

or direct the source in following the correct permit procedures. Since small source permits are not subject to a public comment period or review by USEPA, they are not federally enforceable and cannot be used to limit sources' potential to emit and thereby exempt them from the requirements of the title v operating permit program.

(i) Incorporation by reference. Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board.

(A) Subchapter a: Permits and General Provisions, Part 201: Permits and General Provisions.

(1) Subpart D: Permit Applications and Review Process, Section 201.162 Duration and Section 201.163 Joint Construction and Operating Permits. Amended at 17 Ill. Reg., effective December 7, 1993.

(2) Subpart E: Special Provisions for Operating Permits for Certain Smaller Sources, Section 201.180 Applicability, Section 201.181 Expiration and Renewal and Section 201.187 Requirement for a Revised Permit Added at 17 Ill. Reg., effective December 7, 1993.

(B) Subchapter C: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.5500 Regulated Air Pollutant. Adopted at 17 Ill. Reg., effective December 7, 1993.

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## 40 CFR Part 52

[AK7-1-6588a; FRL-5171-5]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA approves the State Implementation Plan (SIP) revision submitted by the state of Alaska. This revision establishes and requires the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the Municipality of Anchorage (MOA) and the Fairbanks North Star Borough (FNSB). The intended effect of this action is approval of a basic motor vehicle I/M program. This action is being taken under Section 110 of the Clean Air Act.

**DATES:** This final rule is effective on June 5, 1995 unless adverse or critical comments are received by May 5, 1995. If the effective date is delayed, timely

notice will be published in the **Federal Register**.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT-082), 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, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Christi Lee, EPA, Air and Radiation Branch (AT-082), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-1814.

#### SUPPLEMENTARY INFORMATION:

##### I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAAA or Act), requires states to make changes to improve existing I/M programs or implement new ones. Section 187(a)(4) and section 182(a)(2)(B) requires any carbon monoxide (CO) nonattainment area which has been classified as "moderate" (pursuant to section 181(a) of the Act) or worse with an existing I/M program that was part of a SIP, or any area that was required by the 1977 Amendments to the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level required in past EPA guidance or to what had been committed to previously in the SIP whichever was more stringent.

In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the Act to have an I/M program.

On November 5, 1992 (57 FR 52950), the EPA published a final regulation establishing the I/M requirements, pursuant to section 182 and 187 of the Act. The I/M regulation was codified at 40 CFR part 51, Subpart S, and requires states to submit an I/M SIP revision which includes all necessary legal

authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993. The state of Alaska has met these requirements.

The EPA has designated two areas as CO nonattainment in the state of Alaska. The Anchorage CO nonattainment area, classified as Moderate greater than or equal to 12.7 ppm, is bounded by the Municipality of Anchorage (MOA) urban area. The Fairbanks CO nonattainment area, classified as Moderate less than or equal to 12.7 ppm, is bounded by the Fairbanks North Star Borough (FNSB) urban area. The nonattainment and boundary designations for CO were published in the **Federal Register** (FR) on November 6, 1991, and November 30, 1992, and have been codified in the Code of Federal Regulations (CFR). See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300-81.437. Based on these nonattainment designations, basic I/M programs are required in both the Anchorage and Fairbanks nonattainment areas.

By this action, the EPA is approving this submittal. The EPA has reviewed the state submittal against the statutory requirements and for consistency with the EPA regulations. EPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350-51.373 and its analysis of the state submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 FR notice (57 FR 52950) or 40 CFR 51.350-51.373.

##### II. Background

On July 11, 1994 the state of Alaska submitted to EPA a SIP revision for a basic I/M program that had an adequate public notice and public hearing process (May 19, 1994) and was adopted on June 9, 1994. The Lieutenant Governor filed revisions to 18 AAC 52 on May 25, 1994, and the Air Quality Control Plan revisions on July 6, 1994, becoming effective on June 24, 1994 and August 5, 1994, respectively.

The July 11, 1994 SIP revision was reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V. The submittals were found to be complete and a letter dated July 15, 1994 was forwarded to the Governor of Alaska indicating the completeness of the submittal.

