

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 October 27, 2003.

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, redesignating the Follansbee, Brooke County, West Virginia PM₁₀ area to attainment and approval of the area's maintenance plan and contingency measures, 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, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 18, 2003.

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)(54) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(54) The PM₁₀ Redesignation and Maintenance Plan for the Follansbee, West Virginia nonattainment area

submitted by the West Virginia Department of Environmental Protection on May 12, 2003.

(i) Incorporation by reference.

(A) Letter of May 12, 2003 from the West Virginia Department of Environmental Protection transmitting the redesignation request and maintenance plan for the PM₁₀ nonattainment area in the Follansbee area of Brooke County.

(B) Maintenance Plan for the Follansbee PM₁₀ nonattainment area, effective April 28, 2003.

(ii) *Additional Material*.—Remainder of the May 12, 2003 State submittal pertaining to the revisions listed in paragraph (c)(54)(i) of this section.

§ 52.2522 [Amended]

■ 3. In § 52.2522 (Approval status), paragraph (d) is removed and reserved.
■ 4. Section 52.2526 is added to read as follows:

§ 52.2526 Control strategy: Particulate matter.

EPA approves West Virginia's November 15, 1991 SIP submittal for fulfilling the PM₁₀-specific requirement of part D for contingency measures required under section 172(c)(9) of the Clean Air Act applicable to the Follansbee, West Virginia PM₁₀ nonattainment area.

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—PM₁₀" is amended by revising the entry for the Follansbee Area of Brooke County to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—PM₁₀

| Designated area | Designation | | Classification | |
|--|--------------------|-------------|----------------|------|
| | Date | Type | Date | Type |
| Brooke Follansbee area bounded on the north by the Market Street Bridge, on the east by West Virginia Route 2, on the south by the extension of the southern boundary of Steubenville Township in Jefferson County, Ohio, and on the west by the Ohio/West Virginia border. | October 27, 2003.. | Attainment. | | |
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