

III. Criteria for Redesignation

Section 107(d)(3)(E) of the CAA specifies five requirements that must be met to redesignate an area from nonattainment to attainment as follows:

1. The area has attained the applicable NAAQS;
2. The area has a fully approved SIP under section 110(k);
3. The air quality improvement is permanent and enforceable;
4. The area has a fully approved maintenance plan pursuant to section 175A; and
5. The area has met all relevant requirements under section 110 and part D of the Act.

IV. Analysis of How the State Met the Criteria for Redesignation

The EPA has reviewed the redesignation request submitted by West Virginia for the Follansbee nonattainment area and finds that the request meets the five requirements of section 107(d)(3)(E).

A. Data Shows Attainment of the PM₁₀ NAAQS in the Follansbee Area

For purposes of assessing air quality, monitoring data in both West Virginia and Ohio was reviewed. The monitor in Brooke County, West Virginia has always been located outside the boundary of the nonattainment area but is included in the review to provide an overall picture of air quality in the area. Three monitors are currently operating in the Jefferson County, Ohio area previously described in section II entitled, Geographic Boundaries. The redesignation request is based upon the three most recent years of quality-assured PM₁₀ air monitoring data (1999–2001) available during preparation of the May 12, 2003 submittal. The PM₁₀ NAAQS includes both a daily and an annual standard. An area is attaining the daily and annual NAAQS if there are no violations, as determined in accordance with 40 CFR 50.6 and appendix K, based upon three complete consecutive calendar years of quality assured monitoring data. The daily standard is met if the expected frequency of values above 150 ug/m³ is 1.0 or less. The data must be collected and quality assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS) now known as the Air Quality System (AQS).

West Virginia's formal submittal included data from 1990 through 2002. This data shows that the area has not recorded any exceedances of the daily NAAQS in the past decade. The formal redesignation request is based upon data from 1999 through 2001. This data has been quality assured and recorded in

AQS. During the 1999 through 2001 time period, there were no actual exceedances of the daily standard, and the average number of expected exceedances is less than 1.0 for the same time period. During 2002, no exceedances were recorded. Therefore, the area has attained and continues to attain the daily NAAQS. During 1999 through 2002 the maximum annual average recorded at these sites was 35 ug/m³. As the annual standard is based on the average annual mean over three years, the area has attained and continues to attain the annual PM₁₀ standard. Since the area has attained the daily and annual NAAQS based upon the most recent three years of quality-assured data available during preparation of the May 12, 2003 submittal, and continues to attain the NAAQS, the first criterion of section 107(d)(3)(E) has been satisfied. West Virginia has committed to continue monitoring in Brooke County in accordance with 40 CFR parts 53 and 58.

B. Fully Approved SIP Under Section 110(k) of the CAA

1. Section 110 Requirements

On November 15, 1991, West Virginia submitted an attainment plan to EPA consisting of an attainment demonstration and control measures for the Follansbee area. On July 25, 1994 (59 FR 37696) EPA took a limited approval/limited disapproval action on the submittal. EPA fully approved the control measures portion of the plan, but disapproved the attainment demonstration and took no action on the contingency measures with specific regard to section 172(c)(9) of the CAA. On November 22, 1995, West Virginia submitted a revised attainment demonstration, and EPA approved that attainment demonstration on November 15, 1996 (61 FR 58481) but did not take action on the contingency measures. In this rulemaking, EPA is approving the contingency measures submitted on November 15, 1991 as fulfilling the requirements of section 172(c)(9). Therefore, EPA fully approved all applicable requirements of section 110(a)(2)(I) of the Act, including all applicable requirements of part D (relating to nonattainment), which were due prior to the time of the redesignation request.

2. Part D Requirements

Part D of the CAA contains general provisions that apply to all nonattainment plans and certain sections that apply to specific pollutants. Before EPA may redesignate

the Follansbee PM₁₀ nonattainment area to attainment, the SIP must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. EPA designated the Follansbee area of Brooke County as a moderate PM₁₀ nonattainment area on November 6, 1991 (codified at 40 CFR 81.339). Therefore, to be redesignated to attainment, the area must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176. Section 189(a) of subpart 4 of the CAA also must be met.

a. Subparts 1 and 4 of Part D—Sections 172(c) and 189(a) Provisions

Subpart 1 of part D addresses nonattainment areas in general and subpart 4 addresses PM₁₀ nonattainment areas specifically. Except for contingency measures, all the relevant SIP elements required under sections 172(c) and 189(a) including an emissions inventory, Reasonably Available Control Measures (RACM); and an attainment demonstration were approved by EPA on July 25, 1994 (59 FR 37696) and, November 15, 1996 (61 FR 58481). Although contingency measures were contained in consent orders that were fully approved and incorporated into the West Virginia SIP by EPA on July 25, 1994 (59 FR 37696), our approval did not specifically take action to approve them as contingency measures pursuant to section 172(c)(9) at that time. However, as the consent orders' requirements were made part of the Federally approved SIP, if the area had not reached attainment, the additional reductions from these measures would have been implemented. Within 365 days of receiving notice that attainment had not been achieved, the following sources would have implemented additional PM₁₀ emission reductions: Follansbee Steel would have obtained additional PM₁₀ actual reductions of 0.22 lbs/hr and 0.96 tpy; Wheeling Pittsburgh Steel would have achieved additional actual reductions of 6.5 lbs/hr and 28.5 tpy; International Mill Services would have obtained actual reductions of 0.1 lbs/hr and 0.4 tpy; and Koppers Industries would add additional dust control on access roads. Since the area did attain the standard, these measures were not triggered. Given that the Follansbee area did attain the standard and is being redesignated to attainment, it may be argued that the need for EPA to approve these SIP-approved measures as contingency measures specifically