

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[PA215-4228; FRL-7644-9]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Warren County SO<sub>2</sub> Nonattainment Areas and the Mead and Clarendon Unclassifiable Areas to Attainment and Approval of the Maintenance Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a request from the Commonwealth of Pennsylvania to redesignate the Warren County sulfur dioxide (SO<sub>2</sub>) nonattainment areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren in Warren County, Pennsylvania to attainment of the national ambient air quality standards (NAAQS) for SO<sub>2</sub>. The EPA is also proposing to approve a maintenance plan for these areas as a SIP revision which would put in place a plan for maintaining the NAAQS for SO<sub>2</sub> for the next ten years. In addition, EPA is proposing to approve a request to change the status of Mead Township and Clarendon Borough in Warren County from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before May 10, 2004.

**ADDRESSES:** Submit your comments, identified by PA215-4228 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. PA215-4228. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed

to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

EPA originally designated Conewango Township in Warren County, Pennsylvania as nonattainment for SO<sub>2</sub> on March 3, 1978 (43 FR 8962), based upon modeled exceedances in the area of the Warren Generating Station. The CAA, as amended by the 1990 Amendments, provided designations of SO<sub>2</sub> areas based on their status immediately before enactment of the 1990 Amendments. Any area designated as not attaining the NAAQS for SO<sub>2</sub> as of the date of enactment of the 1990 Amendments, was designated nonattainment for SO<sub>2</sub> by operation of law. In addition, any area designated as attainment or unclassifiable immediately before the enactment of the 1990 Amendments, was also designated

as such upon the enactment of the amendments. As a result, Conewango Township in Warren County was designated nonattainment for SO<sub>2</sub> by operation of law.

The City of Warren and Pleasant Township were originally designated unclassifiable for the NAAQS for SO<sub>2</sub>. Pursuant to section 107(d)(1)(C) of the 1990 CAA amendments, these areas were designated unclassifiable by operation of law. On September 22, 1992 (57 FR 43846), EPA proposed the redesignation of part of Warren County as nonattainment for SO<sub>2</sub>. Specifically, the proposed nonattainment area included Glade and Pleasant Townships, and the City of Warren. This proposed redesignation was based upon modeled exceedances of the short-term SO<sub>2</sub> standards at the United Refining Company. In a final rulemaking on December 21, 1993 (58 FR 67334), as amended on September 21, 1994 (59 FR 48405), EPA redesignated Glade Township, Pleasant Township, and the City of Warren as nonattainment for SO<sub>2</sub>. Clarendon Borough and Mead Township in Warren County were designated unclassifiable by operation of law pursuant to section 107(d)(1)(C) of the 1990 CAA amendments. These designations are codified in 40 CFR 81.339.

**II. Summary of the March 15, 2004 Submittal From Pennsylvania**

On March 15, 2004, the Commonwealth of Pennsylvania submitted redesignation requests and a proposed SIP revision consisting of a proposed maintenance plan. The Commonwealth's submittal requested that EPA redesignate the Warren County SO<sub>2</sub> nonattainment areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren in Warren County, Pennsylvania to attainment of the NAAQS for SO<sub>2</sub>. The March 15, 2004 submittal also requested that EPA parallel process its approval of the proposed maintenance plan associated with the redesignation request as a SIP revision concurrent with the Commonwealth's process for amending its SIP. The proposed maintenance plan is for the Warren County SO<sub>2</sub> nonattainment areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren in Warren County, Pennsylvania. The submittal also requested that the status of Mead Township and Clarendon Borough in Warren County be changed from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>.

Under the CAA, EPA may redesignate nonattainment areas to attainment if

sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3)(E). This includes full approval of a maintenance plan for the area. EPA may approve a maintenance plan which meets the requirements of section 175A.

### III. Redesignation Criteria

Section 107(d)(3)(E) of the CAA, as amended, specifies five requirements that must be met to redesignate an area to attainment. They are as follows:

(1) The area must meet the applicable NAAQS.

(2) The area must have a fully approved SIP under section 110(k).

(3) The area must show improvement in air quality due to permanent and enforceable reductions in emissions.

(4) The area must meet all relevant requirements under section 110 and part D of the Act.

(5) The area must have a fully approved maintenance plan pursuant to section 175A. The EPA has reviewed the redesignation request submitted by the Pennsylvania Department of Environmental Protection (PADEP) for the Warren County SO<sub>2</sub> nonattainment areas. EPA finds that the request meets the five requirements of section 107(d)(3)(E).

