

would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this approval of Virginia's Enhanced Inspection and Maintenance Program

must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 1999. 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 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 16, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

#### Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(134) to read as follows:

##### § 52.2420 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(134) Revisions to the Virginia Regulations, Establishment of the Vehicle Emissions Inspection and Maintenance Program in the Northern Virginia Area, submitted on June 16, 1998, November 30, 1998, February 2, 1999 and February 22, 1999, by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letter of June 16, 1998 from the Virginia Department of Environmental Quality transmitting an Enhanced Vehicle Emissions Inspection Program for the Northern Virginia Area.

(B) Regulations for the Enhanced Motor Vehicle Emissions Inspection Program in the Northern Virginia Area: 9 VAC 5-91-10 *et seq.*

(C) Letter of November 30, 1998 from the Virginia Department of Environmental Quality transmitting an Alternative Program Credit Evaluation Program.

(D) Letter of February 2, 1999 from the Virginia Department of Environmental Quality, transmitting an Evaluation of

Virginia's Enhanced I/M Program Credits.

(E) Letter of February 22, 1999 from the Virginia Department of Environmental Quality, supplementing the November 30, 1998 transmittal.

(ii) Additional material.

(A) Remainder of June 16, 1998 submittal,

(B) Remainder of November 30, 1998 submittal, as supplemented on February 22, 1999, and

(C) Remainder of February 2, 1999 submittal.

#### § 52.2450 [Amended]

3. In section 52.2450, paragraphs (b), (c) and (d) are removed and reserved.

[FR Doc. 99-22452 Filed 8-31-99; 8:45 am]

BILLING CODE 6560-50-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AK-21-1709-a; FRL-6412-7]

### Approval and Promulgation of State Implementation Plans: Alaska

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves various amendments to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) for Alaska. These amendments to the Alaska State Air Quality Control Plan are contained in three separate submittals to EPA, dated February 6, 1997, June 1, 1998, and September 10, 1998.

The submittals include revisions to Alaska's Air Quality Control Regulations (18 AAC 50), Emissions Inspection and Maintenance (I/M) requirements for Motor Vehicles (18 AAC 52), and Fuel Requirements for Motor Vehicles (18 AAC 53).

In addition, the revisions include changing the I/M program schedule for cars subject to I/M from annual to biennial, replacing the CO contingency measures for Anchorage, updating Alaska's General and Transportation conformity programs, and streamlining several portions of the Alaska Air Quality Control Plan for more efficient reading and organization.

**DATES:** This direct final rule is effective on November 1, 1999 without further notice, unless EPA receives adverse comment by October 1, 1999. If adverse comment is received, EPA 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:** Written comments should be addressed to: Ms. Montel Livingston, SIP Manager, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ-107), Seattle, Washington 98101, and the Alaska Department of Environmental

Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Ms. Montel Livingston, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-0180.

**I. SUPPLEMENTARY INFORMATION:**

**Overview**

ADEC submitted three revisions to EPA over the course of two years for inclusion into its SIP. These revisions amend the I/M program in Anchorage and Fairbanks, CO contingency measures for Anchorage, various regulations, and streamline a wide variety of CO air quality plan descriptions for easier, more organized reading.

The information in this section is organized as follows:

- A. What SIP amendments is EPA approving?
- B. What are the significant changes to Alaska's CO air quality control plan?
- C. What are the significant changes to Alaska's I/M air quality program and regulations (AAC 52)?
- D. What are the overall changes to Alaska's regulations AAC 50 and 53?
- E. What are the effects to Alaska's transportation conformity program?

**A. What SIP Amendments Is EPA Approving?**

The following table outlines the revisions EPA received and is approving in this action:

Date of submittal to EPA	Items revised
2-6-97 .....	—Alaska State Air Quality Control Plan: Volume II, Section I. —Alaska State Inspection and Maintenance Program Manual. —Biennial Vehicle Inspection program. —Revised Rollback Calculation.
6-1-98 .....	—Emission Inspection and Maintenance Requirements.
9-10-98 .....	—Alaska State Air Quality Control Plan: Volume II, sections II and III. —Air Quality Control Regulations 18 AAC 50. —Fuel Requirements for Motor Vehicles: Regulations 18 AAC 53. —Anchorage Carbon Monoxide Contingency Measures. —Transportation Conformity.