##### III. State Submittal

Both Anchorage and Fairbanks are classified as moderate CO nonattainment areas. Since the 1980

census population of each urbanized area was under 200,000, neither community is required to implement an enhanced I/M program. The state submittal provides for upgrading the existing I/M programs to EPA approved basic I/M programs in the Municipality of Anchorage (MOA) and Fairbanks North Star Borough (FNSB). Both the MOA and the FNSB programs will consist of annual, decentralized, test-and-repair which meets the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule. All testing will be performed by certified stations or referee facilities. Other aspects of the Alaska I/M program include: an "Valley" I/M program for vehicles commuting into Anchorage from the Matanuska-Susitna (Mat-Su) borough, testing of 1968 and later vehicles in Anchorage and testing of 1975 and later vehicles in Fairbanks, a test fee to ensure the state has adequate resources to oversee the implementing agencies and implement the valley program, enforcement by registration denial, commitment to testing convenience, quality assurance, data collection and analysis, reporting, test equipment and test procedure specifications, commitment to ongoing public information, inspector training and certification, and penalties against inspector incompetence. An analysis of how the Alaska I/M program meets the Federal SIP requirements (by section of the Federal I/M rule) is provided below.

#### A. Applicability

The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries.

The Alaska I/M program specified in 18 AAC 52 is divided into two programs (Anchorage and Fairbanks), based on the designated implementing agency. Both programs are locally implemented and operated, with the MOA and the FNSB having legal and administrative responsibility for their respective programs. The existing programs cover the entire MOA and FNSB. An additional I/M program, Matanuska-Susitna Valley (Valley) is not linked to a specific geographical area, but is aimed at vehicles that are regularly operated in but not registered in the Anchorage I/M program area. The Alaska Department of Environmental Conservation (ADEC) is responsible for administering the Valley I/M program. The state regulations establishing Alaska's I/M program requirements and boundaries are included in 18 AAC 52.

#### B. Basic I/M Performance Standard

The I/M programs provided for in the SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met. The state has submitted a modeling demonstration using the EPA computer model, MOBILE 5a showing that the basic performance standard is met for both Anchorage and Fairbanks I/M programs.

#### C. Network Type

The SIP needs to include a description of the network to be employed, the required legal authority, and, in the case of areas making claims for case-by-case equivalency, the required demonstration.

Alaska has chosen to implement decentralized, test-and-repair I/M programs which are managed and operated by MOA, FNSB and the state with a small amount of contractor support.

Legal authority contained in AS 46.03.020(10), 46.14.030 and 46.14.510; and 18 AAC 52.045 authorizes the state to implement this program.

#### D. Adequate Tools and Resources

The SIP needs to include a description of the resources that will be used for program operation, which includes: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The Alaska I/M program as stipulated in 18 AAC 52.020 is funded solely by collection of a ten dollar certificate of inspection fee assessed to each vehicle passing the I/M test. Legal authority contained in AS 44.46.025 authorizes the state to collect fees for this program. The MOA, FNSB and the state commit to providing the necessary administrative, personnel, and equipment resources to fully implement and maintain the Alaska I/M program. The I/M programs will be carried out

under local or state oversight, with assistance from contractors. In the event that either the MOA or FNSB is unable or unwilling in the future to provide adequate tools or resources, the state commits to take over the administration of the program (18 AAC 52.030).

The SIP narrative also describes the budget, staffing support, and equipment needed to implement the program. The MOA funds approximately 7.0 full-time employees (FTE), the FNSB funds 3.5 FTE and the state funds .25 FTE. The MOA and the state will utilize 3.0 FTE contractor personnel to support their programs.

Referee facilities in the MOA and FNSB provide public information and assistance, motorist and certified mechanic assistance, referee functions, and training and testing of inspectors and certified mechanics. The MOA program, which incorporates the Valley program, contracts out for referee facility services while the FNSB referee facility is operated by FNSB staff.

#### E. Test Frequency and Convenience

The SIP needs to include the test schedule in detail including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

The MOA and FNSB I/M programs require annual inspections for all subject motor vehicles (18 AAC 52.005). However, an implementing agency may, with approval from ADEC and the DMV, authorize the owner or lessee of a vehicle to obtain a biennial certificate of inspection during the first six years of vehicle life, if the failure rates of the designated categories of vehicles are below a minimum rate set by the implementing agency and approved by ADEC (18 AAC 52.035(e)). In addition the MOA exempts new vehicles from their first annual inspection.

