

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 52

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

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

Dated: April 29, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-10552 Filed 5-7-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[SIP NO. SD-001-0017b; FRL-7652-2]

#### Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Revisions to the Administrative Rules of South Dakota and New Source Performance Standards Delegation

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to take direct final action approving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on September 12, 2003. The September 12, 2003 submittal revises the Administrative Rules of South Dakota, Air Pollution Control Program, by modifying the chapters pertaining to definitions, operating permits for minor sources, new source review and performance testing. In addition, the

State made revisions to the Prevention of Significant Deterioration program, which has been delegated to the State. The intended effect of this action is to make these revisions federally enforceable. We are also announcing that on October 31, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards to the State of South Dakota. These actions are being taken under sections 110 and 111 of the Clean Air Act.

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 SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Written comments must be received on or before June 9, 2004.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section in the direct final rule which is located in the Rules section of this **Federal Register**. Copies of the documents relevant to this action are available for public inspection Monday through Friday, 8 a.m. to 4 p.m., excluding Federal Holidays, at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the

South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, EPA Region 8, 999 18th Street, Suite 300, MS 8P-AR, Denver, CO 80202, (303) 312-6144, [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: April 7, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-10340 Filed 5-7-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Parts 52 and 81

[Docket # AK-04-001; FRL-7659-1]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Alaska; Anchorage Carbon Monoxide Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** On February 18, 2004, the State of Alaska submitted a carbon monoxide (CO) maintenance plan for the Anchorage CO nonattainment area to EPA for approval. The State concurrently requested that EPA redesignate the Anchorage CO nonattainment area to attainment for the National Ambient Air Quality Standard (NAAQS) for CO. In this action, EPA is proposing approval of the maintenance plan and redesignation of the Anchorage CO nonattainment area to attainment.

**DATES:** Comments must be received on or before June 9, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. AK-04-001, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [R10aircom@epa.gov](mailto:R10aircom@epa.gov).
- *Fax:* (206) 553-0110.
- *Mail:* Office of Air Quality, Environmental Protection Agency, Mail code: OAQ-107, 1200 Sixth Ave., Seattle, Washington 98101.

• Hand Delivery: Environmental Protection Agency, 14th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. AK-04-001. EPA's policy is that all comments received will be included in the public docket without change, 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 regulations.gov, or e-mail. The Federal regulations.gov Web site is 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 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:** Publicly available docket materials are available in hard copy at the Office of Air Quality, Environmental Protection Agency, Mail code: OAQ-107, 1200 Sixth Ave., Seattle, Washington 98101, open from 8 a.m.-4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number is (206) 553-1086. Copies of the submittal, and other information relevant to this proposal are available for public inspection during normal business hours at the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Connie Robinson, Office of Air Quality, Region 10, Mail code OAQ-107, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; telephone number: (206) 553-

1086; fax number: (206) 553-0110; e-mail address: [robinson.connie@epa.gov](mailto:robinson.connie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA. Information is organized as follows:

- I. General Information
- II. What Action is EPA taking?
- III. What is the background for this Action?
- IV. What Evaluation Criteria were used for the Maintenance Plan and Redesignation Request Review?
- V. EPA's Evaluation of the Anchorage Maintenance Plan and Redesignation Request
  - A. How does the State Show the Area Has Attained the CO NAAQS?
  - B. Does the Area have a fully approved SIP under section 110(k) of the Act and has the area met all the relevant requirements under section 110 and part D of the Act?
  - C. Are the Improvements in Air Quality Permanent and Enforceable?
  - D. Has the State Submitted a Fully Approved Maintenance Plan under section 175A of the Act?
  - E. Did the State provide adequate attainment year and maintenance year emissions inventories?
 

Table 1	Anchorage 2002 CO Attainment Year Actual Emissions and 2004, 2006, 2008, 2010, 2013, 2023 Projected Emissions (Tons CO/Winter Day)
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  - F. How will this action affect the oxygenated gasoline program in Anchorage?
  - G. How will the State continue to verify attainment?
  - H. What contingency measures does the State provide?
  - I. How will the State provide for subsequent maintenance plan revisions?
  - J. How does this action affect Transportation Conformity in Anchorage?
 