#### A. The Data Shows Attainment of the NAAQS for SO<sub>2</sub> in the Warren County SO<sub>2</sub> Nonattainment Areas

A review of the ambient air quality data demonstrates that the NAAQS have been achieved in the Warren County SO<sub>2</sub> nonattainment areas (Conewango Township, Pleasant Township, Glade Township, and the City of Warren). This data demonstrates that the ambient air quality attains the annual and 24-hour health-based primary standards, and the 3-hour secondary standard. The primary standards are an annual mean of 0.030 parts per million (ppm), not to be exceeded in a calendar year, and a 24-hour average of 0.14 ppm, not to be exceeded more than once per calendar year. The secondary standard is a 3-hour average of 0.5 ppm, not to be exceeded more than once per calendar year. The PADEP have quality-assured SO<sub>2</sub> ambient air monitoring data showing that the Warren County SO<sub>2</sub> nonattainment areas have attained the NAAQS for SO<sub>2</sub>.

The redesignation request for the Warren County SO<sub>2</sub> nonattainment areas is based upon air quality data for the most recent three whole calendar years (2000–2002). The data was collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Air Quality Subsystem (AQS) of the Aerometric Information Retrieval

System (AIRS). This data demonstrates that the ambient air quality attains the annual and 24-hour health based primary standards and the 3-hour secondary standard. The basis of Pennsylvania's original recommendation of nonattainment for this area was dispersion modeling conducted in 1976. No exceedances of the standard have occurred since remedies to correct the SO<sub>2</sub> problem were implemented. A table summarizing the monitoring data that has been collected in Warren County by PADEP since 1987 can be found in the formal submittal and is available for review in the rulemaking docket. The County is currently operating two monitors within the nonattainment areas, the Warren High School monitor, and the Warren Overlook monitor. Both of the monitors meet the requirements of 40 CFR parts 53 and 58, and are representative of the highest ambient concentrations.

On January 17, 2003 (68 FR 2454), EPA fully approved a modeled attainment demonstration for the Warren County SO<sub>2</sub> nonattainment areas consisting of Conewango Township, Pleasant Township, Glade Township, and the City of Warren. This dispersion modeling was based upon enforceable SO<sub>2</sub> emission limits of sources amended through operating permits, in addition to a representative background, and demonstrated that the maximum SO<sub>2</sub> impacts do not violate the NAAQS for SO<sub>2</sub>. The maintenance plan submitted as a SIP revision, and the fully approved attainment demonstration (68 FR 2454) show that the ambient air quality in the Warren County SO<sub>2</sub> nonattainment areas meets the national standards for SO<sub>2</sub>.

#### B. The Area Has a Fully Approved SIP Under Section 110(k) of the CAA

EPA fully approved the modeled attainment demonstration for the Warren County SO<sub>2</sub> nonattainment areas and permit emission limits for two individual sources in Warren County as a SIP revision for the area through a direct final rule published on January 17, 2003 (68 FR 2454), effective March 18, 2003. Pennsylvania's Prevention of Significant Deterioration (PSD) program was approved by EPA on August 21, 1984 (49 FR 33128). The PSD program requires any new source to implement Best Available Control Technology (BACT) and limits a new source's allowable impact on the environment. EPA granted "limited" approval of Pennsylvania's revised New Source Review (NSR) program and published a final rule on December 7, 1997 (62 FR 64722). On October 19, 2001 (66 FR 53904), EPA converted the limited

approval to "full" approval for all areas of the Commonwealth except the five-county Philadelphia area (Bucks, Chester, Delaware, Montgomery, and Philadelphia counties). Therefore, the NSR program is currently fully approved for the areas being redesignated and the fully approved PSD program would apply in these areas immediately upon redesignation.

#### C. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions

The improvement in air quality in the Warren County SO<sub>2</sub> areas is due to permanent and enforceable emissions reductions. Pennsylvania has submitted and EPA has approved all of the required enforceable measures applicable to this area. Sulfur dioxide emissions from the United Refinery are capped by federally-enforceable permit conditions. The Reliant Energy power station has shutdown and banked emission reduction credits (ERCs). The SO<sub>2</sub> ERCs generated by Reliant Energy, reduced by the 1.3 to 1 offset ratio, represent the maximum allowable emissions that could be permitted for any new source. The attainment demonstration emission rate used in the modeling translates into a rate limitation as required under the NSR regulations.

The emissions that could be permitted with the use of the ERCs are preserved in the SIP inventory for the area and are required to be counted as actual emissions for planning purposes until the area is redesignated to attainment, after which the ERCs will become moot.

