

DATES: The direct final rule published at 69 FR 65069 on November 10, 2004 is withdrawn as of January 10, 2005.

FOR FURTHER INFORMATION CONTACT: Randolph Cano, Environmental Protection Specialist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6036. E-Mail Address: cano.randolph@epa.gov.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 30, 2004.

Norman Niedergang,

Acting Regional Administrator, Region 5.

■ Accordingly, the amendment to 40 CFR 52.2570 published in the **Federal Register** on November 10, 2004 (69 FR 65069) on pages 65069-65073 are withdrawn as of January 10, 2005.

[FR Doc. 05-427 Filed 1-7-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R03-OAR-2004-WV-0002; FRL-7852-8a]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the City of Weirton Including the Clay and Butler Magisterial Districts SO₂ Nonattainment Area and Approval of the Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a request by the State of West Virginia to redesignate the sulfur dioxide (SO₂) nonattainment area of the City of Weirton, including the Clay and Butler Magisterial Districts in Hancock County, from nonattainment to attainment of the national ambient air quality standards (NAAQS) for SO₂. EPA is also approving the maintenance plan for this area submitted by the State of West Virginia as a revision to the West Virginia State Implementation Plan (SIP). This plan provides for the maintenance of the NAAQS for SO₂ for the next ten years. These actions are being taken in accordance with the Clean Air Act (CAA or the Act).

DATES: This rule is effective on March 11, 2005, without further notice, unless EPA receives adverse written comment by February 9, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EdoCKET (RME) ID Number R03-OAR-2004-WV-0002 by one of the following methods:

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

B. Agency Web site: <http://www.docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: morris.makeba@epa.gov.

D. Mail: R03-OAR-2004-WV-0002, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. 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 RME ID No. R03-OAR-2004-WV-0002. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) Web sites are 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 RME or [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.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, 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 either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of material to be incorporated by reference are available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, West Virginia 25304-2943.

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

SUPPLEMENTARY INFORMATION:

I. Background

Under the CAA, EPA may redesignate areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) of the Act. This includes full approval of a maintenance plan for the area. The requirements for a maintenance plan are found in section 175A of the CAA.

On December 21, 1993 (58 FR 67334), EPA designated the City of Weirton, including the Clay and Butler Magisterial Districts of Hancock County, West Virginia (the Weirton area), to nonattainment for SO₂ based upon monitored values at the Oak Street monitoring site in the Weirton, West Virginia area. This action required the State to submit a SIP revision for the Weirton area by July 1995. On July 21, 1995, EPA received a SIP revision submittal for the Weirton area.

However, models available at the time for air quality planning purposes had limited applicability due to the intricate topography of the area. An additional issue to that of complex terrain was the lack of comprehensive local meteorological data that was representative of the specific area. EPA commented on the SIP submittal and encouraged the West Virginia Department of Environmental Protection (WVDEP) to consider siting and installing a new meteorological tower so that representative local meteorological data could be generated for use in refined air quality modeling analyses for attainment planning purposes. A 60-meter meteorological tower and acoustical Sound Detection and Ranging (SODAR) equipment were installed in Weirton, West Virginia. Additional air quality monitors were added to the area surrounding Weirton Steel based on "hot spot" modeling locations identified by EPA. Modeling results indicated the major contributors of ambient SO₂ levels in the local area to be sources located within the Weirton Steel Corporation and the Wheeling-Pittsburgh Steel Corporation. Modeled attainment of the NAAQS required a Consent Order (CO) be entered into between Weirton Steel Corporation and the WVDEP, and the modification of a permit for Wheeling-Pittsburgh Steel Corporation issued by WVDEP. These documents serve as the enforceable mechanisms which establish and impose the allowable emission limits on specific units within each of the facilities sufficient to attain the NAAQS for SO₂ in the Weirton area.

On December 29, 2003, West Virginia submitted a formal SIP revision for the Weirton area. The SIP revision consisted of the revised enforceable operating permit for the Wheeling-Pittsburgh Steel Corporation, and the CO entered into by and between the WVDEP and the Weirton Steel Corporation in Hancock County, West Virginia. These documents establish and impose allowable SO₂ emission limits for numerous emission points at both facilities. The SIP submittal also included an air quality modeling demonstration that indicated that the allowable emission limits would provide for the attainment of the NAAQS for SO₂ in the Weirton area. On May 5, 2004 (69 FR 24986), EPA fully approved West Virginia's December 29, 2003, SIP revision for the Weirton area.

II. Summary of the Redesignation Request and Maintenance Plan SIP Revision

On July 27, 2004, the State of West Virginia submitted a request to redesignate the Weirton area to

attainment for SO₂. The July 27, 2004, submittal also includes a SIP revision consisting of a SO₂ maintenance plan for the Weirton area. 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 of the Act.

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 State of West Virginia for the Weirton area, and finds that the request meets the five requirements of section 107(d)(3)(E).

