

rulemaking. The Paperwork Reduction Act, therefore, was not violated by the proposed rule.

Accordingly, we adopt the proposed rule as final, with only the following change: We delete the word “pre-release” from § 570.21(b) to allow for the possibility that Congress, in the future, may statutorily identify programs which require CCC placement for other than pre-release purposes. This minor deletion will allow the Bureau to avoid unnecessarily limiting the rule’s application.

#### Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute “significant regulatory actions” under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB.

BOP has assessed the costs and benefits of this rule as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this rule justify its costs. This rule will have the benefit of eliminating confusion in the courts that has been caused by the change in the Bureau’s statutory interpretation, while allowing us to continue to operate under revised statutory interpretation. There will be no new costs associated with this rulemaking.

#### Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau’s appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal

governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 28 CFR Part 570

Prisoners.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

■ Under rulemaking authority vested in the Attorney General in 5 U.S.C 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we revise 28 CFR part 570 as set forth below.

#### Subchapter D—Community Programs and Release

#### PART 570—COMMUNITY PROGRAMS

■ 1. Revise the authority citation for 28 CFR part 570 to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 751, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Amend part 570 by adding subpart B consisting of §§ 570.20 and 570.21 to read as follows:

#### Subpart B—Community Confinement

Sec.

570.20 What is the purpose of this subpart?

570.21 How will the Bureau decide when to designate inmates to community confinement?

#### § 570.20 What is the purpose of this subpart?

(a) This subpart provides the Bureau of Prisons’ (Bureau) categorical exercise of discretion for designating inmates to community confinement. The Bureau designates inmates to community confinement only as part of pre-release

custody and programming which will afford the prisoner a reasonable opportunity to adjust to and prepare for re-entry into the community.

(b) As discussed in this subpart, the term “community confinement” includes Community Corrections Centers (CCC) (also known as “halfway houses”) and home confinement.

#### § 570.21 When will the Bureau designate inmates to community confinement?

(a) The Bureau will designate inmates to community confinement only as part of pre-release custody and programming, during the last ten percent of the prison sentence being served, not to exceed six months.

(b) We may exceed these time-frames only when specific Bureau programs allow greater periods of community confinement, as provided by separate statutory authority (for example, residential substance abuse treatment program (18 U.S.C. 3621(e)(2)(A)), or shock incarceration program (18 U.S.C. 4046(c)).

[FR Doc. 05–398 Filed 1–7–05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05–OAR–2004–WI–0001; FRL–7858–9]

#### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Withdrawal of Direct Final Rule

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

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

**SUMMARY:** Due to the receipt of an adverse comment, the EPA is withdrawing the November 10, 2004 (69 FR 65069), direct final rule approving revisions to Wisconsin’s State Implementation Plan regarding the control of nitrogen oxide emissions. In the direct final rule, EPA stated that if adverse comments were submitted by December 10, 2004, the rule would be withdrawn and not take effect. On December 10, 2004, EPA received a comment. EPA believes this comment is adverse and, therefore, EPA is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed action also published on November 10, 2004 (69 FR 65117). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published at 69 FR 65069 on November 10, 2004 is withdrawn as of January 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** Randolph Cano, Environmental Protection Specialist, Criteria Pollutant Section, Air Programs Branch (AR-18)), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6036. E-Mail Address: [cano.randolph@epa.gov](mailto:cano.randolph@epa.gov).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Reporting and recordkeeping requirements.

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

Dated: December 30, 2004.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ Accordingly, the amendment to 40 CFR 52.2570 published in the **Federal Register** on November 10, 2004 (69 FR 65069) on pages 65069-65073 are withdrawn as of January 10, 2005.

[FR Doc. 05-427 Filed 1-7-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[R03-OAR-2004-WV-0002; FRL-7852-8a]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the City of Weirton Including the Clay and Butler Magisterial Districts SO<sub>2</sub> Nonattainment Area and Approval of the Maintenance Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a request by the State of West Virginia to redesignate the sulfur dioxide (SO<sub>2</sub>) nonattainment area of the City of Weirton, including the Clay and Butler Magisterial Districts in Hancock County, from nonattainment to attainment of the national ambient air quality standards (NAAQS) for SO<sub>2</sub>. EPA is also approving the maintenance plan for this area submitted by the State of West Virginia as a revision to the West Virginia State Implementation Plan (SIP). This plan provides for the maintenance of the NAAQS for SO<sub>2</sub> for the next ten years. These actions are being taken in accordance with the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective on March 11, 2005, without further notice, unless EPA receives adverse written comment by February 9, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EdoCKET (RME) ID Number R03-OAR-2004-WV-0002 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

D. Mail: R03-OAR-2004-WV-0002, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to RME ID No. R03-OAR-2004-WV-0002. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an "anonymous access" system which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact

information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of material to be incorporated by reference are available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, West Virginia 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under the CAA, EPA may redesignate areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) of the Act. This includes full approval of a maintenance plan for the area. The requirements for a maintenance plan are found in section 175A of the CAA.

On December 21, 1993 (58 FR 67334), EPA designated the City of Weirton, including the Clay and Butler Magisterial Districts of Hancock County, West Virginia (the Weirton area), to nonattainment for SO<sub>2</sub> based upon monitored values at the Oak Street monitoring site in the Weirton, West Virginia area. This action required the State to submit a SIP revision for the Weirton area by July 1995. On July 21, 1995, EPA received a SIP revision submittal for the Weirton area.