

[CGD 81–80a, 48 FR 30110, June 30, 1983]

§ 166.110 Modification of areas.

Fairways and fairway anchorages are subject to modification in accordance with 33 U.S.C. 1223(c); 92 Stat. 1473.

[CGD 81–80a, 48 FR 30110, June 30, 1983]

Subpart B—Designations of Fairways and Fairway Anchorages

§ 166.200 Shipping safety fairways and anchorage areas, Gulf of Mexico.

(a) *Purpose.* Fairways and anchorage areas as described in this section are established to control the erection of structures therein to provide safe approaches through oil fields in the Gulf of Mexico to entrances to the major ports along the Gulf Coast.

(b) *Special Conditions for Fairways in the Gulf of Mexico.* Temporary anchors

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2004–WV–0002; FRL–7882–4]

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; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: EPA is correcting the format in the Identification of plan section of a State Implementation Plan (SIP) revision pertaining to a sulfur dioxide (SO₂) maintenance plan which EPA approved as part of the West Virginia SIP on January 10, 2005. This document corrects an error in the rule format of a final rule pertaining to the State of West Virginia.

DATES: *Effective Date:* Effective March 11, 2005.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at frankford.harold@epa.gov.

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

On January 10, 2005 (70 FR 1664), we published a final rulemaking action announcing approval of a revision to the West Virginia State Implementation Plan (SIP) pertaining to an SO₂

maintenance plan for the City of Weirton and Clay and Butler Magisterial Districts in Hancock County. In our approval action, EPA incorporated by reference (IBR’ed) the State action and codified this action at § 52.2520(c)(62). The effective date of the action is March 11, 2005. Subsequently, on February 10, 2005 (70 FR 7024), we published an administrative rulemaking action announcing format revisions to the Identification of plan section in 40 CFR part 52, subpart XX (West Virginia), as well as changes to the format for materials which are IBR’ed. This administrative rulemaking action both recodified the existing § 52.2520 as § 52.2565 entitled “Original Identification of plan section,” and created a new § 52.2520 entitled “Identification of plan.” We are revising the table in § 52.2520(e) by adding the entry for the Hancock County SO₂ maintenance plan for the City of Weirton and Clay and Butler Magisterial Districts, effective March 11, 2005, so that it reflects EPA’s January 10, 2005 approval action of this plan.

In rule document 05–418 published in the **Federal Register** on January 10, 2005, on page 1668 in the second column, Amendatory Instruction Number 2 is withdrawn.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today’s rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore 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)). Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary

Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does 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), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of March 11, 2005. 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 correction to 40 CFR 52.52.2520(e) for West Virginia is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, recordkeeping and reporting requirements, Sulfur oxides.

Dated: February 28, 2005.

Donald S. Welsh,
Regional Administrator, Region III.

■ Accordingly, the amendment to 40 CFR 52.2520 published in the **Federal Register** on January 10, 2005 (70 FR 1668), which was to become effective on March 11, 2005, is withdrawn, and 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. In § 52.2520, the table in paragraph (e) is amended by adding an entry at the end of the table for the Sulfur Dioxide Maintenance Plan, City of Weirton; Butler and Clay Magisterial District (Hancock County) 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
* Sulfur Dioxide Maintenance Plan.	* City of Weirton; Butler and Clay Magisterial District (Hancock County).	* 7/27/04	* 01/10/05 70 FR 1664	* The SIP-effective date is 3/11/05.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[AZ104-0083; FRL-7875-2]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the Maricopa Association of Governments (MAG) serious area carbon monoxide (CO) state implementation plan (SIP) for the Maricopa County CO nonattainment area, also referred to as "the metropolitan Phoenix area", as meeting the Clean Air Act (CAA) requirements for serious CO nonattainment areas. We are also approving the MAG CO Redesignation Request and Maintenance Plan for the Maricopa County CO nonattainment area as meeting CAA requirements for redesignation requests and maintenance plans. In addition, we are making a boundary change under Section 107 of the CAA to take the Gila River Indian Community (GRIC) out of the Maricopa County maintenance area. The portion of the Gila River Indian Community which is currently in the

Maricopa County CO nonattainment area will be "unclassifiable/attainment" for CO, and will not be subject to the MAG CO Redesignation Request and Maintenance Plan.

DATE: *Effective Date:* This rule is effective April 8, 2005.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA Region 9's Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901. Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you.

Electronic Availability

This document, our proposed rule which was published in the **Federal Register** on October 8, 2004, and the technical support document (TSD) are also available as electronic files on EPA's Region 9 Web page at <http://www.epa.gov/region09/air/phxco/index.html>.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (520) 622-1622, e-mail: tax.wienke@epa.gov, or refer to <http://www.epa.gov/region09/air/phxco/index.html>.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," and "our" mean U.S. EPA.

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I. Summary of EPA's Final Action

On October 8, 2004 (69 FR 60328), we published a notice of proposed rulemaking for the State of Arizona. The notice proposed approval of revisions to the SIP for the Maricopa County CO nonattainment area. These revisions to the SIP were adopted by the Arizona Department of Environmental Quality (ADEQ). Today, we are finalizing our proposal to approve the MAG serious area SIP for attainment of the CO air quality standard in the Maricopa County area. This action is based on our determination that this SIP complies with the CAA's requirements for attaining the CO standard in serious CO nonattainment areas such as the metropolitan Phoenix area.

We are also approving the MAG CO Redesignation Request and Maintenance Plan for the Maricopa County CO nonattainment area as meeting CAA requirements for redesignation requests and maintenance plans.

We are also making a boundary correction under Section 107 of the CAA for the Gila River Indian Community.

II. Response to Comments

We received three comments (two via electronic mail (e-mail) and one written letter) during the official comment