

Generally, we do not address technical and other minor changes or suggested changes. The law does not authorize us to make such changes under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed waiver and extension with funding.

Analysis of Comments and Changes

An analysis of the comments to the proposed waiver and extension follows.

Comments: Two commenters submitted comments in support of the extension of funding, stating the funding is necessary to serve children and youth, specifically those with disabilities or from low-income families.

One of the commenters expressed that the final waiver should better explain why “bridge-funding” for FY 2026 is necessary, how the grantee’s current project has performed, what alternatives to bridge-funding were considered, and how the Department plans to ensure a fair and unbiased competition in 2027.

Discussion: We appreciate the support for the funding extension for AENP. We agree that the funding will continue to assist children and youth, particularly those with disabilities or from low-income families. All grantees are monitored through a comprehensive review of their progress and compliance, and program officers evaluate whether grantees are meeting approved milestones and making substantial progress toward both program level and project-specific performance measures. A commenter described this waiver as “bridge-funding,” but that characterization does not accurately reflect the proposed waiver and extension. The purpose of this waiver and extension is to provide a continuation award in FY 2026 for the currently funded AENP project, at an amount consistent with the FY 2025 extension.

The Department considered alternatives, such as holding a new competition, but ultimately determined that, given available resources and needing ample time for planning a competition, the agency could meet the congressional directive by extending the grant.

It is important to note that the Education Department General Administrative Regulations and other relevant grant regulations and statutory authorities govern how we conduct grant competitions and award new grants. The Department will continue to use these authorities in FY 2027 to ensure our commitment to conducting fair and unbiased grant competitions.

Changes: None.

Final Waiver and Extension of the Project Period With Funding

The Department believes that it is in the public interest to extend the AENP program in lieu of running a new competition in FY 2026.

Extending the project end dates of the AENP grant for one year allows for efficient continuity of arts services. Pending FY 2027 appropriations, there may be new competitions for eligible applicants.

For these reasons, the Department waives the requirements in 34 CFR 75.261(b)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver allows the Department to issue a continuation award in FY 2026 to the currently funded ALN 84.351A AENP project at an amount consistent with the amount awarded in the FY 2025 extension.

Any activities carried out during the year of this continuation award must be consistent with, or a logical extension of, the scope, goals, and objectives of the grantee’s application as approved in the FY 2022 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a substantial economic impact on a substantial number of small entities. The extension of the existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision. The only entity that is affected by the waiver and extension of the project period is the one ALN 84.351A grantee.

Paperwork Reduction Act of 1995

This notice of final waiver and extension of the project period with funding does not contain any information collection requirements.

Intergovernmental Review

This action is subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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Authority: 20 U.S.C. 1221e–3 and 3474.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2025–3821; FRL–13144–02–R9]

Air Plan Approval; Arizona; Attainment Plan for the Hayden SO₂ Nonattainment Area for the 1971 and 2010 Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of revisions to the Arizona state implementation plan (SIP) for attaining the 1971 and 2010 sulfur dioxide (SO₂) national ambient air quality standards (NAAQS or “standards”) in the Hayden SO₂ nonattainment area. These SIP revisions, collectively referred to as the “Hayden SO₂ Plan” or “Plan,” include Arizona’s attainment demonstration and other elements required under Clean Air Act (CAA or “Act”) sections 110, 172, 191, and 192. In addition to an attainment demonstration, the revisions address the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures

and reasonably available control technology (RACT/RACM), base-year and projection-year emissions inventories, nonattainment new source review, emissions limitations necessary to provide for attainment, and contingency measures. The EPA is approving the SIP revisions as meeting the CAA requirements. This action is being taken under the CAA.