Since the test-and-repair inspection program has been in operation since 1985 for both programs, no special start-up testing scheme is required. The network is satisfactorily addressed in the SIP.

Legal authority for registration and testing of used vehicles newly arriving into the I/M area is contained in AS 46.14.510 and 18 AAC 52.005.

#### F. Vehicle Coverage

The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are

routinely operated in the area but may not be registered in the area. Also, the SIP needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

In the MOA, program coverage includes all 1968 and newer model year light-duty cars and trucks and heavy-duty gasoline powered trucks, registered or required to be registered within the nonattainment areas. The FNSB program covers the above vehicles from 1975 and newer. Vehicles will be identified through the state of Alaska's Driver and Motor Vehicle Services database. In addition, any 1968 or newer model used to commute into MOA is subject to I/M testing through the Valley program.

Fleet vehicles are subject to the same program requirements and testing procedures as other vehicles. However, fleets are allowed to self-test, as long as they are certified as official test stations; they must use certified I/M mechanics; all tests and certificate issuance must be conducted using certified Alaska BAR-90 TAS; and they must comply with all other I/M program requirements. Fleet licenses can be removed if fleet operation does not meet standards.

The FNSB vehicles that obtain seasonal exemptions are subject to the program but prohibited from being driven during the winter CO season. Approximately 4,000 FNSB vehicles are in this category. Since they are not operated during the CO nonattainment period there is no discounting of those vehicles.

In addition to the required I/M programs, ADEC is now subjecting those vehicles registered outside the MOA but primarily operated within the MOA to a Mat-Su Valley I/M program. The Valley program has the same basic design features as the Anchorage program.

Further, vehicles registered in one AK I/M area but primarily operated in the other may be tested in either area, but must pass an annual I/M test.

#### G. Test Procedures and Standards

The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance or law describing and establishing the test procedures.

The legal authority to establish test procedures and standards is contained

in AS 46.03.020, 46.14.030 and 46.14.510. Written test procedures for a 2-speed idle test and pass/fail standards for all subject vehicles have been established. All vehicles are subject to the HC and CO emission cutpoints set forth in 18 AAC 52.050, and repairs must be made if a vehicle fails any of these cutpoints.

#### H. Test Equipment

The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Alaska I/M SIP commits to meeting the California BAR 90 accuracy standards. The SIP addresses the requirements in 40 CFR 51.358 and includes descriptions of performance features and functional characteristics of the computerized test systems in the submitted respective program design documents. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

#### I. Quality Control

The SIP needs to include a description of quality control and recordkeeping procedures. The SIP needs to include the procedures manual, rule, and ordinance or law describing and establishing the procedures of quality control and requirements.

The Alaska I/M SIP narrative contains descriptions and requirements establishing quality control procedures which are similar but not identical to the Federal I/M rule. Alaska's program provides for less frequent calibration requirements than the federal I/M rule requires. However, the frequency requirements for gas calibrations and leak checks contained in the Alaska BAR-90 Test Analyzer Systems are identical to those contained in the current California BAR-90 specification. In addition, Alaska's program does not require ambient zero air to be drawn from outside the test bay due to the extreme weather conditions in Alaska. EPA believes there is adequate justification for these exceptions. Alaska's quality control procedures will help ensure that equipment calibrations are properly performed and recorded as well as maintaining compliance document security.

#### J. Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the state needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

Legal authority to issue waivers and administer the waiver system is contained in AS 46.03.020, 46.14.030 and 46.14.510. Under 18 AAC 52.060 waivers may be issued in the Alaska I/M programs for the following reasons: repair cost exceedance, diesel engine, seasonal waiver, special circumstances that make it impractical to test a vehicle, modification to the dedicated use of an approved alternate fuel, out-of-area use, economic hardship, parts unavailability or grey market vehicle.

For the MOA and state programs, necessary emissions-related repairs must be made up to a maximum annual repair cost of \$450 for non-tampering-related repairs. The FNSB program has a minimum annual repair cost of \$350 for non-tampering-related repairs. For all programs a maximum annual repair cost of \$500 exists for vehicles tampered with prior to July 1, 1985. If the least expensive repair would be in excess of \$500, then one repair must be made regardless of cost. Vehicles that have been tampered with since July 1985 must be completely repaired, regardless of cost.

