

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 81**

[Docket#: AK-02-003; FRL-7216-7]

**Determination of Attainment for the Carbon Monoxide National Ambient Air Quality Standard for Fairbanks Carbon Monoxide Nonattainment Area, Alaska****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.**SUMMARY:** EPA is proposing to find that the Fairbanks nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) as of December 31, 2001.**DATES:** Written comments must be received on or before June 24, 2002.**ADDRESSES:** Written comments should be mailed to Connie Robinson, Office of Air Quality, Mail code OAQ-107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of documents relevant to this action are available for public review during normal business hours (8 a.m. to 4:30 p.m.) at this same address.**FOR FURTHER INFORMATION CONTACT:** Connie Robinson, Office of Air Quality, Mail Code OAQ-107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-1086.**SUPPLEMENTARY INFORMATION:** Throughout this document, the words "we," "us," or "our" means the EPA.**Table of Contents**

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**I. Background****A. Designation and Classification of CO Nonattainment Areas**

The Clean Air Act Amendments (CAAA) of 1990 authorized EPA to designate areas across the country as nonattainment, and to classify these areas according to the severity of the air pollution problem. Pursuant to section 107(d) of the CAAA, following enactment on November 15, 1990, States were requested to submit lists, within 120 days, which designated all areas of the country as either attainment, nonattainment, or unclassifiable for CO.

The EPA was required to promulgate these lists of areas no later than 240 days following enactment of the CAAA (See 56 FR 56694, (November 6, 1991)).

On enactment of the CAAA, a new classification structure was created for CO nonattainment areas, pursuant to section 186 of the CAAA, which included both a moderate and a serious area classification. Under this classification structure, moderate areas with a design value of 9.1-16.4 ppm, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 1995. CO nonattainment areas designated as serious, with a design value of 16.5 ppm and above, were expected to attain the CO NAAQS as expeditiously as practicable, but no later than December 31, 2000. Fairbanks did not have the two years of clean data required to attain the standard by December 31, 2000, the required attainment date for CO serious areas, and under section 186(a)(4) of the CAAA. Alaska requested and EPA granted a one year extension of the attainment date deadline to December 31, 2001 (See 66 FR 28836, (May 25, 2001)).

States containing areas classified as either moderate or serious for CO had the responsibility of developing and submitting to EPA State Implementation Plans (SIPs) which addressed the nonattainment air quality problems in those areas. The EPA issued general guidance concerning the requirements for SIP submittals, which included requirements for CO nonattainment area SIPs, pursuant to Title I of the CAAA (See generally, 57 FR 13498 (April 16, 1992), and 57 FR 18070 (April 28, 1992)). The air quality planning requirements for moderate and serious CO nonattainment areas are addressed in sections 186-187 respectively of the CAAA, which pertain to the classification of CO nonattainment areas as well as to the requirements for the submittal of both moderate and serious area SIPs.

The EPA has the responsibility for determining whether a nonattainment area has attained the CO NAAQS by the applicable attainment date.<sup>1</sup> In this case the EPA is required to make determinations concerning whether serious CO nonattainment areas attained the NAAQS by their attainment date. Pursuant to the CAAA, the EPA is required to make an attainment determination for this area by June 30, 2002, no later than 6 months following the attainment date for the area. Therefore, this action is being taken to

<sup>1</sup> See sections 172(C), 179(c) and 186(b)(2) of the CAAA.

make a determination of attainment for a serious CO nonattainment area with a December 31, 2001 attainment date.

**B. How Does EPA Make Attainment Determinations?**

Section 179(c)(1) of the CAAA provides that attainment determinations are to be based upon an area's "air quality as of the attainment date," and section 186(b)(2) is consistent with this requirement. EPA will make the determination as to whether an area's air quality is meeting the CO NAAQS based upon air quality data gathered at CO monitoring sites in the nonattainment area which have been entered into the Aerometric Information Retrieval System (AIRS). This data is reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR 50.8, and in accordance with EPA policy and guidance as stated in a memorandum from William G. Laxton, Director Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," dated June 18, 1990.