DATES: This rule is effective September 21, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2025-3821. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ashley Graham, Geographic Strategies and Modeling Section (AIR-2-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 972-3877; email address: graham.ashleyr@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Background

The EPA first established primary SO₂ standards in 1971.¹ On March 3, 1978, the EPA designated Pinal County, Arizona as a primary SO₂ nonattainment area based on monitored violations of the primary SO₂ NAAQS in the county between 1975 and 1977.² At the request of the Arizona Department of Environmental Quality (ADEQ), the

nonattainment area was subsequently reduced to nine townships in and around Hayden, Arizona.³

On June 22, 2010, the EPA published in the **Federal Register** a strengthened, primary 1-hour SO₂ NAAQS, establishing a new standard at a level of 75 parts per billion (ppb), based on the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations of SO₂.⁴ The EPA provided that the 24-hour and annual standards established in 1971 were to remain in place for those areas designated nonattainment for the 2010 SO₂ NAAQS until such time that the State submits, and the EPA approves, an implementation plan providing for attainment of the 2010 SO₂ NAAQS.⁵

The EPA designated the Hayden, Arizona area nonattainment for the 2010 SO₂ NAAQS effective October 4, 2013.⁶ The dominant source of SO₂ emissions in the Hayden SO₂ nonattainment area is the Hayden copper smelter, owned and operated by ASARCO LLC (“Asarco”).⁷ The final area designation triggered a requirement for Arizona to submit by April 4, 2015 (within 18 months per CAA section 191(a)), a SIP revision with an attainment plan for how the Hayden SO₂ nonattainment area would attain the 2010 SO₂ NAAQS as expeditiously as practicable, but no later than October 4, 2018, per CAA section 192(a), and in accordance with CAA sections 110(a), 172(c), and 191–192.⁸

ADEQ submitted a SIP revision on March 9, 2017, titled “Arizona State Implementation Plan Revision: Hayden Sulfur Dioxide Nonattainment Area for the 2010 SO₂ NAAQS” (“2017 Hayden SO₂ Plan”). The emission limits that were intended to provide for attainment of the 2010 SO₂ NAAQS for the Hayden area were codified in the Arizona Administrative Code (AAC), Title 18, Chapter 2, Article 13, section R18–2–B1302, “Limits on SO₂ Emissions from the Hayden Smelter” (“Rule B1302”).

³ 44 FR 21261 (April 10, 1979). The nonattainment area is composed of the following townships in southern Gila County and northeastern Pinal County: T4S, R14E; T4S, R15E; T4S, R16E; T5S, R14E; T5S, R15E; T5S, R16E; T6S, R14E; T6S, R15E; and T6S, R16E. The following townships were designated “cannot be classified:” T4S, R13E; T4S, R17E; T5S, R13E; T5S, R17E; T6S, R13E; and T6S, R17E.

⁴ On June 2, 2010, the EPA Administrator signed the final rule titled, “Primary National Ambient Air Quality Standard for Sulfur Dioxide,” 75 FR 35520 (June 22, 2010), codified at 40 CFR 50.17.

⁵ See 40 CFR 50.4(e). 75 FR 35520 at 75 FR 35581 (June 22, 2010).

⁶ 78 FR 47191 (August 5, 2013), codified at 40 CFR part 81, subpart C.

⁷ ASARCO LLC was organized in 1899 as the American Smelting And Refining Company.

⁸ 78 FR 47191 at 78 FR 47193 (August 5, 2013).

ADEQ submitted Rule B1302 to the EPA on April 6, 2017.⁹

On November 5, 2020, the EPA finalized a limited approval and limited disapproval of Arizona Rule B1302,¹⁰ and on November 10, 2020, the EPA finalized a partial approval and partial disapproval of the 2017 Hayden SO₂ Plan.¹¹ The final limited disapproval of Rule B1302 and partial disapproval of the 2017 Hayden SO₂ Plan became effective on December 7, 2020, and December 10, 2020, respectively, and initiated deadlines under CAA section 179(a) for the imposition of new source review offset and highway funding sanctions unless the State had made the necessary complete submittal and the EPA approved the submittal as meeting applicable requirements prior to those deadlines.¹²

On January 31, 2022, the EPA determined that the Hayden SO₂ nonattainment area failed to attain the 2010 1-hour primary SO₂ NAAQS by the October 4, 2018 applicable attainment date, which triggered a requirement under CAA section 179(d) for Arizona to submit a revised SIP by January 31, 2023, that provides for expeditious attainment of the 2010 SO₂ NAAQS in the Hayden SO₂ nonattainment area by January 31, 2027.¹³

On October 3, 2023, Arizona submitted the “Final SIP Revision: 2023 Hayden Sulfur Dioxide Nonattainment Area for the 1971 and 2010 SO₂ NAAQS” (“2023 Hayden SO₂ Plan”) to the EPA as a revision to the Arizona SIP.¹⁴ ADEQ’s letter adopting and