**B. What Are the Significant Changes to Alaska's CO Air Quality Control Plan?**

- EPA approves a new CO contingency measure for Anchorage that replaces its past two CO contingency measures.

In the September 10, 1998 submittal from ADEC, ADEC requests EPA's approval of its new CO contingency measure, an enhanced technician training certification (TTC) program in Anchorage. The TTC contingency measure consists of additional local training and certification for mechanics. The TTC program includes a series of enhanced technician training modules aimed at competency areas such as electrical theory, emission control systems, electronic ignitions, fuel injection, on-board diagnostics, advanced diagnostic tools and procedures, oxygen sensors, catalytic converters, and the use of current analytical equipment.

The TTC program helps ensure that mechanics are trained to properly maintain and repair newer vehicles with advanced technology. It may also enhance efficiency, which would provide a cost benefit to consumers.

The TTC program, found in State regulation 18 AAC 52.400-410, was adopted by the State as a CO

contingency measure for Anchorage upon Anchorage's reclassification to a serious CO nonattainment area. In addition, the TTC program was already approved by EPA on February 14, 1996 (61 FR 5704) as a CO contingency measure for Fairbanks, Alaska.

The TTC program also becomes the contingency measure for the vehicle miles traveled (VMT) forecasting and tracking requirement found in section 187 of the Clean Air Act Amendments of 1990.

The two replaced contingency measures for Anchorage were (1) compressed natural gas vehicles (CNG) procurement requirements for government fleets, and, (2) the expansion of the oxygenated fuels program to the Matanuska-Susitna Valley. Both of these contingency measures were impractical to initiate upon Anchorage's CO reclassification to serious.

Using the CNG procurement requirements for government fleets as a contingency measure was determined unworkable at this time. Major issues included lack of a refueling infrastructure for CNG vehicles in and around Anchorage, and there are only selected models available now which are dedicated CNG vehicles certified to ultra low emission vehicle standards.

The extent of these issues were such that it would be infeasible to implement the CNG contingency measure in Anchorage and expect to gain meaningful reductions in emissions.

The second contingency measure was the expansion of the oxygenated fuels program. With the continued fleet turnover to newer, cleaner (technologically improved) cars, the information from the oxygenated fuels program in Anchorage indicates that oxyfuel expansion to the Matanuska-Susitna Valley was unlikely to provide the benefits originally projected.

Expanding the oxygenated gasoline control area to the Matanuska-Susitna Valley was inherently less cost effective than an oxyfuel requirement in Anchorage. Expanding the requirement to the valley is less effective because vehicles fueled in the valley spend less time, on average, traveling in the nonattainment area than those fueled in Anchorage itself.

Although the benefits of oxygenated gasoline were estimated on the basis of the best information available at the time, recent MOBILE model updates have suggested that oxygenated gasoline CO emission reductions may be overestimated in some cases. Extending the program to the valley is likely to

result in even smaller benefits than were originally anticipated in the plan.

EPA concurs with ADEC's request to repeal and replace the past contingency measures with the TTC program.

- *How does approval of the new contingency measure change Alaska's Air Quality Control Regulations in 18 AAC 53, Fuel Requirements for Motor Vehicles?*

Regulation 18 AAC 53.015, Expansion of Control Area (found under Chapter 53, Article I, Oxygenated Gasoline Requirements), is repealed. This regulation had served as a CO contingency measure for Anchorage and described the geographic boundaries of an expanded oxygenated fuels programs in Anchorage if implemented as a contingency measure.

