

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) do not apply. This proposed 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.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: July 9, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03-18153 Filed 7-17-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[PA189-4300; FRL-7530-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Liberty Borough PM₁₀ Nonattainment Area to Attainment and Approval of the Associated Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from the Commonwealth of Pennsylvania to redesignate the Liberty Borough area of Allegheny County, Pennsylvania (the Liberty Borough area) from nonattainment to attainment for the national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns (PM₁₀). The EPA is also proposing to approve a maintenance plan for the Liberty Borough area. Both the redesignation and maintenance plan were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). Approval of the maintenance plan, as a revision to the Pennsylvania State Implementation Plan (SIP), would put a plan in place for maintaining the PM₁₀ standard for the next ten years in the Liberty Borough area. This action is

being taken in accordance with the Clean Air Act (CAA).

DATES: Comments must be received on or before August 18, 2003.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba A. Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21 U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to morris.makeba@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in part V of the Supplementary Information section. Copies of the documents relevant to this action are available 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814-2191, or by e-mail at knapp.ruth@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used we mean EPA.

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Introduction

Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) (E). This includes full approval of a maintenance plan for the area. EPA may approve a maintenance plan which meets the requirements of section 175A. On October 28, 2002, the PADEP, on behalf of the ACHD, submitted a redesignation request and maintenance plan for the Liberty Borough moderate PM₁₀ nonattainment area. EPA is proposing to redesignate the Liberty Borough area from nonattainment to attainment of the PM₁₀ NAAQS. We are also proposing to approve the maintenance plan required under section 175A maintenance plan. Once approved the maintenance plan will become part of the Pennsylvania SIP for this area.

I. When Was This Area Designated Nonattainment for PM₁₀?

On November 15, 1990, the CAA amendments were enacted. Pursuant to section 107(d)(4)(B), the Liberty Borough area in Allegheny County, Pennsylvania was designated nonattainment by operation of law. The nonattainment designation and classification as a moderate PM₁₀ area was codified in 40 CFR part 81 on November 6, 1991 (56 FR 56694).

II. What Are the Geographic Boundaries of the PM₁₀ Nonattainment Area?

The Liberty Borough nonattainment area is comprised of the municipalities of Liberty Borough, the Borough of Lincoln, Port Vue Borough, the Borough of Glassport and the City of Clairton.

III. What Are the 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. Does the Area Meet the Criteria for Redesignation?

The EPA has reviewed the redesignation request submitted by PADEP, on behalf of the ACHD, for the Liberty Borough nonattainment area and finds that the request meets the five requirements of section 107(d)(3)(E).

A. The Data Shows Attainment of the PM₁₀ NAAQS in the Liberty Borough Area

The ACHD and PADEP have quality-assured PM₁₀ ambient air monitoring data showing that the Liberty Borough Area has met the PM₁₀ NAAQS. Four monitoring sites have been operating in the nonattainment area since 1992. Most of the sites are located downwind of major industrial sources. The Lincoln site is located downwind of U.S. Steel Clairton Works; the Glassport site is located downwind and east of the U.S. Steel Irvin Works; the Liberty site is located near the center of the nonattainment area; the Clairton site is located southwest of U.S. Steel Clairton Works. The redesignation request is based upon the three most recent years of quality-assured PM₁₀ air monitoring data (1998–2000) available during preparation of the October 28, 2002 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 part 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). Subsequently the data was reported into EPA's new ambient air quality data system known as the Air Quality Subsystem (AQS).

The submittal included PM₁₀ monitoring data from 1992 through 2000. The redesignation request is based on the most recent data from 1998 through 2000. This data has been quality-assured and recorded in AQS. During the 1998 to 2000 time period, there were no actual exceedances of the daily standard, and the average annual number of expected exceedances is less

than 1.0 for that same time period. The complete quality-assured data in AQS from 2001 also shows that no exceedances were recorded. With regard to 2002, there have been no exceedances recorded. Therefore, the area has attained and continues to attain the daily NAAQS. During 1998 through 2002, the maximum annual average recorded at these sites was 41 ug/m³. As the annual standard of 50 ug/m³ is based on the average annual mean over three years, the area has attained and continues to attain the annual PM₁₀ standard. Because 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 October 28, 2002 submittal, and continues to attain the NAAQS, the first criterion of section 107(d)(3)(E) has been satisfied. The ACHD and PADEP have committed to continue monitoring in this area in accordance with 40 CFR part 58.