⁹ Letter dated March 8, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: “Submittal of the State Implementation Plan Revision, Sulfur Dioxide National Ambient Air Quality Standards, Hayden Nonattainment Area,” (submitted electronically on March 9, 2017); and letter dated April 6, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: “RE: Submittal of the Final Rules for the State Implementation Plans for Hayden Sulfur Dioxide Nonattainment Area, Hayden Lead Nonattainment Area, and Miami Sulfur Dioxide Nonattainment Area,” (submitted electronically on April 6, 2017).

¹⁰ 85 FR 70483 (November 5, 2020).

¹¹ 85 FR 71547 (November 10, 2020). As part of our November 10, 2020 final action, the EPA approved the emissions inventory element of the plan and affirmed that the State had met the new source review requirements for the area.

¹² On June 7, 2022, offset sanctions were imposed in the Hayden SO₂ nonattainment area, and on December 7, 2022, highway sanctions were imposed in the area.

¹³ 87 FR 4805 (January 31, 2022).

¹⁴ Letter dated October 3, 2023, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region 9, Subject: “RE: Submittal of the Arizona Department of Environmental Quality’s SIP revision: 2023 Hayden Sulfur Dioxide

¹ 36 FR 8186 (April 30, 1971). See 40 CFR 50.4.

² 43 FR 8962 (March 3, 1978).

submitting the 2023 Hayden SO₂ Plan for inclusion in the Arizona SIP clarifies that the SIP revision is intended to satisfy the CAA requirements for the Hayden SO₂ planning area for both the 1971 and 2010 SO₂ NAAQS.¹⁵ The October 3, 2023 submittal became complete by operation of law on April 3, 2024. On May 2, 2024, the EPA issued a completeness letter, determining that Arizona's October 3, 2023 submittal includes all SIP elements required as a result of the January 31, 2022 finding of failure to attain and that the submittal meets the minimum completeness criteria in 40 CFR part 51, appendix V.¹⁶

On December 8, 2025, ADEQ submitted for parallel processing the proposed "SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO₂ SIP" as a supplement to the 2023 Hayden SO₂ Plan ("Hayden SO₂ Supplement").¹⁷ In addition to addressing attainment planning requirements, the Hayden SO₂ Supplement included revisions to Rule B1302 and AAC Title 18, Chapter 2, Appendix 14, "Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter" ("Appendix 14") that establish certain enforceable control requirements that are relied upon in the attainment demonstration. These rule revisions had been adopted under State law;¹⁸ however, ADEQ noted that the State was requesting parallel processing of these submissions to help facilitate timely EPA action on the 2023 Hayden SO₂ Plan, given the additional administrative steps required before

codification of the rule revisions in the AAC.

In addition to the 2023 Hayden SO₂ Plan and Hayden SO₂ Supplement, ADEQ previously submitted amendments to AAC Title 18, Chapter 2, Article 13, section R18–2–715, "Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements" ("Rule 715") and section R18–2–715.01, "Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring" ("Rule 715.01") on April 6, 2017.¹⁹ These amendments sunset Rule 715 and 715.01 requirements upon the approval and effective date of Rule B1302. Further details can be found in the technical support document titled "Technical Support Document for Rule Revisions in the Hayden SO₂ Supplement to the 2023 Hayden SO₂ Plan" included in the docket for the proposed action.²⁰ On July 17, 2017, the EPA issued a completeness letter for Rules 715 and 715.01, finding that they fulfill the completeness criteria in 40 CFR part 51, appendix V.²¹

On March 4, 2026, the EPA proposed to approve the 2023 Hayden SO₂ Plan, Hayden SO₂ Supplement, and Rules 715 and 715.01, collectively referred to herein as the "Hayden SO₂ Plan."²² For details regarding the EPA's reasons for proposing to approve the Hayden SO₂ Plan please see the March 4, 2026 proposed action.²³

On June 5, 2026, Arizona submitted the final version of the Hayden SO₂ Supplement to the EPA as a revision to the Arizona SIP.²⁴ We have reviewed this submittal and have determined that it includes the final codified versions of Rule B1302, Appendix 14, Rule 715, and Rule 715.01; and an updated completeness evaluation of the

submittal. It does not otherwise differ from the version submitted for parallel processing on December 8, 2025, that we evaluated for our proposed approval.

