1995 memo from Sally L. Shaver, entitled “Attainment Determination Policy for Sulfur Dioxide Nonattainment Areas” (“Shaver Memo”).

Guidance on SO<sub>2</sub> maintenance plan requirements for an area lacking monitored ambient data, if the area’s historic violations were caused by a major point source that is no longer in operation, is found in an October 18, 2000 memo from John S. Seitz, entitled “Redesignation of Sulfur Dioxide Nonattainment Areas in the Absence of Monitored Data” (“Seitz Memo”). The Seitz Memo exempts eligible areas from the maintenance plan requirements of continued monitoring.

### 3. What Are the Requirements for Redesignation of Single-Source SO<sub>2</sub> Nonattainment Areas in the Absence of Monitored Data?

Our historic redesignation policy for SO<sub>2</sub> has called for eight quarters of clean ambient air quality data as a necessary prerequisite to redesignation of any area to attainment. The Seitz memo provides guidance on SO<sub>2</sub> maintenance plan requirements for an area lacking monitored ambient data, if the area’s historic violations were caused by a major point source that is no longer in operation. In order 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 10th year after redesignation;
- (2) Dispersion modeling showing that no NAAQS violations will occur over the next 10 years and that the shut down source was the dominant cause of the high concentrations in the past;
- (3) Evidence that if the shut down source resumes operation it would be considered a new source and be required to obtain a permit under the Prevention of Significant Deterioration provisions of the CAA; and
- (4) A commitment to resume monitoring before any major SO<sub>x</sub> source commences operation.