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

1. Section 110 Requirements

On January 6, 1994, the PADEP submitted an attainment plan to EPA consisting of an attainment demonstration and control measures for the Liberty Borough area. On April 11, 1995 (60 FR 18385), EPA proposed to approve the January 1994 attainment plan submittal as well as two SIP revisions related to PM₁₀ that had been previously submitted by the Commonwealth. After EPA's April 11, 1995 proposal to approve the attainment plan was published in the **Federal Register**, the PADEP reported that the PM₁₀ NAAQS had been exceeded twice in March of 1995. These exceedances raised concerns about the attainment demonstration. Therefore, while EPA did take final action to approve the control measures portion of the attainment plan on June 12, 1996 (61 FR 29664), EPA took no action on the modeled attainment demonstration portion of the attainment plan at that time. Contingency measures for the Liberty Borough area were formally submitted to EPA on July 12, 1995. On September 8, 1998, EPA fully approved the attainment demonstration and contingency measures for the Liberty Borough area (63 FR 47434) and made a formal finding that the area had attained the PM₁₀ NAAQS (63 FR 47493).

Therefore, the PM₁₀ SIP for the Liberty Borough area has been fully approved by EPA as meeting all the requirements of section 110(a)(2)(I) of

the Act, including the requirements of part D (relating to nonattainment).

2. Part D Requirements

Part D contains general provisions that apply to all nonattainment plans and certain sections that apply to specific criteria pollutants. Before EPA may redesignate the Liberty Borough 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 Liberty Borough area as a moderate PM₁₀ nonattainment area on November 6, 1991 (codified at 40 CFR part 81.339). Therefore, to be redesignated to attainment, the Commonwealth must meet the applicable requirements of subpart 1 of part D of the CAA, 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)—Subpart 1 of part D addresses nonattainment areas in general and subpart 4 addresses PM₁₀ nonattainment areas specifically. All the relevant SIP requirements under sections 172(c) and 189(a) for Reasonably Available Control Measures; an emissions inventory; contingency measures; and an attainment demonstration were met by Pennsylvania and approved on June 12, 1996 (61 FR 29664) and September 8, 1998 (63 FR 47434). The Federal requirements for new source review (NSR) in nonattainment areas are contained in section 172(c)(5). EPA guidance indicates the permitting requirements of the part D NSR program for new major sources and major modifications shall be replaced by the prevention of significant deterioration (PSD) program's permitting requirements when an area has reached attainment and been redesignated, provided that the PSD program will be fully effective immediately upon redesignation. The ACHD was originally delegated the authority to implement and enforce the provisions of 40 CFR 52.21, on behalf of EPA, on December 14, 1983 (48 FR 55625). The ACHD adopted the PSD requirements promulgated in 40 CFR 52.21, incorporating them by reference in its regulations as provided in Article XXI, section 2102.07. On March 26, 2003, EPA renewed the ACHD's existing delegation to implement and enforce the provisions of 40 CFR 52.21 as well as any future revisions to these regulations (68 FR 14617). Therefore, the permitting

requirements of the PSD program will become fully effective in the Liberty Borough area immediately upon redesignation to attainment.

b. Subpart 1 of Part D—Section 176 Conformity Provisions—The Liberty Borough area was not required to have a transportation conformity budget for PM₁₀. It was determined that the significant causes of nonattainment in this area were emissions from steel and coke facilities in the area and not from mobile sources. The PM₁₀ emissions from public roads are less than 3% of the attainment emissions inventory for the Liberty Borough area. Because the PM₁₀ violations had been caused by industrial stationary sources and motor vehicles were not an important contributor to the nonattainment problem, for conformity purposes no additional quantitative analysis for transportation related PM₁₀ impacts is required. While Section 176 provides that a State's conformity revisions must be consistent with Federal Conformity regulations promulgated by EPA, given the nature of the area's former nonattainment problem, it is reasonable to interpret those conformity requirements as not applying for purposes of evaluating the redesignation request.