- *The Rollback Modeling Calculation Used To Determine CO Emission Reductions Is Clarified*

ADEC typically uses rollback modeling to determine CO emission reductions needed to reach attainment of the CO national ambient air quality and standards (NAAQS). The rollback calculation determines a percentage reduction target by taking the ratio of the difference between the second highest CO exceedance value in the emission inventory base year and the ambient standard, and the second highest value in the base year adjusted for the ambient background concentration. ADEC clarifies in Alaska's CO SIP that the target CO level for SIP revisions is 9.0 ppm, or the CO NAAQS. Using 9 ppm as the appropriate target level gives ADEC the amount of control necessary to attain and maintain the CO NAAQS.

- *Long Term Air Quality Projections Are Updated.*

The on-road mobile source portion of Anchorage's 1990 base year CO emission inventory was updated, using MOBILE5a which was the latest emission estimation model available as of December 1, 1994. The 1993 periodic inventory was developed and adjusted for population growth factors, and for changes in the Inspection and Maintenance program. The 1995 projected year inventory was also developed and adjusted for population growth factors, and for changes in the inspection and maintenance program and oxygenated fuels program. Tables provide summaries of the 1990 base year and 1995 projected year emissions by source category. In addition, daily emissions are calculated.

Also, data was updated to include 1995 2nd highest 8-hour ambient CO

concentrations recorded at Anchorage monitoring sites.

In addition, best estimates of future VMT projections in Anchorage were completed through 1995.

- *Information is Streamlined and Reorganized in Alaska's CO SIP*

The numerous non-substantive reformatting and restructuring changes streamline the Alaska SIP and make for more efficient and customer-friendly reading. They collectively, rather than individually, result in a much more significant impact on the SIP's organization.

As an example, a table was created showing the 1998 Transportation Control Strategies for Anchorage. Headings include Federal Control Strategies, State Control Strategies, and Local Primary Control Strategies. Only one footnote accompanied the table, and that was an explanation of the oxygenated fuels program. The table is easy to understand and effectively summarizes important information.

Other similar edits and revisions found in Volume II, sections II and III of the State Air Quality Control Plan removed out-of-date references, eliminated duplicity and redundancy, reflected changes to Alaska's Inspection and Maintenance program, and generally reorganized for better sequence of information and requirements, while graphing projections and trends in population and average daily traffic.

### **C. What Are the Significant Changes to Alaska's I/M Air Quality Program and Regulations (AAC 52)?**

EPA approves all the changes to Alaska's I/M regulations submitted by the Alaska Department of Environmental Conservation (ADEC) on February 6, 1997 and June 1, 1998. The revisions include streamlining and clarifications that make requirements easier to understand. Following are some of the major changes to Alaska's I/M air quality program:

- *I/M Program Changes From Annual to Biennial*

In 1995, the Alaska State Legislature in Senate Bill 28 required that all State I/M programs implement biennial I/M testing beginning no later than January 1, 1997. In February 1997, ADEC submitted to EPA the updated State I/M regulations that reflect this change. Many States nationwide have changed their I/M programs from annual to biennial programs. This change has provided more convenience to vehicle owners (inspections are required less frequently, except when ownership of a

vehicle is transferred), only negligible increases in vehicle emissions, and improved I/M program efficiency. ADEC analyzed the impact of changing the I/M program from an annual to a biennial program on motor vehicle emissions and found it would not significantly impact emission reductions. The I/M regulations also reflect a change in fees. Alaska's I/M programs in Fairbanks and Anchorage are operated by local government, Fairbanks North Star Borough and the Municipality of Anchorage, respectively, who have the authority to set their own program fees. In addition, in June 1998 the vehicle inspection schedule was changed to match the vehicle registration schedule (required by Alaska Statute 28.10.108), resulting in vehicle inspection and registration occurring on the same biennial schedule. The certificate of inspection is \$18 in both Anchorage and Fairbanks. Anchorage has set a maximum of \$60 and Fairbanks \$35 for inspection testing.