If a new source is constructed after EPA redesignates the area to attainment, a PSD permit analysis and permit will limit emissions to a level below that needed to assure attainment of the NAAQS for SO<sub>2</sub> and protection of all applicable PSD increments. On or after the date the area is redesignated to attainment, any new stationary source constructed or existing stationary source that is modified would be subject to the Pennsylvania SIP-approved minor and major source permitting requirements, including those for PSD. Those requirements include provisions for implementation of BACT and the performance of ambient air quality analyses to ensure the protection of the NAAQS and PSD increments. As previously stated, Pennsylvania's PSD program was approved by EPA on August 21, 1984 (49 FR 33128). Furthermore, even if the new stationary source constructed or existing stationary source that is being modified is defined as "minor" under the Pennsylvania SIP, if emissions or stack configurations

differ from those of the modeled attainment demonstration such that it no longer can be relied upon as the technical basis to ensure protection of the NAAQS, the SIP provides the Commonwealth the authority to require the applicant to perform ambient air quality analyses to ensure the protection of the NAAQS.

*D. The State Has Met All Applicable Requirements for the Area Under Section 110 and Part D of the CAA*

The Warren County SO<sub>2</sub> nonattainment areas have met all applicable and necessary requirements of section 110 and subchapter 1, of part D of the CAA. As mentioned previously, the modeled attainment demonstration for the Warren County SO<sub>2</sub> areas and permit emission limitations for the two stationary sources in Warren County, were fully approved by EPA as a SIP revision for the area, and Pennsylvania's PSD and NSR programs were approved by EPA. EPA approval of a transportation conformity SIP revision for the area is not required for redesignation because the nature of the areas' previous SO<sub>2</sub> nonattainment problem has been determined to be overwhelmingly attributable to stationary sources. The modeling demonstration submitted with the attainment demonstration SIP revision contained a detailed emissions inventory of the allowable emissions for all of the sources of SO<sub>2</sub> in the area. That inventory was found to be acceptable by EPA. Sulfur dioxide emissions from area and mobile sources are insignificant in comparison to the emissions from stationary sources and estimated background concentrations used in the attainment modeling approved by EPA.

*E. The Area Has a Fully Approved Maintenance Plan Under Section 175A of the CAA*

Section 175A of the CAA sets forth the necessary elements of a maintenance plan needed for areas seeking redesignation from nonattainment to attainment. The proposed maintenance plan for the Warren County SO<sub>2</sub> areas is being submitted to EPA for approval via parallel-processing as a SIP revision concurrently with the request for redesignation. The proposed maintenance plan shows that the NAAQS for SO<sub>2</sub> will be maintained for at least 10 years after redesignation in the Warren County area. The proposed plan also includes contingency measures to address any violation of the NAAQS. The proposed maintenance plan also states that eight years following redesignation, the

Commonwealth will submit a revised plan that ensures attainment through 2025.

**IV. Description of the Proposed Maintenance Plan**

Section 107(d)(3)(E) of the CAA requires that a maintenance plan be fully approved by EPA before an area can be redesignated as attainment. The maintenance plan is considered a SIP revision under section 110 of the CAA. Under section 175A(a) of the CAA, the maintenance plan must show that the NAAQS for SO<sub>2</sub> will be maintained for at least 10 years after redesignation. The maintenance plan must also include contingency measures to address any violation of the NAAQS.

To show that future emissions over the 10-year period of analysis will not lead to any exceedances of the standard, allowable emission inventories for 2003 and 2015 have been developed. Sulfur dioxide levels from the United Refinery facility are capped by federally enforceable permit conditions. Significant permanent reductions have occurred that were not included in the modeled attainment demonstration, due to the Reliant Energy power station having shutdown and generated ERCs. If these ERCs were used to offset emissions for a new unit, the emission rate limit in the attainment SIP modeling demonstration would be applicable. The total potential SO<sub>2</sub> emission rates in the area are, therefore, capped at the attainment demonstration levels.

The Commonwealth of Pennsylvania determined the year 2015 to be the appropriate year for preparation of this maintenance plan through consultation with EPA. Eight years following redesignation, the Commonwealth will submit a revised plan that ensures attainment through 2025, pursuant to section 175A(b) of the CAA. The major elements of the proposed maintenance plan are described in the following sections A–D.