Table 2	Anchorage Maintenance Area Motor Vehicle Emissions Budgets through 2023 and beyond (Tons CO/Winter Day)
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- VI. Proposed Action
- VII. Statutory and Executive Order Reviews

**I. General Information**

*A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting Confidential Business Information (CBI).* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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 public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

**II. What Action Is EPA Taking?**

EPA is proposing to approve the Anchorage CO Maintenance plan and redesignate the Anchorage area from nonattainment for CO to attainment as requested by the Governor of Alaska on February 18, 2004. The maintenance plan demonstrates that Anchorage will be able to remain in attainment for the next 10 years. The Anchorage, Alaska CO nonattainment area is eligible for redesignation to attainment because air quality data shows that it has not recorded a violation of the primary or secondary CO air quality standards since 1996.

**III. What Is the Background for This Action?**

Upon enactment of the 1990 Clean Air Act Amendments (the Act), areas meeting the requirements of section 107(d) of the Act were designated nonattainment for CO by operation of law. Under section 186(a) of the Act, each CO nonattainment area was also classified by operation of law as either moderate or serious depending on the severity of the area's air quality problems. Anchorage was classified as a

moderate CO nonattainment area. Moderate CO nonattainment areas were expected to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Anchorage did not have the two years of clean data required to attain the standard by the required attainment date for CO moderate areas. Under section 186(a)(4) of the Act, Alaska requested and EPA granted a one-year extension of the attainment date deadline to December 31, 1996 (61 FR 33676, June 28, 1996). If a moderate CO nonattainment area was unable to attain the CO NAAQS by the attainment date deadline, the area was reclassified as a serious CO nonattainment area by operation of law. Anchorage was unable to meet the CO NAAQS by December 31, 1996, and was reclassified as a serious nonattainment area effective July 13, 1998.

On July 12, 2001, EPA made a determination based on air quality data that the Anchorage CO nonattainment area in Alaska attained the NAAQS for CO by December 31, 2000, the deadline for serious areas as required by the Act. (See 66 FR 36476, July 12, 2001.)

On January 4, 2002, the Alaska Department of Environmental Conservation submitted the Anchorage CO attainment plan as a revision to the Alaska SIP. We reviewed and subsequently approved the revision effective October 18, 2002. (See 67 FR 58711, September 18, 2002.)

#### **IV. What Evaluation Criteria Were Used for the Maintenance Plan and Redesignation Request Review?**

Section 107(d)(3)(E) of the Act states that EPA can redesignate an area to attainment if the following conditions are met:

A. The area has attained the applicable NAAQS.

B. The area has a fully approved SIP under section 110(k) of the Act and the area meets all the relevant requirements under section 110 and part D of the Act.

C. The air quality improvement is permanent and enforceable.

D. The area has a fully approved maintenance plan under section 175A of the Act.

#### **V. EPA's Evaluation of the Anchorage Maintenance Plan and Redesignation Request**

EPA has reviewed the State's maintenance plan and redesignation request. The following is a summary of EPA's evaluation and a description of how each of the requirements is met.

##### *A. How Does the State Show the Area Has Attained the CO NAAQS?*

To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard in a year at any monitoring site in the nonattainment area for at least two consecutive years. The proposed redesignation of Anchorage is based on air quality data that shows the CO standard was not violated from 1997 through 2003, or since. These data were collected by the Municipality of Anchorage (MOA) in accordance with 40 CFR 50.8, following EPA guidance on quality assurance and quality control, and entered in the EPA Air Quality System database. Since the Anchorage, Alaska area has complete quality-assured monitoring data showing attainment with no violations after 1977, the area has met the statutory criterion for attainment of the CO NAAQS and EPA has already found that the Anchorage area attained the NAAQS. The MOA has committed to continue monitoring in the area in accordance with 40 CFR part 58.

##### *B. Does the Area Have a Fully Approved SIP Under Section 110(k) of the Act and Has the Area Met All the Relevant Requirements Under Section 110 and Part D of the Act?*

Yes. Anchorage was classified as a moderate nonattainment area on enactment of the Act in 1990. Anchorage was unable to meet the CO NAAQS by December 31, 1996, and was reclassified a serious nonattainment area effective July 13, 1998. Therefore, the requirements applicable to the Anchorage nonattainment area for inclusion in the Alaska SIP included an attainment demonstration, base year emission inventory with periodic updates, an oxygenated gasoline program, basic motor vehicle inspection/maintenance (I/M) program, contingency measures, conformity procedures, and a permit program for new or modified major stationary sources. EPA has previously approved all elements required in the Alaska SIP.

