

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 April 11, 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, to prevent and control air pollution from combustion of refuse in West Virginia, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Particulate matter, Reporting and recordkeeping requirements.

Dated: January 15, 2003.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is 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)(51) to read as follows:

##### **§ 52.2520 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(51) Revisions to the West Virginia's Regulations to prevent and control air pollution from combustion of refuse, submitted on September 12, 2001 by the West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of September 12, 2001 from the West Virginia Division of Environmental Protection.

(B) Revisions to Title 45, Series 6 (45CSR6), To Prevent and Control Air Pollution from Combustion of Refuse, effective July 1, 2001.

(ii) Additional Material.

(A) Letter of September 21, 2000 from the West Virginia Division of Environmental Protection to EPA transmitting the regulation to prevent and control air pollution from the combustion of refuse.

(B) Letter of January 26, 2001 from the West Virginia Division of Environmental Protection to EPA transmitting materials related to revisions of 45CSR6.

(C) Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(51)(i) of this section.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[KY 125-2 -200308(c); FRL-7449-9]

#### **Approval and Promulgation of Implementation Plans for Kentucky: Air Permit Regulations; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to adverse comment, EPA is withdrawing the direct final rule published December 30, 2002, (see 67 FR 79523) approving several revisions to the Kentucky State Implementation Plan. The revisions include separating Kentucky's air permits rule into several, smaller rules, and renumbering and rewriting these rules in plain English. EPA stated in the direct final rule that if EPA received adverse comment by January 29, 2003, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comment in a subsequent final action based upon the proposed action also published on December 30, 2002 (see 67 FR 79543). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule is withdrawn as of February 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 30, 2003.

**A. Stanley Meiburg,**

*Acting, Regional Administrator, Region 4.*

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#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[KY 139-200307(c); FRL-7449-8]

#### **Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Lawson Mardon Packaging; Withdrawal of Direct Final Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to adverse comment, EPA is withdrawing the direct final rule published December 18, 2002, (see 67 FR 77430) approving a source-specific revision to the State Implementation Plan of the Commonwealth of Kentucky.