*A. Maximum Potential Emissions: 2003 and 2015*

The proposed plan contains the detailed SO<sub>2</sub> emissions data for 2003 and 2015. No growth in emissions is possible owing to the caps on existing stationary sources that are contained in the SIP revision approved by EPA, effective March 18, 2003, and the permitting requirements for potential new sources that would require NSR offsets. After redesignation to attainment, a PSD evaluation would require emission limits sufficient to ensure continued attainment and protection of any applicable PSD

increments. Sulfur dioxide emissions from area and mobile sources are not included because the cause of the air quality formerly being nonattainment was due to emissions of stationary sources. Mobile and area emissions were and remain insignificant in comparison to the point source inventory and the estimated background concentrations used in the attainment modeling demonstration.

**1. 2003 Base Year Emissions (Emissions Used in the Attainment Demonstration)**

Reliant Energy emissions = 5197 tons per year (TPY)/4620 lbs/hr  
 United Refining permitted allowable = 3946 TPY/903 lbs/hr maximum rate  
 Total emissions = 9143 TPY/5523 lbs/hr

**2. 2015 Projected Emissions**

The maximum projected emissions are quantified below, and are considerably lower than the level of emissions used in the attainment demonstration. The Reliant Energy facility has been permanently shutdown since September 28, 2002, and no new SO<sub>2</sub> emitting plants are anticipated. However, if a major modification were proposed prior to redesignation, and within the five-year netting window, the maximum emissions allowable would be limited to 3998 TPY, based on the following: The Reliant Energy emission reductions or ERCs amount to 5197 TPY. At an offset ratio of 1.3 to 1 for flue emissions, the maximum amount of emissions that could be permitted by the use of these ERCs as offsets would be 3998 TPY at a maximum rate of 583 g/s or 2.31 tons/hr (the rate used in the attainment modeling). These are the only ERCs available for use in the area. As required under 25 Pa. Code section 127.206(f), the ERCs expire for use as offsets ten years from shutdown date or five years from shutdown if the emission reductions are utilized in an applicability determination ("netting" analysis). Again, after redesignation to attainment, a PSD evaluation would require emission limits sufficient to ensure continued attainment and protection of any applicable PSD increments.

Reliant Energy ERCs = 3998 tons/yr @ 4620 lbs/hr  
 United Refining—total emissions = 3946 tons/year @ 903 lbs/hr  
 Maximum total emissions = 7944 tons/yr @ 5523 lbs/hr

*B. Attainment Emissions Inventory*

The proposed plan explains that emission levels from the attainment demonstration were used as the 2003 base year emissions, and that this data,

along with the control measures factors was also used to estimate SO<sub>2</sub> emissions in 2015.

### *C. Permanent and Enforceable Control Measures*

The proposed plan describes the permanent and enforceable adopted control measures that are in effect that will prevent emissions growth. Pennsylvania has submitted and EPA has approved all of the required enforceable measures applicable to this area. The NSR requirements applicable in SO<sub>2</sub> nonattainment areas will remain in effect until the effective date of the redesignation of the area to attainment.

#### 1. Permit Limits on Existing Sources

*a. United Refining*—The emissions listed for United Refining are the maximum allowable emissions contained in the federally enforceable Title V permit and which were submitted as a part of the attainment demonstration SIP revision and are thereby permanent and federally enforceable control measures.

*b. Reliant Energy Warren ERCs*—The SO<sub>2</sub> ERCs generated by Reliant Energy, reduced by the 1.3 to 1 offset ratio, represent the maximum allowable emissions that could be permitted for any new source. The attainment demonstration emission rate used in the modeling translates into a rate limitation as required under the NSR regulations. The emissions that could be permitted with the use of the ERCs are preserved in the SIP inventory for the area and are required to be counted as actual emissions for planning purposes until the area is redesignated to attainment, after which the ERCs will become moot.

#### 2. Prevention of Significant Deterioration and Minor NSR for New Sources

If a new major source or major modification is constructed after EPA redesignates the area to attainment, a PSD permit analysis and permit will limit emissions to a level below that needed to assure attainment of the NAAQS for SO<sub>2</sub> and protection of all applicable PSD increments. On or after the date the area is redesignated to attainment, any new stationary source constructed or existing stationary source that is modified would be subject to the Pennsylvania SIP-approved minor and major source permitting requirements, including those for PSD. Those requirements include provisions for implementation of BACT and the performance of ambient air quality analyses to ensure the protection of the NAAQS and PSD increments.