Based on our review, we find that the June 5, 2026 submittal fulfills the SIP completeness criteria of 40 CFR part 51, appendix V. The SIP submission also includes evidence that adequate public notice was given and that an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102. Specifically, ADEQ provided public notice and opportunity for public comment prior to its October 14, 2025 public hearing on and adoption of the Hayden SO₂ Supplement.²⁵ The SIP submission includes proof of publication notices for the public hearing and includes copies of the written and oral comments received during the State's public review processes and ADEQ's responses thereto.²⁶ Therefore, we find that the Hayden SO₂ Supplement meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and 40 CFR 51.102.

II. Public Comments and EPA Responses

The public comment period for the proposed rulemaking opened on March 4, 2026,²⁷ the date of its publication in the **Federal Register**, and closed on April 3, 2026. During this period, the EPA received one comment submission from a member of the public.²⁸ Following the closure of the public comment period, the EPA received an additional comment submission from Asarco.²⁹ Both comment submissions are included in the docket for this action.

The comment from Asarco is supportive of our proposal to approve the Hayden SO₂ Plan and requests that the EPA finalize the proposed approval. Given the supportive nature of the

Nonattainment Area for the 1971 and 2010 SO₂ NAAQS," with enclosures (submitted electronically on October 3, 2023).

¹⁵ Id.

¹⁶ Letter dated May 2, 2024, from Matthew Lakin, Director, Air and Radiation Division, EPA Region IX, to Karen L. Peters, Cabinet Executive Officer, ADEQ, Subject: "Re: Completeness Finding for the State Implementation Plan (SIP) Submission for the Hayden Nonattainment Area for the 1971 and 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS)."

¹⁷ Letter dated December 5, 2025, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Michael Martucci, Acting Regional Administrator, U.S. EPA, Region 9 (submitted electronically on December 8, 2025).

¹⁸ On December 10, 2025, ADEQ submitted an updated version of the Hayden SO₂ Supplement, which noted in Exhibit A–II that "[o]n December 2, 2025, the Arizona Governor's Regulatory Review Council (Arizona GRRC) approved the Hayden Pb and SO₂ rulemaking. Accordingly, the Arizona GRRC-approved Notice of Final Rulemaking (NFRM) package was submitted to the Arizona Secretary of State (SOS) on December 9, 2025." The NFRM was published in the Arizona Administrative Register on January 2, 2026 (Vol. 32, Issue 1, p. 93) with an effective date of February 7, 2026. However, the codified version of the rules has not yet been published in the AAC.

¹⁹ Letter dated April 6, 2017, from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: "RE: Submittal of the Final Rules for the State Implementation Plans for Hayden Sulfur Dioxide Nonattainment Area, Hayden Lead Nonattainment Area, and Miami Sulfur Dioxide Nonattainment Area," (submitted electronically on April 6, 2017).

²⁰ EPA Region IX, "Technical Support Document for Rule Revisions in the Hayden SO₂ Supplement to the 2023 Hayden SO₂ Plan," December 2025.

²¹ Letter dated July 17, 2017, from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Timothy S. Franquist, Director, Air Quality Division, ADEQ.

²² 91 FR 10531 (March 4, 2026).

²³ Id.

²⁴ Letter dated June 2, 2026, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Michael Martucci, Acting Regional Administrator, U.S. EPA, Region 9, Subject: "RE: Final Submittal of SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO₂ SIP," with enclosures.

²⁵ Hayden SO₂ Supplement, Appendix B, Exhibit B–III, "Public Notice and Affidavit of Publication."

²⁶ Id., Appendix B, Exhibit B–VII, "Public Hearing Transcript," and Exhibit B–VIII, "Compilation of Comments and State Responses."

²⁷ 91 FR 10531 (March 4, 2026).

²⁸ Public comment submission received April 3, 2026, from Abdurhman Mektel Weli, to docket EPA–R09–OAR–2025–3821, Subject: "Comment on EPA–R09–OAR–2025–3821: Incomplete Benefit Valuation and Missing Environmental Justice Analysis in Hayden SO₂ Plan Approval."