C. The Improvement in Air Quality Is Due to Permanent and Enforceable Measures

In order to redesignate an area, EPA must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions. The Commonwealth's approved 1994 PM₁₀ SIP for the Liberty Borough area identified measures to bring the area into attainment. These measures included emission standards and operating restrictions for various sources of PM₁₀ especially steel and coke facilities. Included among the facilities that were required to implement additional controls are U.S. Steel Clairton Works (formerly USX), U.S. Steel Irvin Works, Aristech (Koppers) Chemical, and the Glassport Transportation Center. Additional emission limitations were also imposed for the coke ovens and coke oven gases at U.S. Steel Clairton Works, Irvin Works, the Edgar Thompson Works as well as LTV Steel.

In addition to the emission reductions discussed above, other reductions have occurred since the attainment demonstration inventory was prepared

and the modeled demonstration of attainment performed. The following sources of PM₁₀ emissions have shutdown: U.S. Steel Clairton Boilers 13 & 14; Duquesne Light (Orion Power), Philips (all boilers/processors); LTV Steel, Hazelwood (all boilers/processors); and McGraw Edison, Canonsburg (all boilers/processes). The additional emission reductions resulting from these shutdowns are permanent and enforceable given that any reactivation of these facilities would be subject to applicable new source review requirements.

The October 28, 2002 redesignation request demonstrates that actual enforceable emission reductions are responsible for the air quality improvement in the Liberty Borough area. EPA finds that the emission reductions due to the SIP-approved control measures and emission limitations imposed by the 1994 attainment plan and the emission reductions due to permanent and enforceable shutdowns have reduced the ambient levels of PM₁₀ such that the Liberty Borough area attained the NAAQS and continues to attain the NAAQS.

D. The Maintenance Plan Satisfies Section 175A

Section 175A of the Act sets forth the necessary elements of a maintenance plan needed for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation to attainment. Eight years after the redesignation, a revised maintenance plan must be submitted which demonstrates attainment for the 10 years following the initial 10-year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. Under section 175A(d) contingency provisions must include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area.

EPA is proposing to approve the maintenance plan for the Liberty Borough nonattainment area because EPA finds that the submittal meets the requirements of section 175A. The details of the maintenance plan requirements and how the submittal meets these requirements are detailed in the following paragraphs. A maintenance plan must contain the following elements:

(1) An emissions inventory reflective of PM₁₀ emissions in the monitored attainment years;

(2) A maintenance demonstration which is expected to provide adequate assurance of maintenance over the initial 10-year period;

(3) A commitment to continue monitoring in the area;

(4) A method for verifying continued attainment; and

(5) A contingency plan with specific indicators or triggers for implementation of the plan.

1. Maintenance Plan Requirements

a. Emissions Inventory—The maintenance plan includes the 1994 emission inventory used to perform the modeling demonstration of attainment and updates that inventory for 1999. Emissions declined between 1994 and 1999 in the Liberty Borough area due to the previously described shutdowns. Any future increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration due to new or modifying stationary sources would be subject to new source review requirements including a demonstration that the NAAQS is protected.

b. Maintenance Demonstration—Steel and coke facilities were the main cause of nonattainment in the area. The attainment demonstration was based upon maximum allowable emission levels for stationary sources impacting the nonattainment area. The PM₁₀ emissions from public roads were less than 3% of the emission inventory therefore no conformity budget is in place for Allegheny County. Population has steadily decreased in the county since 1990 and this decline is expected to continue through 2020. Therefore, other sources of emissions related to population are expected to decline. Employment in manufacturing is expected to decrease significantly between 2002–2020. As a result of these factors, PM₁₀ emissions are expected to remain below the emission levels used to demonstrate attainment for the next 10 years and the area is expected to maintain the PM₁₀ NAAQS for the next 10 years. Moreover, as noted previously, any future increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration due to new or modifying stationary sources would be subject to new source review requirements including a demonstration that the NAAQS is protected.