A. The Data Shows Attainment of the NAAQS for SO₂ in the City of Weirton, Including the Clay and Butler Magisterial Districts SO₂ Nonattainment Area

The Weirton area's nonattainment designation was based upon monitored values recorded in the area in the 1980's and early 1990's. No violations of the SO₂ standards have occurred in the Weirton area since 1994 due to the implementation of enforceable measures to reduce ambient SO₂ levels. The redesignation request for the Weirton area is based upon air quality data for the most recent three whole calendar years (2001–2003). A review of the ambient air quality data demonstrates that the NAAQS have been achieved in the Weirton area. The data was collected and quality assured in accordance with 40 CFR part 58, and entered into the Air Quality Subsystem (AQS) of the Aerometric Information Retrieval System (AIRS). This data indicates 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. Therefore, West Virginia has quality-assured SO₂ ambient air monitoring data showing that the Weirton area has attained the NAAQS for SO₂.

West Virginia's July 27, 2004, submittal includes a table summarizing the monitoring data that has been collected in the Weirton area by West Virginia since 1992. The State's submittal is included and available for review in both the hard copy and E-Docket for this rulemaking. There are currently six monitors operating within the Weirton area: Oak Street, Summit Circle, Marland Heights, Williams Country Club, McKim Ridge, and Skyview. All of the monitors meet the requirements of 40 CFR parts 53 and 58, and are representative of the highest ambient concentrations.

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

EPA fully approved the modeled attainment demonstration for the Weirton area and the enforceable documents imposing the allowable SO₂ emission limits for the contributing sources as a SIP revision on May 5, 2004 (69 FR 24986), effective July 6, 2004. As stated previously, this dispersion modeling was based upon enforceable SO₂ emission limits imposed in enforceable documents, in addition to a representative background, and demonstrated that the maximum SO₂ impacts do not violate the NAAQS for SO₂. The maintenance plan submitted as a SIP revision, and the fully approved attainment demonstration (69 FR 24986) show that the ambient air quality in the Weirton SO₂ nonattainment area meets the national standards for SO₂.

The Federal requirements for new source review (NSR) in nonattainment areas are contained in section 172(c)(5) of the CAA. EPA guidance indicates the requirements of the part D new NSR program will be replaced by the Prevention of Significant Deterioration (PSD) program when an area has reached attainment and been redesignated, provided there are assurances that PSD will become fully effective upon redesignation. West Virginia's PSD program was approved into the West Virginia SIP on April 11, 1986 (51 FR 12518). The PSD program will become fully effective in the Weirton area immediately upon redesignation.

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

As stated previously, the improvement in air quality in the Weirton area is due to permanent and enforceable emission reductions. The primary sources of SO₂ in the Weirton area are the steel manufacturing and coke processing facilities located in or adjacent to the area. Within these specified industries, SO₂ is emitted from various point and area sources. A decline in the steel industry along with the downsizing of the production workforce has contributed to lower emissions from sources in the area. A number of facilities within, or adjacent to the nonattainment area have permanently ceased operations, and a number of sources have switched to cleaner burning fuels that reduce the overall production of criteria pollutants, including SO₂. West Virginia has submitted and EPA has SIP-approved documents which make these SO₂ reductions permanent and enforceable.

If a new source is constructed or an existing source modified after EPA redesignates the area to attainment, the air quality analyses required under West Virginia's SIP-approved NSR and/or PSD programs, will ensure that such sources are permitted with emissions limits at or below those needed to assure attainment and maintenance of the NAAQS for SO₂ and protection of all applicable PSD increments.

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

The Weirton area has 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 Weirton area as well as the emission inventory and the enforceable emission limitations reflected in that demonstration were fully approved by EPA as a SIP revision on May 5, 2004 (69 FR 24986), effective July 6, 2004. The West Virginia SIP has approved minor and major source NSR requirements including an approved PSD program.

EPA approval of a transportation conformity SIP revision for the area is not required for redesignation because the nature of the area's previous SO₂ nonattainment problem has been determined to be overwhelmingly attributable to stationary sources. The attainment demonstration SIP revision which EPA approved on May 5, 2004, contained a detailed emissions inventory of the allowable emissions for

all of the sources of SO₂ in the area. 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 modeled attainment demonstration 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 maintenance plan is required to be approved as 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 SO₂ will be maintained for at least 10 years after EPA approves a redesignation to attainment. The maintenance plan must also include contingency measures to address any violation of the NAAQS. Eight years after the redesignation, West Virginia must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10-year period.

The State of West Virginia submitted an SO₂ Maintenance Plan for the City of Weirton, including the Clay and Butler Magisterial Districts, on July 27, 2004. The maintenance plan and associated contingency measures are being approved in the SIP with this rulemaking. The major elements of this maintenance plan are described in the following paragraphs.

Maintenance Plan Requirements

1. Emissions Inventory

The maintenance plan indicates that the attainment inventory is the emissions inventory used to perform the SIP-approved modeled attainment demonstration and provides updates to that inventory for 2001 for sources in the City of Weirton nonattainment area. Any future increases in emissions and/or significant changes to the stack configuration parameters from those modeled in the attainment demonstration due to new or modifying stationary sources, would be subject to the West Virginia's SIP's minor source NSR and/or PSD requirements including a demonstration that the NAAQS and applicable PSD increments are protected.