²⁹ Letter dated April 2, 2026, from Alejandro Larrea, General Manager, Hayden Operations, Asarco, to Docket ID No. EPA–R09–OAR–2025–3821, Subject: "Re: Comments of ASARCO LLC—Hayden Operations, Air Plan Approval; Arizona; Attainment Plan for the Hayden SO₂ Nonattainment Area for the 1971 and 2010 Sulfur Dioxide National Ambient Air Quality Standards, Proposed Rule, 91 FR 10531 (Mar. 4, 2026)."

comment, it does not require a response. We respond to the comment from the member of the public in the remainder of this section.

The comment submission from a member of the public asserts that the EPA's proposed approval of the Hayden SO₂ Plan is incomplete because it lacks a quantitative benefit valuation and an environmental justice screening analysis, and requests that the EPA withhold final approval of Arizona's submission until such analyses have been completed. The commenter asserts that by not quantifying benefits, the proposal implicitly values them to be zero, which the commenter asserts is "inconsistent with economic best practices and prevents the public from judging whether the plan's costs are justified." The commenter also includes demographic information for the Hayden area, asserts that the Plan does not address whether costs and benefits are born equitably, asserts that "Executive Order 12898 requires agencies to address disproportionate effects on minority and low-income populations," and recommends tools for a costs and benefits analysis.

The EPA appreciates the commenter's interest in the implications of this proposed action. However, we disagree with the commenter's assertion that the Hayden SO₂ Plan, or our proposal to approve it, is incomplete without a quantitative benefit valuation and an environmental justice screening analysis.

First, we disagree with the assertion that by not quantifying the benefits of our action via a benefit analysis, we somehow imply that they are zero. The EPA's March 4, 2026 proposal discusses the expected air quality benefits resulting from Arizona's control strategy in the Hayden SO₂ Plan for attaining the SO₂ NAAQS in the Hayden area. The EPA's approval of the new controls and emissions limits in the Plan into the Arizona SIP will make them federally enforceable. Additionally, while Executive Order (E.O.) 12866 requires Federal agencies to conduct cost-benefit analyses for "significant" regulatory actions, E.O. 12866 applies only to rules with an economic impact of \$100 million or more or other material impacts. As discussed in our proposed rule, the EPA's approval of the Hayden SO₂ Plan is not a significant regulatory action under E.O. 12866 and does not require a cost-benefit analysis.³⁰ Thus, a benefit analysis is not required.

Second, regarding the commenter's assertion that our proposal is incomplete without an environmental

justice screening analysis pursuant to E.O. 12898, we note that President Trump revoked E.O. 12898 via E.O. 14173 on January 21, 2025. Thus, an environmental justice screening analysis is not required.

Finally, as discussed in section IX of the EPA's March 4, 2026 proposed rule,³¹ the EPA is required under the CAA to approve a State's SIP submission if it complies with the provisions of the Act and applicable Federal regulations.³² Thus, our role in reviewing SIP submissions is to approve State choices provided that they meet the criteria of the CAA. The CAA does not require a cost-benefit analysis or an environmental justice analysis. Accordingly, the EPA is not requiring such analyses as a condition for approving the Hayden SO₂ Plan.

III. Final Action

For the reasons discussed in our proposed action and herein, the EPA is finalizing our approval of the 2023 Hayden SO₂ Plan and the Hayden SO₂ Supplement, including amendments to Rule B1302 and Appendix 14. We find that these submittals provide for attainment of the 1971 and 2010 SO₂ NAAQS in the Hayden SO₂ nonattainment area and for meeting other nonattainment planning requirements. This SO₂ attainment plan includes Arizona's attainment demonstration for the Hayden SO₂ nonattainment area. In addition to an attainment demonstration, the State's Plan addresses the requirements for meeting RFP toward attainment of the NAAQS, RACM/RACT, base year and projection year emission inventories, nonattainment new source review (NSR), emission limitations necessary to provide for attainment, and contingency measures. In addition, the EPA is also finalizing approval of amendments to Rules 715 and 715.01, which ADEQ submitted to the EPA on April 6, 2017. We find that the Plan amendments, which would sunset the requirements in Rules 715 and 715.01, will not result in any relaxation of SIP requirements based on the revisions to Rule B1302.

