

**List of Subjects in 30 CFR Part 926**

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 20, 1997.

**Richard J. Seibel,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 97-31579 Filed 12-1-97; 8:45 am]

BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[LA35-1-7305b; FRL-5928-3]

**Approval and Promulgation of Air Quality Implementation Plans, Louisiana; Reasonable Available Control Technology for Emissions of Volatile Organic Compounds**

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

**ACTION:** Proposed rule.

**SUMMARY:** In this action, the EPA proposes to conditionally approve in part, and fully approving in part, revisions to the Louisiana State Implementation Plan (SIP). The revisions incorporate regulations to control Volatile Organic Compound emissions from major stationary sources by means of Reasonable Available Control Technology. The major stationary source category controlled by the conditionally approved regulation is batch processes. The major stationary source categories controlled by the fully approved regulations are Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactors, SOCMI distillation, and industrial cleanup solvents. The intended effect of these rules is to reduce VOC emissions into the ambient air and thereby reduce ground-level ozone concentrations.

In the Rules and Regulations Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any

parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by January 2, 1998.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas Diggs, Chief, Air Planning Section, at the EPA Region 6 Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Air Quality Division, Louisiana Department of Environmental Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

**FOR FURTHER INFORMATION CONTACT:**

Eaton R. Weiler, of the EPA Region 6 Air Planning Section at the above address, telephone (214) 665-2174.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final action of the same title which is published in the Rules and Regulations section of this **Federal Register**.

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

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: November 10, 1997.

**Lynda F. Carroll,**

*Acting Regional Administrator.*

[FR Doc. 97-31409 Filed 12-1-97; 8:45 am]

BILLING CODE 6560-50-P

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

[AK 19-1707; FRL-5923-8]

**Clean Air Act Reclassification; Anchorage, Alaska, Carbon Monoxide Nonattainment Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** This action proposes to find that the Municipality of Anchorage,

Alaska, carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standards (NAAQS) under the Clean Air Act (CAA). The CO nonattainment occurred after Anchorage received a one year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. This proposed finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. Final action on this proposed finding would result in the Anchorage CO nonattainment area being reclassified by operation of law as a serious nonattainment area. The result of such a reclassification would be that the State must submit a new State implementation plan (SIP) providing for attainment of the CO NAAQS by no later than December 31, 2000, the CAA attainment deadline for serious CO areas.

**DATES:** Written comments on this proposal must be received by January 2, 1998.

**ADDRESSES:** Written comment should be addressed to Ms. Montel Livingston, Environmental Protection Agency, Office of Air Quality (OAQ 107), Docket AK 17-1705, 1200 6th Avenue, Seattle, WA 98101. Information supporting this action is available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and the Alaska Department of Environmental Conservation (ADEC), 410 Willoughby, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** John Pavitt, Alaska Air Coordinator, EPA Alaska Operations Office, 907/271-3688.

**SUPPLEMENTARY INFORMATION:****I. Background**

*A. CAA Requirements and EPA Actions Concerning Designation and Classification*

The CAA Amendments of 1990 were enacted on November 15, 1990. Under Section 107(d)(1)(C) of the CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Anchorage area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the CAA, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either "moderate" or "serious" depending on the severity of the area's air quality problem. CO nonattainment

areas with a design value between 9.1–16.4 parts per million (ppm), such as the Anchorage area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991). States containing CO moderate nonattainment areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995.<sup>1</sup>

#### B. Attainment Date Extensions

If the State did not have the two consecutive clean years of data necessary to show attainment of the NAAQS, section 186(a)(4) of the CAA provides that EPA may approve a one year attainment date extension if the State has: (1) complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of CO NAAQS at any monitoring site in the nonattainment area in the year preceding 1996, the extension year.

The Anchorage nonattainment area had two exceedances in 1994. However, because the Anchorage nonattainment area had only one exceedance in 1995, Anchorage qualified for a one year attainment date extension to 1996. Two consecutive years of clean data are required in order to attain the CO NAAQS. EPA granted the extension and the action was published in the **Federal Register** on June 28, 1996 (61 FR 33676).

#### C. Reclassification to a Serious Nonattainment Area

1. EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining whether the Anchorage area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a notice in the **Federal Register** identifying areas which it determines failed to attain the

<sup>1</sup> The moderate area SIP requirements are set forth in section 187(a) of the CAA Amendments of 1990 and differ depending on whether the area's design value is below or above 12.7 ppm. The Anchorage area has a design value above 12.7 ppm. 40 CFR 81.302.

standard and therefore must be reclassified as serious by operation of law. EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.<sup>2</sup> Section 179(c)(1) of the CAA states that the attainment determination must be based upon an area's "air quality as of the attainment date." Consequently, EPA will determine whether an area's air quality has met the CO NAAQS by December 31, 1995, based upon the most recent two years of air quality data entered into the Aerometric Information Retrieval System (AIRS) data base.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR 50.8 and EPA policy.<sup>3</sup> EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard recorded in the Anchorage area in 1994, 1995, and 1996, this notice addresses only the air quality status of the Anchorage area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average per year per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same year constitutes a violation of the CO NAAQS. Anchorage had two exceedances of the CO NAAQS in 1994, one exceedance in 1995 (one exceedance does not constitute a CO violation because a violation of the CO NAAQS means two exceedances of the 8-hour CO NAAQS at a given monitoring site within the same year), and three CO exceedances in 1996 (its non-attainment extension year).