2. Maintenance Demonstration

The modeled attainment demonstration submitted by West Virginia, which was fully approved by EPA on May 5, 2004 (69 FR 24986),

showed attainment of the SO₂ NAAQS. Modeling results submitted indicate future NAAQS maintenance of the area. Steel manufacturing and coke production are the primary sources of SO₂ in the Weirton area. The major source changes in the area consist of permanent, enforceable shutdowns, which will reinforce the continued attainment of the area. A shift in employment from manufacturing to commercial business and the declining steel industry and ancillary industries in the area indicate a continued decrease in SO₂ emissions from stationary sources. The requirement for minor source NSR and PSD review/permitting for any future major source construction or modification, and the permanent and enforceable control measures were provided in the maintenance plan. As stated previously, subsequent to redesignation, any future increases in emissions and/or significant changes to the stack configuration parameters from those modeled in the attainment demonstration due to new or modifying stationary sources, would be subject to the West Virginia's SIP's minor source NSR and/or PSD requirements including a demonstration that the NAAQS and applicable PSD increments are protected. A projected decrease in population along with a decrease in occupied households for the years 1990–2025 indicates that no new growth is anticipated to impact emissions in the area.

3. Continuation of the Monitoring Network

West Virginia has indicated in the submitted maintenance plan that it will continue to monitor SO₂ in the Weirton area in accordance with 40 CFR parts 53 and 58 to verify continued attainment with the NAAQS for SO₂. The data will continue to be entered into the Air Quality Subsystem (AQS) of the Aerometric Information Retrieval System (AIRS).

4. Verification of Continued Attainment

The WVDEP has committed in the maintenance plan to review the monitored data annually, and to review the local monitored meteorological data. WVDEP will also assess compliance of local targeted facilities to verify continued attainment of the area. The state will review and update the annual emissions inventory for the Weirton area at a minimum of once every three years.

5. Contingency Plan

WVDEP has indicated in its submitted maintenance plan that it will rely on

ambient air monitoring data in the Weirton area to track compliance with the NAAQS for SO₂ and to determine the need to implement contingency measures. In the event that an exceedance of the NAAQS for SO₂ occurs, the State 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 State 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 for SO₂. The State shall inform any affected stationary source(s) of SO₂ of the potential need for additional control measures. If there is a violation of the NAAQS for SO₂, the State will notify the stationary source(s) that the potential exists for a NAAQS violation. Within six months, the source(s) must submit a detailed plan of action specifying additional control measures to be implemented no later than 18 months after the notification. The additional control measures will be submitted to EPA for approval and incorporation into the SIP.

IV. Final Action

EPA is approving West Virginia's request to redesignate the City of Weirton, including the Clay and Butler Magisterial Districts, SO₂ nonattainment area to attainment because the State has complied with the requirements of section 107(d)(3)(E) of the CAA. In addition, EPA is approving West Virginia's maintenance plan for the Weirton area as a SIP revision because it meets the requirements of section 175A.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 11, 2005, without further notice unless EPA receives adverse comment by February 9, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the

proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 (Public Law 104-4). This 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 approves 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 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 does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 to redesignate the City of Weirton, including the Clay and Butler Magisterial Districts, in Hancock County, West Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart XX—West Virginia

■ 2. Section 52.2520 is amended by adding paragraph (c)(62) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(62) The SO₂ Redesignation Request and Maintenance Plan for the City of Weirton, including the Clay and Butler Magisterial Districts in West Virginia, submitted by the West Virginia Department of Environmental Protection on July 27, 2004:

(i) Incorporation by reference.

(A) Letter of July 27, 2004 from the West Virginia Department of Environmental Protection, transmitting the redesignation request and maintenance plan for the City of Weirton, including the Clay and Butler Magisterial Districts in Hancock County, West Virginia.

(B) The City of Weirton, including the Clay and Butler Magisterial Districts, Sulfur Dioxide Maintenance Plan, dated July 27, 2004.

(ii) Additional Material. Remainder of the State submittal pertaining to the revision listed in paragraph (c)(62)(i) of this section.

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

■ 1. The authority citation for Part 81 continues to read as follows:

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

■ 2. Section 81.349, the table for “West Virginia—SO₂” is amended by revising the entry for Hancock County to read as follows:

§ 81.349 West Virginia.

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WEST VIRGINIA—SO₂

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Hancock County (part): The city of Weirton, including Butler and Clay magisterial districts	X
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[FR Doc. 05-418 Filed 1-7-05; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R06-OAR-2004-NM-0001; FRL-7858-5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Bernalillo County, NM; Negative Declaration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a negative declaration submitted by the City of Albuquerque (Bernalillo County), New Mexico, which certifies that there are no existing commercial and industrial solid waste incineration units in Bernalillo County subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA). This is a direct final rule action without prior notice and comment because this action is deemed noncontroversial.

DATES: This rule is effective on March 11, 2005 unless adverse comments are received by February 9, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R06-OAR-2004-NM-0001. All documents in the docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>, once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, 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 either electronically in RME or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 am and 4:30 pm weekdays except for legal holidays. Contact the person listed

in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Boyce, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-7259, e-mail address boyce.kenneth@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” are used we mean the EPA.