

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 Congressional Review Act 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 has made such a good cause finding, including the reasons therefore, and established an

effective date of July 5, 2002. The 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: June 26, 2002.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons stated in the preamble, title 40, chapter 1, part 63 of

the Code of Federal Regulations is amended as follows:

**PART 63—[AMENDED]**

1. The authority citation for part 63 continues to read as follows:

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

**Subpart LLL—[AMENDED]**

2. Table 1 to § 63.1350, entitled "Monitoring Requirements," is amended by revising the entry for raw mills and finish mills at major sources/opacity to read as follows:

**§ 63.1350 Monitoring requirements.**

\* \* \* \* \*

TABLE 1 TO § 63.1350.—MONITORING REQUIREMENTS

Affected source/pollutant or opacity	Monitor type/operation/process	Monitoring requirements
* * *	* * *	* * *
Raw mills and finish mills at major sources/opacity.	Method 22 visible emissions test. (This requirement does not apply to a raw mill or finish mill equipped with a continuous opacity monitor or bag leak detection system.).	Conduct daily 6-minute Method 22 visible emissions test while mill is operating at representative performance conditions; if visible emissions are observed, initiate corrective action within 1 hour and conduct follow up Method 22 test. If visible emissions are observed, conduct 30-minute Method 9 test.
.....	Continuous opacity monitor, if applicable .....	Install, operate, and maintain in accordance with general provisions and with PS-1. A six-minute average greater than 10% opacity is a violation.
.....	Bag leak detection system, if applicable .....	Install, operate, and maintain in accordance with §63.1350(m). Operate and maintain such that alarm is not activated and alarm condition does not exist for more than 5% of the total operating time in a 6-month period. If alarm sounds, initiate corrective action.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[Docket # AK-02-003; FRL-7240-8]

**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:** Final rule.

**SUMMARY:** EPA is determining that the Fairbanks Carbon Monoxide (CO)

nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for CO by the deadline required by the Clean Air Act Amendments of 1990 (CAAA), December 31, 2001.

**EFFECTIVE DATE:** August 5, 2002.

**FOR FURTHER INFORMATION CONTACT:** Connie Robinson, EPA, Region 10, Office of Air Quality, Mail Code: OAQ-107, 1200 Sixth Avenue, Seattle Washington, 98101, (206) 553-1086.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used we mean EPA.

**I. Background**

EPA has the responsibility for determining whether a nonattainment

area has attained the CO NAAQS by the applicable attainment date. In this case the EPA was required to make a determination concerning whether the Fairbanks serious CO nonattainment area attained the NAAQS by its December 31, 2001, 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 six months following the attainment date for the area. This final rule was based on all available, quality-assured data collected from the CO monitoring sites, which has been entered into the Aerometric Information

Retrieval System (AIRS). This data was 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.

On May 23, 2002 (67 FR 36135), EPA proposed to determine that the Fairbanks CO nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for CO as of December 31, 2001. A detailed discussion of EPA's proposal is contained in the May 23, 2002, proposed rule and will not be restated here. The reader is referred to the proposed rule for more details.

## II. Public Comments

We received no comments in response to EPA's proposed action to determine that the Fairbanks CO nonattainment area in Alaska has attained the National Ambient Air Quality Standards (NAAQS) for carbon monoxide as of December 31, 2001.

## III. Attainment Determination

EPA has determined that the Fairbanks serious CO nonattainment area has attained the CO NAAQS by its attainment date of December 31, 2001. 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 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 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 redesignation to attainment.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 approves state law as meeting Federal

requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 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 approves 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 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 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.*).

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. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 3, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

## List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, National parks, Reporting and recordkeeping requirements, Wilderness areas.

Dated: June 26, 2002.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 228

[FRL-7241-2]

### Ocean Dumping; Site Designation

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

**ACTION:** Final rule.

**SUMMARY:** EPA today designates a new Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Wilmington, North Carolina, as an EPA-