A waiver rate of 1% is assumed for both the MOA and FNSB. If the waiver rate for either program, as reported to EPA in the annual Alaska I/M report, is higher, the state will take corrective action to lower the applicable waiver rate by possibly requiring motorists that apply for a waiver to reduce initial emissions by a specified amount before a waiver may be issued or limiting the model years that are eligible for a waiver or limiting waivers on vehicles to only one inspection cycle. If any of the waiver rates cannot be lowered to the level committed to in the SIP, the state

will revise the I/M emission reduction projections in the SIP and will implement other program changes as necessary to ensure the performance standard is met.

The seasonal waiver is issued to a vehicle owner who agrees that the vehicle will not be operated in an I/M area during the winter CO season. Vehicles which acquire such waivers are issued different colored license tabs, to make it easier to identify seasonally waived vehicles that are being operated illegally during winter months. If a motorist violates the seasonal waiver, no seasonal waiver may be issued in the future to any vehicle owned by that motorist.

#### *K. Motorist Compliance Enforcement*

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program will be implemented, primarily, by Alaska's Department of Motor Vehicle Services (DMV), which will ensure that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test or a valid I/M waiver, which was issued within a 90-day period prior to the registration renewal date. Owners of noncomplying vehicles operating illegally in I/M areas will be identified and issued notices of violation (NOV). A vehicle owner that is

issued an NOV will have 30 days to provide proof of I/M compliance. The I/M programs will request DMV to revoke the vehicle's registration in cases of continued noncompliance. The Alaska State Troopers and local law enforcement agencies will provide on-road enforcement of the program.

In addition, the Department will identify program evaders and other noncomplying vehicles (e.g. out-of-area commuter vehicles) through interactive searches of several databases. Owners of vehicles identified in this manner will be notified by the Department of the need to obtain an annual inspection.

The following vehicle types are exempt from the Alaska I/M program: A vehicle not principally located or operated in an I/M area; a 1967 or older vehicle for the MOA program (1974 or older in the FNSB program); a new vehicle with less than 2,500 miles; a gasoline-powered vehicle that is 12,000 pounds unladen weight or heavier, a special test vehicle that has received a state exemption; a military tactical vehicle; motorcycles, golf carts, all-terrain vehicles, snow machines and mopeds; and a vehicle in Alaska for less than 30 days.

All fleet vehicles, including rental cars, are subject to the same program requirements and testing procedures as other vehicles. Leased vehicles and other vehicles subject to one of the Alaska programs but not necessarily registered in an I/M area must also comply with all applicable program requirements.

The state commits to the level of enforcement needed to ensure compliance rates of no less than 95 percent and 96 percent, in the MOA and FNSB respectively. The legal authority to implement and enforce the program is included in AS 46.03, 46.014 and 18 AAC 52.100.

#### *L. Motorist Compliance Enforcement Program Oversight*

The SIP needs to include a description of enforcement program oversight and information management activities.

ADEC will audit the local I/M programs on a regular basis, and will implement a quality assurance program to ensure effective overall performance of the enforcement systems in both areas. ADEC will allow EPA to conduct regular audits of the I/M enforcement program. ADEC, MOA, and FNSB will also perform periodic parking lot surveys to assess the compliance rate of the in-use fleet.

#### *M. Quality Assurance (QA)*

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Alaska I/M SIP includes a description of its quality assurance program. The ongoing QA program will be conducted to discover, correct and prevent fraud, waste, and abuse. The program includes quarterly performance audits following established written procedures, performed at certified I/M stations. The audits will include, at a minimum, checks for appropriate certificate security, recordkeeping practices, proper display of licenses and other required information, proper maintenance and calibration of the TAS, and ability of the certified mechanic to properly perform an I/M test.

In addition to the quarterly audit, overt and covert vehicle audits will be conducted on an unscheduled and as-needed basis. Alaska has proposed the following exceptions to the federal performance audit requirements provided under 40 CFR 51.363(a): the state will perform one quarterly audit per facility (i.e. four audits per station per year), plus at least one overt vehicle audit per station per year. EPA believes this to be adequate to ensure program quality and comply with the federal I/M rule. Alaska also believes that the remote covert auditing requirement is infeasible in Alaska due to the state's unique weather conditions, and resultant station design and operation. Unlike most other states, inspections in Alaska are conducted in enclosed test stations where remote covert observations are impossible, particularly during the wintertime. The state believes that other performance tracking and auditing tools dramatically reduce the need to use remote covert audits to maintain effective quality assurance and compliance enforcement programs against certified stations and mechanics. Given Alaska's unique circumstances EPA concurs.