##### *C. Are the Improvements in Air Quality Permanent and Enforceable?*

Yes. Emissions reductions were achieved through permanent and enforceable control measures in the attainment plan, including the Federal Motor Vehicle Control Program, establishing emission standards for new motor vehicles, an oxygenated gasoline program, and a basic I/M program.

The MOA has demonstrated that permanent and enforceable emission

reductions are responsible for the air quality improvement and the CO emissions in the base year are not artificially low due to a local economic downturn or unusual or extreme weather patterns. We believe the combination of certain existing EPA-approved SIP and Federal measures resulted in permanent and enforceable reductions in ambient CO levels that have allowed the area to attain the CO NAAQS.

##### *D. Has the State Submitted a Fully Approved Maintenance Plan Under Section 175A of the Act?*

Today's action by EPA proposes approval of the Anchorage CO maintenance plan. Section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation adequate to assure prompt correction of any air quality problems. Section 175(d) of the Act requires retention of all control measures contained in the SIP before redesignation as contingency measures in the CO maintenance plan. The oxygenated gasoline program, a control measure contained in the Anchorage SIP before redesignation, has been removed as a control measure and is now a primary contingency measure in the maintenance plan. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10-year period. The Anchorage CO maintenance plan meets the requirements of 175A.

##### *E. Did the State Provide Adequate Attainment Year and Maintenance Year Emissions Inventories?*

Yes. The MOA submitted comprehensive inventories of CO emissions from point, area and mobile sources using 2002 as the attainment year. Since air monitoring recorded attainment of CO in 2002, this is an acceptable year for the attainment year inventory. This data was then used in calculations to demonstrate the CO standard will be maintained in future years. The MOA calculated projected inventories for 2004, 2006, 2008, 2013 and 2023. Future emission estimates are based on forecast assumptions about growth in population, employment and transportation.

Mobile sources are the greatest source of CO. Although vehicle use is expected to increase in the future, more stringent Federal automobile standards and removal of older, less efficient cars over time will still result in an overall decline in CO emissions. The projections in the maintenance plan demonstrate that future emissions are not expected to exceed attainment year levels.

Total CO emissions were projected from the 2002 attainment year out to

2023. These projected inventories were prepared according to EPA guidance. Because compliance with the 8-hour CO standard is linked to average daily emissions, emission estimates reflecting a typical winter season day (tons of CO a day) were used for the maintenance demonstration. The MOA calculated these emissions without the implementation of the oxygenated gasoline program. The projections show that CO emissions calculated without the implementation of the oxygenated

gasoline program are not expected to exceed 2002 attainment year levels. The following table summarizes the 2002 attainment year emissions, and projects maintenance year emissions. The Anchorage Transportation Model was run for analysis years 2003, 2013 and 2023. Emissions for intervening years were calculated by a straight line interpolation; however, mobile source emission factors for all years evaluated were estimated by running MOBILE6.

TABLE 1.—ANCHORAGE 2002 CO ATTAINMENT YEAR ACTUAL EMISSIONS AND 2004, 2006, 2008, 2010, 2013, 2023 PROJECTED EMISSIONS  
[Tons CO/winter day]

Year	Mobile	Non-road	Area	Point	Total
2002	92.94	12.87	13.03	1.45	120.29
2004	92.34	13.36	13.24	1.48	120.42
2006	91.01	13.84	13.37	1.51	119.73
2008	71.46	14.32	13.49	1.53	100.80
2010	67.72	14.80	13.60	1.56	97.68
2013	62.91	15.52	13.81	1.60	93.84
2023	60.45	17.85	16.22	1.86	96.38

Detailed inventory data for this action is contained in the docket maintained by EPA.

*F. How Will This Action Affect the Oxygenated Gasoline Program in Anchorage?*

The oxygenated gasoline program has been removed as a control measure. The MOA’s maintenance demonstration shows the area is expected to continue to meet the CO NAAQS without the oxygenated gasoline program. The oxygenated gasoline program is a contingency measure in the maintenance plan.