- *Provisions for Waivers and Emissions-Related Repair Costs Changed*

The provisions for waivers granted to motorists from passing an I/M program inspection have been revised. Waivers are now valid for one inspection cycle (every two years), instead of for one year. ADEC offset the change by proposing more stringent requirements for repair cost waivers. Section 18AAC 52.065 ("Emissions-Related Repair Cost Minimum") was updated to require motorists to meet the minimum necessary repair costs of \$450 per inspection cycle before qualifying for a waiver, as opposed to spending a maximum of \$450 annually. The new requirements should increase the number of repairs completed, which could benefit air quality. This change should address public concern over waivers being valid for two years (one inspection cycle).

- *New Requirements for Dealers of Used Motor Vehicles*

In accordance with Alaska statute 45.45.400 ("Prohibited transfer of used motor vehicle"), the I/M regulations contain new requirements for dealers of used motor vehicles. The requirements apply only to cars tested by a dealership and held in inventory on a used car lot, since these cars are not likely to pollute the air. In general, an I/M certificate is good for one year for cars that are inspected while in the dealer's inventory or if the dealer registers the vehicle in the buyer's name. The new requirements are outlined in the I/M regulation under 18 AAC 52.020

("Certificate of Inspection Requirements").

- *ADEC's Dual Authority With an Implementing Agency Clarified*

The regulations clarify ADEC's dual authority with the implementing agencies, Fairbanks North Star Borough and the Municipality of Anchorage, under the provisions for enforcement procedures. ADEC has the authority to take an enforcement action against a motorist, certified mechanic, or station with or without the participation of the implementing agency to ensure compliance with enforcement provisions (18 AAC 52.100 and AAC 52.105).

- *Notice of Violation Provisions Pertaining to Motorist Updated*

More stringent enforcement procedures for violations by motorists are outlined in 18 AAC 52.100. "If a motorist fails to respond or provide appropriate proof of compliance with this chapter within 30 days after receiving a notice of violation," the implementing agency may refer the matter for prosecution under the provision of Alaska state law pertaining to Local Air Quality Control Programs (AS 46.14.400(j)) or as a Class A misdemeanor under the provision for Criminal Penalties (AS 46.03.790). The penalty for motorists who fail to respond to a notice of violation (or fail to provide appropriate proof of compliance) was changed from potential loss of vehicle registration to the possibility of prosecution under Alaska's misdemeanor statutes.

- *New Provision Allows for Visual Identification of Certificate of Inspection ("Sticker Program")*

A new provision allows the implementing agency to require a visual identification, such as windshield sticker or license plate tab, that clearly shows compliance with inspection requirements. A sticker program (or similar program) provides easy visual verification of program compliance, which improves enforcement and provides incentive to motorists to have their cars inspected. Details of this provision are outlined in 18 AAC 52.025.

- *Update to Requirements for Grey Market Vehicles*

Grey market vehicles are manufactured for use outside of, and imported into, the United States. The revised provision for grey market vehicles (18 AAC 52.080) reduces the requirements for issuing a certificate of inspection on a grey market vehicle

when it has a United States title. However, grey market vehicles are required to pass visual and functional inspections and/or tailpipe emission standards required by the I/M program manual. In addition, motorists are still required to obtain the applicable importation documents issued by EPA or the U.S. Department of Transportation.

### **D. What Are the Overall Changes to Alaska's Regulations AAC 50 and 53?**

EPA is approving in part and taking no action on the majority of Alaska's 18 AAC 50 Air Quality Control regulations.

#### *Approvals 18 AAC 50*

EPA is approving the following provisions of 18 AAC 50 as adopted by ADEC and effective on September 4, 1998: section 700; section 705; section 710; section 715; and section 720. These regulations relate to transportation conformity.

#### *No Action 18 AAC 50*

EPA is taking no action at this time on any of the 18 AAC 50 regulations submitted on September 10, 1998, with the exception of sections 700 through 720 which are approved. The regulations that are not being acted upon relate to the permitting of new and modified stationary sources or do not relate to the purposes of the SIP under section 110 of the Act or implement other provisions of the Clean Air Act.

