

## RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
September 20, 2001 letter from Rhode Island Department of Environmental Management.	Statewide .....	Submitted 09/20/01 .....	06/20/03, 68 FR 36921 .....	Submitting the "NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative," revised September 2001.
NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative, revised September 2001.	Statewide .....	Submitted 09/20/01 .....	06/20/03, 68 FR 36921.	

[FR Doc. E6-11108 Filed 7-13-06; 8:45 am]

BILLING CODE 6560-50-P

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

[EPA-R03-OAR-2005-0480; FRL-8197-1]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the City of Weirton PM-10 Nonattainment Area to Attainment and Approval of the Maintenance Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision requests that EPA redesignate the Weirton nonattainment area (Weirton Area) to attainment for the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10), and concurrently requests approval of a limited maintenance plan (LMP) as a revision to the West Virginia State Implementation (SIP). In this action, EPA is approving the State's request to redesignate the area from nonattainment to attainment, as well as approving the LMP for the Weirton Area.

**DATES:** *Effective Date:* This final rule is effective on August 14, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2005-0480. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy 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. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Linda Miller, (215) 814-2068, or by e-mail at [miller.linda@epa.gov](mailto:miller.linda@epa.gov).

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

On May 11, 2006 (71 FR 27440), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the LMP for the Weirton Area in West Virginia and the State's request to redesignate the area from nonattainment to attainment. EPA also proposed to determine that, because the Weirton Area has continued to attain the PM-10 NAAQS, certain attainment demonstration requirements, along with other related requirements of the CAA, are not applicable to the Weirton Area. West Virginia submitted a request to redesignate the Weirton Area to attainment for PM-10 and a SIP submittal for the related maintenance plan on May 24, 2004.

**II. Summary of SIP Revision**

On May 16, 2001 (66 FR 27034), EPA promulgated a final rule entitled, "Determination of Attainment of the NAAQS for PM-10 in the Weirton, West Virginia Nonattainment Area" finding that the Weirton PM-10 nonattainment had attained the NAAQS for PM-10 by its applicable December 31, 2000 attainment date. In order to be redesignated from nonattainment to attainment, West Virginia requested, in a letter dated October 14, 2003, that EPA apply its clean data policy to the Weirton Area. The redesignation request, dated May 24, 2004, included the associated SIP submittal of the maintenance plan for the Weirton area.

Other specific requirements of the request for redesignation and the associated rationale and the rationale for

EPA's proposed action are explained in the NPR and will not be restated here. EPA received one comment in support of the proposed approval.

**III. Final Action**

EPA is approving the PM-10 redesignation request for the Weirton Area, and also approving the associated limited maintenance plan as a revision to the West Virginia SIP.

**IV. 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 (Pub. L. 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 requirement, 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 to approve the redesignation request for the Weirton nonattainment area and approve the associated maintenance plan as a revision to the SIP must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2006. 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 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, Intergovernmental relations, Reporting and Recordkeeping requirements, Particulate matter.

*40 CFR Part 81*

Air Pollution Control, National parks, Wilderness areas.

Dated: July 6, 2006.

**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

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

**PART 52—[AMENDED]**

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

**Subpart XX—West Virginia**

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the City of Weirton PM-10 Maintenance Plan at the end of the table to read as follows:

**§ 52.2520 Identification of plan.**  
\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* * *	* * *	* * *	* * *
City of Weirton PM-10 Maintenance Plan.	Hancock and Brooke Counties (part)—the City of Weirton.	4/24/04	7/14/06 [ <i>Insert page number where the document begins.</i> ]	Limited maintenance plan.

**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. In § 81.349, the table for "West Virginia—PM-10" is amended by revising the entry for Hancock and Brooke Counties (part): The City of Weirton to read as follows:

**§ 81.349 West Virginia.**  
\* \* \* \* \*

**WEST VIRGINIA—PM-10**

Designated Area	Designation		Classification	
	Date	Type	Date	Type
* * *	* * *	* * *	* * *	* * *
Hancock and Brooke Counties (part): The City of Weirton .....	9/12/06	Attainment.		

## WEST VIRGINIA—PM—10—Continued

Designated Area	Designation		Classification	
	Date	Type	Date	Type
*	*	*	*	*

\* \* \* \* \*

[FR Doc. E6-11107 Filed 7-13-06; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 206**

[Docket ID FEMA-2006-0028]

RIN 1660-AA45

**Public Assistance Eligibility**

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule will allow FEMA to reimburse State, Tribal and local governments within an area designated under a Presidential emergency or major disaster declaration for sheltering and evacuation costs incurred outside of the designated area. Under this rule, FEMA may also directly provide sheltering and evacuation assistance outside of the designated area.

**DATES:** *Effective:* This rule is effective July 14, 2006. *Comments:* Comments due on or before September 12, 2006.

**ADDRESSES:** You may submit comments, identified by Docket ID FEMA-2006-0028, by one of the following methods:

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

E-mail: [FEMA-RULES@dhs.gov](mailto:FEMA-RULES@dhs.gov). Include Docket ID FEMA-2006-0028 in the subject line of the message.

Fax: 202-646-4536

Mail/Hand Delivery/Courier: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

*Instructions:* All Submissions received must include the agency name and Docket ID (if available) for this interim final rule. All comments received will be posted without change

to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at <http://www.regulations.gov>. Submitted comments may also be inspected at FEMA, Office of General Counsel, 500 C Street, SW., Room 835, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:**

James A. Walke, FEMA, 500 C Street, SW., Washington, DC 20472, or call (202) 646-2751, or e-mail [james.walke@dhs.gov](mailto:james.walke@dhs.gov).

**SUPPLEMENTARY INFORMATION:****Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. FEMA also invites comments that relate to the economic, environmental, or federalism affects that might result from this interim rule. Comments that will provide the most assistance to FEMA in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

*Instructions:* All submissions received must include the agency name and Docket ID for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected at Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 835, Washington, DC 20472.

**Background**

In response to Hurricanes Katrina and Rita in 2005, pre- and post-storm

evacuations created a significant need for evacuation and sheltering outside of the counties and States that were initially designated eligible for assistance under the emergency and major disaster declarations. State and local governmental entities outside of the designated areas provided transportation and shelter for evacuees and, as a result, incurred significant costs. However, FEMA's existing regulation required that the eligible work be performed within the designated disaster (or emergency) area. 44 CFR 206.223(a)(2). Therefore, in order for the non-designated State and local governments to recoup their eligible costs, the States were required to request and obtain approval for a separate emergency declaration. Otherwise, there was no mechanism whereby FEMA could provide assistance to those entities that provided evacuation and sheltering services outside the designated areas.

**Discussion of Interim Rule**

This interim rule implements a change to 44 CFR 206.223(a)(2). This rule will allow FEMA to reimburse for sheltering and evacuation costs incurred outside of the area designated under a Presidential emergency or major disaster declaration, if the costs are otherwise eligible for Public Assistance funding. Under this rule, an eligible applicant (as defined in 44 CFR 206.222) within the designated disaster area may request an entity outside of the designated area to provide evacuation and sheltering services for its citizens. In such circumstances, the entity that provides the evacuation or sheltering services may seek reimbursement under a mutual aid or similar agreement<sup>1</sup> from the eligible applicant within the designated area that requested the services. The eligible applicant will reimburse the providing entity and FEMA will then reimburse the eligible applicant. Alternatively, FEMA may request an entity outside of the designated area to provide evacuation and sheltering services for the affected

<sup>1</sup> Mutual aid agreements where one State or local government reimburses another State or local government for services provided take many forms, including the Emergency Management Assistance Compact, Public Law 104-321.