c. Commitment to Continue Monitoring Air Quality—The

maintenance plan includes commitments to continue to operate and maintain the network of ambient PM₁₀ monitoring stations in the Liberty Borough area in accordance with provisions of 40 CFR part 58 to demonstrate ongoing attainment with the PM₁₀ NAAQS.

d. **Verification of Continued Attainment**—In addition to reviewing monitoring data in the Liberty Borough area to verify continued attainment, the ACHD will continue to examine the air quality impact of any new major sources or modifications through its PSD program to insure protection of the NAAQS. Furthermore, the air quality impacts of new minor sources or modifications resulting in any increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration would be evaluated to assure protection and maintenance of the NAAQS in the area.

e. **Contingency Plan**—The contingency measures for the Liberty Borough area will be triggered upon a violation of the PM₁₀ standard, and the ACHD will notify effected sources within 60 days of a violation that contingency measures must be implemented. The same contingency measures that were approved on September 8, 1998 (63 FR 47434) for the attainment demonstration are being used as contingency measures for the maintenance plan. These measures require that procedures to capture pushing emissions from the coke batteries at U.S. Steel Clairton Works be improved (except for emissions from Battery B which is equipped with a coke-side shed). The measures must be implemented at the batteries within 30 days after receiving notification from ACHD that the measures were triggered.

2. **Commitment To Submit Subsequent Maintenance Plan Revisions**
A new maintenance plan must be submitted to EPA, as a SIP revision, within eight years of the redesignation of the nonattainment area, as required by section 175(A)(b). This subsequent maintenance plan must provide for the maintenance of the PM₁₀ NAAQS for a period of 10 years after the expiration of the initial 10 year maintenance period.

E. The Submittal Meets the Applicable Requirements of Section 110 and Part D

General SIP elements are delineated in section 110(a)(2) of Title I, part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the state after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus,

methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for part C, Prevention of Significant Deterioration (PSD), and part D, New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, and provisions for public and local agency participation. For the purposes of redesignation, the Pennsylvania SIP was reviewed to ensure that all requirements under the amended CAA were satisfied through approved SIP provisions for the Liberty Borough area. EPA has concluded that the Commonwealth's SIP for the Liberty Borough nonattainment area satisfies all of the Section 110 SIP requirements. As discussed previously in section IV. B. 2. of this document, all applicable part D requirements have been satisfied.

V. Proposed Action

EPA review of the redesignation request and maintenance plan for the Liberty Borough moderate PM₁₀ nonattainment area submitted on October 28, 2002 by the PADEP, on behalf of the ACHD, indicates that all requirements for approval have been satisfied. EPA is, therefore, proposing to redesignate the Liberty Borough area from nonattainment to attainment of the PM₁₀ NAAQS. We are also proposing to approve the maintenance plan required under section 175A as a revision to the Pennsylvania SIP for this area. EPA has prepared a Technical Support Document (TSD) in support of this proposed rulemaking. Copies are available, upon request, from the person identified in the **FOR FURTHER INFORMATION CONTACT** section. EPA is soliciting public comment on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting either electronic or written comments. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA189-4300 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

A. **Electronically.** If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your

comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

1. **E-mail.** Comments may be sent by electronic mail (e-mail) to morris.makeba@epa.gov, attention PA189-4300. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

2. **Regulations.gov.** Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

3. **Disk or CD ROM.** You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

B. **By Mail.** Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document. For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper,

will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

- (1) Explain your views as clearly as possible.
- (2) Describe any assumptions that you used.
- (3) Provide any technical information and/or data you used that support your views.
- (4) If you estimate potential burden or costs, explain how you arrived at your estimate.
- (5) Provide specific examples to illustrate your concerns.
- (6) Offer alternatives.

(7) Make sure to submit your comments by the comment period deadline identified.

(8) To ensure proper receipt by EPA, identify the appropriate regional file/ rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and Federal Register citation related to your comments.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Public Law 104-4). This proposed 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 government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed 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. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) 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 proposed rule to Liberty Borough PM₁₀ nonattainment area to attainment and to approve the maintenance plan does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: July 11, 2003.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 03-18294 Filed 7-17-03; 8:45 am]

BILLING CODE 6560-50-P