#### *Approvals 18 AAC 53*

EPA is approving all of section of 18 AAC 53 regulations regarding fuel requirements for motor vehicles, with the exception of section 015 which is repealed (see below). These regulations had minor, non-substantive and streamlining changes.

#### *Repeals 18 AAC 53*

Regulation 18 AAC 53.015, Expansion of Control Area (found under Chapter 53, Article I, Oxygenated Gasoline Requirements), is repealed. This regulation had served as a CO contingency measure for Anchorage and described the geographic boundaries of an expanded oxygenated fuels programs in Anchorage if implemented as a contingency measure.

### **E. What Are the Effects to Alaska's Transportation Conformity Program?**

This action has no impact on the transportation emissions budget. However, the switch to biennial I/M does make it somewhat more difficult to demonstrate regional conformity, since it results in small increases in future emissions projections (while the

allowable emissions budgets do not increase). However, this impact has not caused a significant problem in continuing to demonstrate conformity in Anchorage and Fairbanks, largely due to the continued decline in projected emissions resulting from fleet turnover.

Updated baseline and attainment inventories are scheduled for Anchorage and Fairbanks as part of the revised air quality attainment plans that must be prepared due to the redesignation to serious CO nonattainment status. As part of this process, the biennial I/M programs will become part of both the baseline and attainment inventories (and thus emissions budgets associated with each inventory), thereby totally eliminating any impact on regional conformity determinations.

## **II. Summary of Action**

EPA approves the following SIP regulations submitted by the State of Alaska for inclusion into its SIP. EPA also approves some deletions (listed below) from the Alaska SIP, and takes no action on part of Alaska's submittal. The revisions pertain to the State's Carbon Monoxide Air Quality Control Plan; Transportation Conformity; and portions of Alaska regulations 18 AAC 50, 52 and 53.

EPA takes no action on the entire set of 18 AAC 50 regulations with the exceptions of: section 700; section 705; section 710; section 715; and section 720 which are approved by EPA. These section 700 regulations were effective September 4, 1998.

The 18 AAC 52 Inspection and Maintenance Air Quality Program and Regulations that are approved by EPA are: Effective January 1, 1998, section 005; section 010; section 015; section 020; section 025; section 035; section 037; section 050; section 060, except for subsections (8)(c), (8)(d)(2) and (8)(e); section 065; section 070; section 080; section 085; section 095; section 100; section 105; section 400; section 405; section 415, except subsection (f)(1); section 420, except subsection (a)(11); section 425; section 440; section 500; section 515; section 520, except subsection (c)(9); section 525; section 527; section 530, except subsections (b)(3), (c)(4)(C) and (d)(9); section 535; section 540; section 545; section 546; section 990.

Effective January 1, 1997: section 055; 090.

Remove the following provisions of 18 AAC 52: effective January 1, 1997, section 060, subsection 8(c) and 8(e); section 520, subsection (c)(9).

Remove the following provisions of 18 AAC 52: effective January 1, 1998: section 060, subsection 8(d)(2); section

415, subsection (f)(1); section 420, subsection (a)(11); section 530, subsection (b)(3) and (d)(9).

Remove the following provisions of 18 AAC 52, effective January 4, 1995: section 530, subsection (c)(4)(c).

The 18 AAC 53 Fuel Requirements for Motor Vehicles Regulations that are approved by EPA are: Effective October 31, 1997, section 05; section 07; section 10; section 20; section 30; section 35; section 40; section 45; section 60; section 70; section 80; section 90; section 200; section 105; section 120; section 130; section 140; section 150; section 160; section 170; and section 190; and effective September 4, 1998, 18 AAC 53.990.

Remove the following provision of 18 AAC 53.015, Expansion of Control Area, effective October 31, 1997.