2. SIP Requirements for Serious CO Areas: CO nonattainment areas reclassified as serious under section 186(b)(2) of the CAA are required to

<sup>2</sup> See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled "Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas," October 23, 1995 (Shaver memorandum).

<sup>3</sup> See memorandum from William G. Laxton, Director, Technical Support Division, entitled "Ozone and Carbon Monoxide Design Value Calculations," June 18, 1990. See also Shaver memorandum.

submit, within 18 months of the area's reclassification, SIP revisions demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. The serious CO area planning requirements are set forth in section 187(b) of the CAA. EPA has issued two general guidance documents related to the planning requirements for CO SIPs. The first is the "General Preamble for the Implementation of Title I of the CAA Amendments of 1990" that sets forth EPA's preliminary views on how the Agency intends to act on SIPs submitted under Title I of the CAA. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The second general guidance document for CO SIPs issued by EPA is the "Technical Support Document to Aid the States with the Development of Carbon Monoxide State Implementation Plans," July 1992. If the Anchorage area is reclassified to serious, the State would have to submit a SIP revision to EPA within 18 months of reclassification that, in addition to the attainment demonstration, includes: (1) a forecast of vehicle miles travelled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Upon reclassification, contingency measures in the moderate area plan for the Anchorage area must be implemented.

#### II. This Action

By today's action, EPA is proposing to find that the Anchorage CO nonattainment area failed to demonstrate attainment of the CO NAAQS by December 31, 1996, the CO attainment extension date. This proposed finding is based upon air quality data showing exceedances of the CO NAAQS during 1996.

Ambient Air Monitoring Data: The following table lists the monitoring sites in the Anchorage CO nonattainment area where the 8-hour CO NAAQS was exceeded during 1996, based on data validated by the Alaska Department of Environmental Conservation and entered into the AIRS data base.

## ANCHORAGE CARBON MONOXIDE EXCEEDANCES OF THE 8-HOUR STANDARD—1996

Monitoring site	8-hour CO reading (PPM)	Date	Max 8-hour reading	Second-max 8-hour reading	Number exceedances 8-hour standard
Spenard & Benson .....	10.1	1/22/96 .....	.....	.....	.....
	9.5	12/27/96 .....	.....	.....	.....
	9.6	12/31/96 .....	.....	.....	.....
		Year—1996 .....	11.0	9.6	3
Seward Hwy & Benson .....	10.0	1/22/96 .....	.....	.....	.....
	9.5	12/27/96 .....	.....	.....	.....
	9.5	12/31/96 .....	.....	.....	.....
		Year—1996 .....	10.8	10.5	3

Because the 1996 exceedances are valid for use in determining the attainment status of the Anchorage area, EPA is proposing to find, based on the 1996 CO violations discussed above, that the area did not attain the CO NAAQS by its extension year deadline of December 31, 1996. If EPA finalizes this finding, by operation of law Anchorage will be reclassified a serious CO nonattainment area.

### III. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may "have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities." The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification

cannot be said to impose a materially adverse impact on State, local or tribal government or communities.

### IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. As discussed in section III of this notice, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in and of themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

### V. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local or tribal governments in the aggregate. EPA believes, as discussed above, that the proposed finding of failure to attain and reclassification of the Anchorage nonattainment area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: November 12, 1997.

**Chuck Clarke,**

*Regional Administrator.*

[FR Doc. 97–30242 Filed 12–1–97; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### 42 CFR Part 1001

#### Negotiated Rulemaking Committee on the Shared Risk Exception; Meetings

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Meeting of Negotiated Rulemaking Committee.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this document announced the dates and location for the sixth and seventh set of meetings by the Negotiated Rulemaking Committee on the Shared Risk Exception. The purpose of this committee is to negotiate the development of an interim final rule addressing the shared risk exception to the Federal health care programs' anti-kickback provisions, as statutorily-mandated by section 216 of the Health Insurance Portability and Accountability Act of 1996.

**DATES:** The next series of meetings will be held from 9:00 a.m. to 5:00 p.m. on December 16, 17 and 18, 1997. The seventh series of meetings will be held on January 20, 21 and 22, 1998 from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** Both the December and January meetings will be held at the Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024.