The 8-hour CO design value is used to determine attainment of CO areas, and is computed by first finding the maximum and second maximum (non-overlapping) 8-hour values at a monitoring site for the most recent 2 years of air quality data. Then the maximum value of the second high values is used as the design value for the monitoring site. The CO NAAQS requires that not more than one 8-hour average per year can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and are not considered exceedances). CO attainment is evaluated and determined by reviewing 8 quarters of data, or a total of 2 complete calendar years of data for an area. If an area has a design value that is greater than 9.0 ppm, this means that a monitoring site in the area, where the second highest (non-overlapping) 8-hour average was measured, was greater than 9.0 ppm in at least 1 of the 2 years being reviewed to determine attainment for the area. Then this indicates that there were at least two values which measured above the NAAQS for CO. Thus, the standard was not met in the area.

**C. What Is the Attainment Date for the Fairbanks CO Nonattainment Area?**

As stated above, the Fairbanks CO nonattainment area was designated nonattainment for CO by operation of law upon enactment of the CAAA of 1990. Under 186(a) of the CAAA, each CO area designated nonattainment was also classified by operation of law as

either “moderate” or “serious” depending on the severity of the area’s air quality problem. States containing areas that were classified as moderate nonattainment were required to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. On March 30, 1998, EPA made a finding that Fairbanks did not attain the CO NAAQS by the December 31, 1995 attainment date for the moderate nonattainment area. This finding was based on EPA’s review of monitored air quality data for compliance with the CO NAAQS. As a result of this finding the Fairbanks CO nonattainment area was reclassified as a serious CO nonattainment area by operation of law [See 63 FR 9945, (February 27, 1998)]. Fairbanks did not have the two years of clean data required to attain the standard by December 31, 2000, the required attainment date for CO serious areas, and under section 186(a)(4) of the CAAA, Alaska requested and EPA granted a one year extension of the attainment date deadline to December 31, 2001.

## II. EPA’s Proposed Action

EPA is, by today’s action, making the determination that the Fairbanks serious CO nonattainment area did attain the CO NAAQS by the attainment date of December 31, 2001. As explained below, the Fairbanks nonattainment area remains classified a serious CO nonattainment area, and today’s action does not redesignate the Fairbanks nonattainment area to attainment.

## III. Basis for EPA’s Action

Alaska has three CO monitoring sites in the Fairbanks CO nonattainment area. The air quality data in AIRS for these monitors show that, for the 2-year period from 2000 through 2001, there were no violations of the annual CO standard. The second highest 8-hour average measured during this 2-year period was at the Second and Cushman monitoring site in 2000 when the site measured 8.9 ppm. Based on this information, EPA has determined that the area attained the CO NAAQS standard as of the attainment date of December 31, 2001.

In summary, EPA proposes to find that the Fairbanks CO nonattainment area attained the CO NAAQS as of the attainment date of December 31, 2001. If we finalize this proposal, consistent with CAAA section 188, the area will remain a serious CO nonattainment area with the additional planning requirements that apply to serious CO nonattainment areas. This proposed finding of attainment should not be confused with a redesignation to

attainment under CAAA section 107(d). Alaska has not submitted a maintenance plan as required under section 175A(a) of the CAAA or met the other CAAA requirements for redesignation to attainment. The designation status in 40 CFR part 81 will remain serious nonattainment for the Fairbanks CO nonattainment area until such time as EPA finds that Alaska has met the CAAA requirements for redesignations to attainment.

## IV. Request for Public Comments

We are soliciting public comments on EPA’s proposal to find that the Fairbanks CO nonattainment area has attained the CO NAAQS as of the December 31, 2001, attainment date. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

## V. Administrative Requirements

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 proposed 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 tribal implications because it will 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). This action also does not have Federalism

implications because it does not 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). This action 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 “Protection of Children from Environmental Health Risks and Safety Risks” (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. 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 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 14, 2002.

**L. John Iani,**

*Regional Administrator, Region 10.*

[FR Doc. 02–12966 Filed 5–22–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA247–0325b; FRL–7201–7]

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District, and Ventura County Air Pollution Control District

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