The EPA is finalizing our determination that Arizona's Hayden SO₂ Plan meets the applicable requirements of section 172 of the CAA for the 1971 and 2010 SO₂ NAAQS. The EPA is finalizing our determination that the Hayden SO₂ Plan meets the emissions inventory requirements under CAA section 172(c)(3) and (4) and affirming that the State has met the NSR requirements for the Hayden SO₂

nonattainment area under CAA section 172(c)(5). We are also finalizing our determination that the Hayden SO₂ Plan meets the attainment demonstration, RACM/RACT, enforceable emission limitations, RFP, and contingency measure requirements of the CAA for the 1971 and 2010 SO₂ NAAQS.

As a result of this final approval of the Hayden SO₂ Plan, all sanctions triggered by our November 5, 2020 limited disapproval³³ and November 10, 2020 partial disapproval³⁴ actions are terminated on the effective date of this rulemaking. In addition, the Federal implementation plan (FIP) obligation triggered by the March 18, 2016 finding of failure to submit has been satisfied and the associated FIP obligation for the Hayden SO₂ nonattainment area under the consent decree in *Center for Biological Diversity et al. v. Regan*, No. 4:24-cv-01900 (N.D. Cal.), doc. 28, paragraphs 1.b and 2 is terminated. Lastly, when this final approval becomes effective, the 1971 SO₂ NAAQS will no longer apply to the Hayden SO₂ nonattainment area.³⁵

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of four Arizona Department of Environmental Quality rules: Rule R18-2-715, "Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements," revised on April 7, 2017, which regulates emissions of sulfur dioxide from copper smelters; Rule R18-2-715.01, "Standards of Performance for Existing Primary Copper Smelters, Compliance and Monitoring," revised on April 7, 2017, which establishes other implementing requirements related to sulfur dioxide emissions from copper smelters; Rule R18-2-B1302, "Limits on SO₂ Emissions from the Hayden Smelter," revised January 2, 2026, which regulates emissions of sulfur dioxide from the Hayden primary copper smelter; and Appendix 14, "Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter," revised January 2, 2026, which regulates the methodology for performing fugitive emission studies of sulfur dioxide. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are

³¹ Id.

³² 42 U.S.C. 7410(k); 40 CFR 52.02(a).

³³ 85 FR 70483 (November 5, 2020).

³⁴ 85 FR 71547 (November 10, 2020).

³⁵ See 40 CFR 50.4(e).

³⁰ 91 FR 10531 at 91 FR 10544 (March 4, 2026).

fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³⁶ The EPA has made, and will continue to make, these documents available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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. 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). Because this is a rule of particular applicability, the EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 19, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: August 10, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

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

Subpart D—Arizona

- 2. Section 52.120 is amended by:
 - a. In table 2 in paragraph (c), revising the entries for “R18–2–715, section F, excluding (F)(2), and section G”, “R18–2–715.01”, “R18–2–B1302”, and “Appendix 14”; and
 - b. In table 1 in paragraph (e), adding the entries for “SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona’s 2023 SO₂ SIP, excluding Appendix A” and “Final SIP Revision: 2023 Hayden Sulfur Dioxide Nonattainment Area for the 1971 and 2010 SO₂ NAAQS, excluding Appendix A” after the entry for “SIP Revision: Hayden Lead Nonattainment Area, excluding Appendix C”.

The revisions and additions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

³⁶ 62 FR 27968 (May 22, 1997).

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Arizona Administrative Code				
*	*	*	*	*
Article 7 (Existing Stationary Source Performance Standards)				
R18–2–715, section F, excluding (F)(2), section G, and section I.	Standards of Performance for Existing Primary Copper Smelters: Site-Specific Requirements.	April 7, 2017	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]; May 10, 2021, 86 FR 24726.	Submitted on April 6, 2017. EPA approved the rescission of sections (F)(2) and (H) on May 10, 2021.
R18–2–715.01	Standards of Performance for Existing Primary Copper Smelters, Compliance and Monitoring.	April 7, 2017	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on April 6, 2017.
*	*	*	*	*
Article 13 (State Implementation Plan Rules for Specific Locations)				
R18–2–B1302	Limits on SO ₂ from the Hayden Smelter.	February 7, 2026 ...	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 5, 2026.
Appendix 14	Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter.	February 7, 2026 ...	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 5, 2026.
*	*	*	*	*