Furthermore, even if the new stationary source constructed or existing stationary source that is being modified is defined as “minor” under the Pennsylvania SIP, if emissions or stack configurations differ from those of the modeled attainment demonstration such that it no longer can be relied upon as the technical basis to ensure protection of the NAAQS, the SIP provides the Commonwealth the authority to require the applicant to perform ambient air quality analyses to ensure the protection of the NAAQS.

### *D. Contingency Measures*

The proposed maintenance plan states that emissions monitoring will continue throughout the term of the maintenance plan. The Commonwealth will also continue to operate the air monitoring network in accordance with 40 CFR part 58, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA. The Commonwealth will track the attainment status of the NAAQS for SO<sub>2</sub> in the Warren County area by reviewing air quality and emissions data during the maintenance period. If an exceedance of the NAAQS for SO<sub>2</sub> occurs, the Commonwealth will expeditiously investigate and determine the source(s) that caused the exceedance and/or violation and enforce any SIP or permit limit that is violated. In the event that all sources are found to be in compliance with applicable SIP and permit emission limits, the Commonwealth shall perform the necessary analysis to determine the cause(s) of the exceedance, and determine what additional control measures are necessary to impose on the area's stationary sources to continue to maintain attainment of the NAAQS. The Commonwealth shall inform any affected stationary source(s) of SO<sub>2</sub> of the potential need for additional control measures. If there is a violation of the NAAQS for SO<sub>2</sub>, the Commonwealth shall, within six months of the violation, issue a permit(s) imposing additional control measures on those stationary sources and requiring compliance with those additional control measures no later than 18 months from the date of the recorded violation. The additional control measures will be submitted to EPA for approval and incorporation into the SIP.

### **V. Proposed Action**

EPA is proposing to approve the Commonwealth of Pennsylvania's March 15, 2004 request that the Warren County SO<sub>2</sub> nonattainment areas, consisting of Conewango Township, Pleasant Township, Glade Township,

and the City of Warren in Warren County, Pennsylvania be redesignated to attainment of the NAAQS for SO<sub>2</sub> because all requirements for approval have been satisfied. EPA is also proposing to approve the associated maintenance plan for these areas submitted by the Commonwealth, as required under section 175A of the CAA, as a revision to the Pennsylvania SIP. Because these nonattainment areas have satisfied all of the requirements for redesignation to attainment, the adjacent areas of Mead Township and Clarendon Borough in Warren County, currently designated as unclassifiable for SO<sub>2</sub>, are also eligible to be redesignated to attainment. Therefore, EPA is also proposing to approve the Commonwealth of Pennsylvania's request that Mead Township and Clarendon Borough in Warren County be redesignated from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrent with the state's procedures for amending its SIP. If the proposed revision is substantively changed in areas other than those identified in this action, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantive changes are made to the currently proposed SIP revision, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by Pennsylvania and submitted formally to EPA for incorporation into the SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **VI. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply.

This rule, proposing to approve the redesignation of the Warren County SO<sub>2</sub> nonattainment areas to attainment, and to approve the associated maintenance plan, and to change the status of Mead Township and Clarendon Borough in Warren County from unclassifiable to attainment, does not impose an information collection burden under the

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 40 CFR Part 52

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

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: April 1, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 04-8097 Filed 4-8-04; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 11

[EB Docket No. 04-51; FCC 04-46]

#### Amendment of the Commission's Rules Regarding the Emergency Alert System

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes revisions to the Commission's rules regarding the Emergency Alert System (EAS) and seeks comment on these proposed revisions to the Commission's rules, some of which were set forth in a petition for rulemaking filed by the Wireless Cable Association International, Inc. (WCA). The proposed revisions are intended to reduce burdens on EAS participants and improve the overall performance of the EAS.

**DATES:** Comments are due May 10, 2004, and reply comments are due May 24, 2004.

**ADDRESSES:** Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Gay, Enforcement Bureau, Office of Homeland Security, at (202) 418-1228, or via the Internet at [bonnie.gay@fcc.gov](mailto:bonnie.gay@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking (NPRM)*, in EB

Docket No. 04-51, FCC 04-46, adopted March 4, 2004, and released March 12, 2004. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. All filings should refer to EB Docket No. 04-51. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket number, which in this instance is EB Docket No. 04-51. Parties may also submit an electronic comment by Internet e-mail. To get filing instruction for e-mail comments, commenters should send an e-mail to [ecfshelp@fcc.gov](mailto:ecfshelp@fcc.gov), and should include the following words in the regarding line of the message: "get form<your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail).

For hand deliveries, the Commission contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 2002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings