

**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF REVISIONS
TO THE STATE IMPLEMENTATION PLAN
FOR THE GRANT COUNTY SULFUR DIOXIDE
LIMITED MAINTENANCE PLAN**

No. EIB 13-05(R)

ORDER AND STATEMENT OF REASONS

This matter comes before the New Mexico Environmental Improvement Board (“Board”) upon a petition filed by the New Mexico Environment Department (“NMED” or “Department”), proposing revisions to New Mexico’s State Implementation Plan (“SIP”) for the Grant County Sulfur Dioxide Limited Maintenance Plan. The Board heard testimony from the Department and admitted exhibits into the record. On October 8, 2013 the Board deliberated and voted to adopt the proposed Grant County Sulfur Dioxide (SO₂) Limited Maintenance Plan for the reasons that follow:

STATEMENT OF REASONS

1. In 1978, the U.S. Environmental Protection Agency (“EPA”) designated certain portions of Grant County, New Mexico as being in non-attainment with the national ambient air quality standards (“NAAQS”) for sulfur dioxide (SO₂). The nonattainment status was caused by emissions from a copper smelter located in Hurley, New Mexico (“Hurley Smelter”).
2. For each state that requests re-designation of an area from non-attainment to attainment of a NAAQS, the federal Clean Air Act (“CAA”) at Section 175A (42 U.S.C. § 7504a) requires the state to adopt and submit to EPA a SIP providing for the maintenance of

- relevant NAAQS for the next 10 years. The SIP must be subsequently revised and submitted to EPA for another 10 year period.
3. In February 2003, New Mexico submitted a re-designation request and maintenance plan for Grant County, which EPA approved in September 2003. The re-designation was based on the absence of any exceedences of the SO₂ NAAQS in Grant County since 1975. The maintenance plan entailed continued control of SO₂ emissions from the Hurley Smelter through permit conditions, as well as monitoring provisions, a contingency plan, and other elements.
 4. In 2006, the Hurley Smelter was dismantled and its smoke stacks were removed.
 5. The currently approved maintenance plan for Grant County expires in 2015. Submission of a revised maintenance plan in 2013 will ensure that EPA has up to 18 months to review the revised plan, as allowed by CAA § 110 (k).
 6. The proposed SIP revisions meet EPA requirements for a “limited” maintenance plan applicable in areas with ambient concentrations of less than 85% of the NAAQS at issue. (Ambient levels of SO₂ in Grant County are zero according to the past 5 years of monitoring).
 7. The proposed SIP revisions will ensure the maintenance of the SO₂ NAAQS in Grant County for the 10-year life of the maintenance plan, in accordance with NMSA 1978 § 74-2-5.C (requiring the Board to adopt regulations to achieve compliance with the NAAQS).
 8. The proposal to discontinue SO₂ monitoring within the Grant County maintenance area, while providing contingency to measures to resume monitoring if necessary, will conserve state resources and is in the public interest.

9. Pursuant to 20.1.300.A NMAC, any person may petition the Board for amendment of regulations within the jurisdiction of the Board.
10. On June 24, 2013 NMED filed a petition with the Board for a public hearing on proposed SIP revisions to adopt a revised 10-year limited SO₂ maintenance plan for Grant County.
11. On July 15, 2013, at a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the Board granted the Department's request for a hearing.
12. On August 2, 2013, Notice of Hearing was published in the Silver City Daily Press (in English and Spanish), and in the New Mexico Register on July 31, 2013.
13. NMED filed a Notice of Intent to Present Technical Testimony (NOI) on September 18, 2013, in accordance with 20.1.1.302 NMAC.
14. A hearing was held in this matter on October 8, 2013 in Silver City, New Mexico.
15. The Board has the authority to approve these proposed amendments pursuant to NMSA 1978 § 74-2-5.C.
16. The proposed amendments satisfy the statutory requirements of the Air Quality Control Act, NMSA 1978, Section 74-2-5.E, namely the Board has given weight it deems appropriate to all facts and circumstances, including but not limited to:
 - (1) character and degree of injury to or interference with health, welfare, visibility and property;
 - (2) the public interest, including the social and economic value of the sources and subjects of air contaminants; and

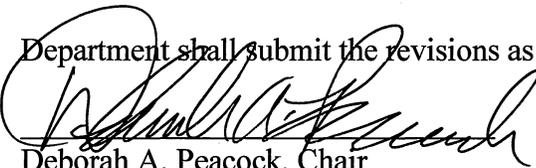
(3) technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved.

17. The notice and hearing requirements of NMSA 1978 Section 74-2-6 and 20.1.1 NMAC were satisfied in this rulemaking process.
18. The proposed amendments are adopted for any or all of the reasons stated above.

ORDER

By unanimous vote of a quorum of the Board members, the proposed Grant County Sulfur Dioxide Limited Maintenance Plan was approved by the Board on October 8, 2013. The plan is hereby adopted as revisions to New Mexico's State Implementation Plan. The

Department shall submit the revisions as expeditiously as possible to the U.S. EPA for approval.


Deborah A. Peacock, Chair
On Behalf of the Board

Dated: 10/8/13