* * * * *

(e) * * *

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or non-attainment area or title/subject	State submittal date	EPA approval date	Explanation
The State of Arizona Air Pollution Control Implementation Plan				
*	*	*	*	*
Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)				
SIP Revision: Rules Incorporating Hayden Smelter Permit Conditions to Supplement Arizona's 2023 SO ₂ SIP, excluding Appendix A.	Hayden, AZ Sulfur Dioxide Nonattainment Area.	June 5, 2026	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Adopted by the Arizona Department of Environmental Quality and submitted to the EPA as an attachment to letter dated June 2, 2026.

TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES—Continued

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹

Name of SIP provision	Applicable geographic or non-attainment area or title/subject	State submittal date	EPA approval date	Explanation
Final SIP Revision: 2023 Hayden Sulfur Dioxide Non-attainment Area for the 1971 and 2010 SO ₂ NAAQS, excluding Appendix A.	Hayden, AZ Sulfur Dioxide Nonattainment Area.	October 3, 2023	8/20/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Adopted by the Arizona Department of Environmental Quality and submitted to the EPA as an attachment to letter dated October 3, 2023.
*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

* * * * *

[FR Doc. 2026–16989 Filed 8–19–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2025–3625; FRL–13296–02–R4]

Air Plan Approval; SC; Department Name Change

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is approving a State Implementation Plan (SIP) revision submitted by the State of South Carolina on July 23, 2025. The revision updates references to reflect the restructuring of South Carolina Department of Health and Environmental Control (DHEC) to the South Carolina Department of Public Health and the South Carolina Department of Environmental Services (DES).

DATES: This rule is effective September 21, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2025–3625. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8773. Mr. Freund can also be reached via electronic mail at *freund.weston@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. This Action

The EPA is approving a SIP revision submitted by DES on July 23, 2025, amending Regulations 61–62.1, *Definitions and General Requirements*, Section I, *Definitions*; 61–62.3, *Air Pollution Episodes*; 61–62.4, *Hazardous Air Pollution Conditions*; 61–62.5, Standard No. 4, *Emissions from Process Industries*, Section VIII, *Other Manufacturing*; and 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*.¹ The revision updates references in these regulations from DHEC and the DHEC Board to reflect the newly created DES.

¹ The July 23, 2025, submission also contains changes to Regulation 61–62.1, Section II, *Permit Requirements and Regulations* 61–62.60, 62.63, 62.70, and 86.1. The EPA will act on the changes to Regulation 61–62.1, Section II in a separate SIP-related rulemaking. Regulations 61–62.60, 62.63, 62.70, and 86.1 are not part of the SIP; therefore, the EPA will not act on these changes.

The EPA is approving these changes because they are administrative in nature and therefore would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Clean Air Act (CAA or Act).²

II. Background

Through a notice of proposed rulemaking (NPRM), published on May 28, 2026 (91 FR 31686), the EPA proposed to approve the July 23, 2025, changes to Regulations 61–62.1, *Definitions and General Requirements*, Section I, *Definitions*; 61–62.3, *Air Pollution Episodes*; 61–62.4, *Hazardous Air Pollution Conditions*; 61–62.5, Standard No. 4, *Emissions from Process Industries*, Section VIII, *Other Manufacturing*; and 61–62.96, *Nitrogen Oxides (NO_x) Budget Program*. The details of South Carolina's submission, as well as the EPA's rationale for approving these changes, are described in more detail in the May 28, 2026, NPRM. Comments on the May 28, 2026, NPRM were due on June 29, 2026. No comments were received on the NPRM, adverse or otherwise.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, the EPA is finalizing the incorporation by reference Regulation 61–62.1, Section I, *Definitions*, paragraphs (11), (20), and (25);³ Regulation 61–62.3, Section I, *Episode Criteria*, paragraph 1 and the preceding

² See CAA section 110(l).

³ The remaining portions of Regulation 61–62.1, Section I, retain the April 24, 2020, state effective date, as currently approved in the South Carolina SIP under 40 CFR 52.2120(c).