In addition to the above regulations, the revisions submitted by ADEC include updates, streamlining, and editing to the narrative parts of its CO plan for easier reading and understanding.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 1, 1999 without further notice unless the Agency receives adverse comments by October 1, 1999.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 1, 1999 and no further action will be taken on the proposed rule.

### III. Administrative Requirements

#### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

#### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a

regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be Economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks

#### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments To provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must

prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### H. Petitions for Judicial Review

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 November 1, 1999. 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 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 22, 1999.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(29) to read as follows:

##### § 52.70 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(29) The Environmental Protection Agency (EPA) approves various amendments to the Alaska State Air Quality Control Plan which are contained in three separate submittals to EPA, dated February 6, 1997, June 1, 1998, and September 10, 1998, and which include the inspection and maintenance program.

(i) Incorporation by reference.

(A) Air Quality Control Regulations, 18 AAC 50. Effective September 4, 1998: Section 700; Section 705; Section 710; Section 715; and Section 720.

(B) Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. (1) Effective January 1, 1998: Section 005; Section 010; Section 015; Section 020; Section 025; Section 035; Section 037; Section 050; Section 060, except for subsections (8)(c), (8)(d)(2) and (8)(e); Section 065; Section 070; Section 080; Section 085; Section 095; Section 100; Section 105; Section 400; Section 405; Section 415, except subsection (f)(1); Section 420, except subsection (a)(11); Section 425; Section 440; Section 500; Section 515; Section 520, except subsection (c)(9); Section 525; Section 527; Section 530, except subsections (b)(3), (c)(4)(C) and (d)(9); Section 535; Section 540; Section 545; Section 546; Section 990.

(2) Effective January 1, 1997: Section 055; 090.

(3) Remove the following provisions of 18 AAC 52, effective January 1, 1997: Section 060, subsection 8(c) and 8(e); Section 520, subsection (c)(9).

(4) Remove the following provisions of 18 AAC 52, effective January 1, 1998: Section 060, subsection 8(d)(2); Section 415, subsection (f)(1); Section 420, subsection (a)(11); Section 530, subsection (b)(3) and (d)(9).

(5) Remove the following provisions of 18 AAC 52, effective January 4, 1995: Section 530, subsection (c)(4)(c).

(C) Fuel Requirements for Motor Vehicles 18 AAC 53.

(1) Effective October 31, 1997: Section 05; Section 07; Section 10; Section 20; Section 30; Section 35; Section 40; Section 45; Section 60; Section 70; Section 80; Section 90; Section 200; Section 105; Section 120; Section 130; Section 140; Section 150; Section 160; Section 170; Section 190 and effective September 4, 1998, Section 990.

(2) Remove the following provision of 18 AAC 53.015, Expansion of Control Area, effective October 31, 1997.

(ii) Additional material.

(A) Revisions to Alaska's State Air Quality Control Plan, Volume II: Section I, "Background," I.A.; I.B., I.C., I.D., and I.E., adopted 11/26/96; Part B—Anchorage Contingency Measures, adopted 5/18/98; Section II, "State Air Quality Control Program," pages II-1 through II-4, adopted 5/18/98; Section III.A. "Statewide Carbon Monoxide Control Program," pages III.A.1-1 through III.A.3-4, adopted 5/18/98; III.B. "Anchorage Transportation Control Program," pages III.B.1-1 through III.B.6-7, adopted 5/18/98; III.B.8. "Modeling and Projections," pages III.B.8-1 through III.B.9-2, adopted 5/18/98; III.B.10, "Anchorage Air Pollution Episode Curtailment Plan," pages III.B.10-1 and III.B.10-2, revised 12/19/93; III.B.11. "Assurance of Adequacy," pages III.B.11-1 through III.B.11-3, revised 5/18/98; III.B.12. "Emissions Budget," page III.B.12-1, adopted 11/26/96; and various CO SIP streamlining edits throughout Volume II and Volume III of the State Air Quality Control Plan which make the document easier to read and better organized, adopted 5/18/98.

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