*G. How Will the State Continue to Verify Attainment?*

Under 40 CFR part 58 and EPA’s Redesignation Guidance, the MOA has committed to analyze air quality data annually to verify continued attainment of the CO NAAQS. The MOA will also conduct a comprehensive review of plan implementation and air quality status eight years after redesignation. The State will then submit a SIP revision that includes a full emissions inventory update and provides for the continued maintenance of the standard for 10 years beyond the initial 10-year period.

*H. What Contingency Measures Does the State Provide?*

The oxygenated gasoline program, a control measure contained in the SIP before redesignation, is a primary contingency measure in the maintenance plan. This contingency

measure will be reinstated in the event of a quality-assured violation of the NAAQS for CO at any permanent monitoring site in the nonattainment area. A violation will occur when any monitoring site records two eight-hour average CO concentrations that exceed the NAAQS in a single calendar year. If triggered, this contingency measure would require all gasoline blended for sale in Anchorage to meet requirements identical to those of the oxygenated gasoline program. Implementation will continue throughout the balance of the CO maintenance period, or until a reassessment of the ambient CO monitoring data establishes the contingency measure is no longer needed and EPA agrees to a revision.

Maintenance projections presented by the MOA suggest the highest emissions will occur in the first few years (2004–2006) of the maintenance plan period. The MOA is implementing several new programs during the next few years. Transit service was expanded in July 2003 and additional route enhancements are slated to begin in 2004 and continue through 2006. The engine block heater and public awareness program will continue with a renewed focus on residential areas through 2006. Implementing these contingency measures provides an added measure of assurance of continued compliance with the NAAQS.

*I. How Will the State Provide for Subsequent Maintenance Plan Revisions?*

Under section 175Ab) of the Act, the State has agreed to submit a revised maintenance plan eight years after the area is redesignated to attainment. That revised SIP must provide for maintenance of the standard for an additional 10 years. It will include a full emissions inventory update and projected emissions demonstrating continued attainment for 10 additional years.

*J. How Does This Action Affect Transportation Conformity in Anchorage?*

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under 23 U.S.C. or the Federal Transit Act, must conform to the applicable SIPs. A transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. For transportation conformity and regional emissions analysis purposes, an emissions budget has been established for on-road motor vehicle emissions in the Anchorage maintenance area. The transportation

emissions budgets for the plan are shown in Table 2.

TABLE 2.—ANCHORAGE MAINTENANCE AREA MOTOR VEHICLE EMISSIONS BUDGETS THROUGH 2023 AND BEYOND  
[Tons CO/winter day]

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Budget .....	111.0	110.7	110.4	110.0	109.7	109.4	109.1	108.8	108.5	108.1
Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Budget .....	107.1	106.6	106.1	105.6	105.1	104.6	104.1	103.6	103.1	103.1

Emission budgets for years beyond 2023 are to be computed through linear extrapolation with the following equation: Mobile Source Emission Budget (tons per day) =  $0.438 \times \text{Year} - 2023 + 103.34$ .

EPA found these motor vehicle emissions budgets adequate for conformity purposes. See 69 FR 12651, March 17, 2004.

#### VI. Proposed Action

EPA is proposing approval of the Anchorage CO Maintenance Plan and redesignation of the Anchorage CO nonattainment area to attainment. This proposed redesignation is based on validated monitoring data and projections made in the maintenance demonstration. EPA believes the area will continue to meet the NAAQS for CO for at least 10 years beyond this redesignation, as required by the Act. Alaska has demonstrated compliance with the requirements of section 107(d)(3)(E) based on information provided by the MOA and contained in the Alaska SIP and Anchorage, Alaska CO maintenance plan. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the redesignation of the Anchorage CO nonattainment area to attainment.

#### VII. 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 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

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

##### 40 CFR Part 81

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

Dated: April 29, 2004.

**Julie Hagensen,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 04–10553 Filed 5–7–04; 8:45 am]

BILLING CODE 6560–50–P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 04–964; MB Docket No. 04–146; RM–10871]

##### Radio Broadcasting Services; Fort Rucker, Ozark & Slocomb, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Sytles Media Group, LLC and Sytles Broadcasting of Dothan, Inc. requesting the substitution of Channel 26C3C for Channel 263A at Fort Rucker, AL, reallocation of Channel 263C3 from