Test records will be audited on a monthly basis, using established written procedures to assess individual certified mechanic and station performance. Equipment audits will be performed during each quarterly performance audit, using established written procedures, to ensure the accuracy and reliability of all required test equipment. Each I/M inspector will be formally

trained and knowledgeable in all aspects of the I/M program. Ongoing training will be provided to I/M inspectors to insure that they maintain an adequate level of knowledge. The performance of each I/M inspector will be evaluated at least once annually to identify any possible problem areas.

#### *N. Enforcement Against Contractors, Stations and Inspectors*

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In states without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

Under the Administrative Procedures Act (AS 44.62), the Department or other I/M implementing agency must provide notice and opportunity for hearing before suspending, revoking, or refusing to renew a station's or mechanic's certification issued under 18 AAC 52 or the MOA or FNSB local implementing ordinances. In addition, neither the Department nor the local I/M implementing agencies have citation powers under Alaska Statute. As a result of these factors, Alaska is unable to comply with requirements contained in 40 CFR 51.364 for the imposition of mandatory minimum penalties or the immediate suspension of station or mechanic certifications. If the Department files a civil action under AS 46.03.760, there are mandatory court imposed damages of \$500 for the first day. Because of this, the state is proposing an alternative enforcement mechanism which will allow the I/M office to issue an NOV upon finding a violation of the I/M program requirements. A hearing will be held within three working days of the NOV which will allow penalties to be assessed depending on the nature and severity of the violation. If the hearing

results support a serious violation the station or mechanic's certification will be suspended for a minimum of 6 months under the Department's emergency powers authority, if the criteria for an emergency exists as provided in AS 46.03.820. Continued violation of program requirements may result in permanent revocation of certification under 18 AAC 52, after notice and opportunity for hearing, or the filing of a civil or criminal action against a certified station or mechanic under AS 46.03.760 or 46.03.790. A finding of incompetence will result in mandatory training before inspection privileges are restored. EPA concludes that this satisfies federal requirements for enforcement against contractors and inspectors.

#### *O. Data Analysis and Reporting*

The SIP needs to describe the types of data to be collected. The SIP commits ADEC to submitting an annual report to EPA by July of each year, which will cover the preceding calendar year and contain statistics for the I/M test data, quality assurance results, quality control activities, and enforcement activities. In addition, the state commits to submitting a biennial report on the overall status of the Alaska I/M program to EPA. At a minimum, Alaska commits to address all of the data elements listed in 51.366 of the federal I/M rule.

#### *P. Inspector Training and Licensing or Certification*

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

Under 18 AAC 52, and the MOA and FNSB I/M implementing ordinances, formal training and licensing is required for all inspectors (certified mechanics). The Alaska I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training will include all elements required by 51.367(a) of the EPA I/M rule. Certification is good for a period of two years, with passage of a refresher training course required for license renewal.

#### *Q. Improving Repair Effectiveness*

The SIP needs to include a description of the technical assistance program to be implemented, and a description of the repair technician training resources available in the community.

The Alaska SIP commits the Department to working with MOA and FNSB to assist the motor vehicle industry in properly diagnosing and

repairing emission-related defects. This assistance will include each program's establishment of a telephone hotline service to assist certified mechanics and other qualified technicians with specific repair problems. Mechanics newsletters will also be distributed to all certified mechanics on an as-needed basis, to inform them of program changes, training course schedules, common problems being experienced in the I/M program, and diagnostic tips.

PC-based I/M management software will be used to provide the I/M programs with station and mechanic specific estimates of repair effectiveness. Effectiveness estimates applicable to each certified station will be distributed by the I/M program to that station on at least an annual basis.

#### **IV. This Action**

The EPA is approving the Alaska I/M SIP (Section 3.1, OAR 340-24-300 through 340-24-355; and section 5.4) as meeting the requirements of the CAAA and the Federal I/M rule. All required SIP items have been adequately addressed as discussed in this **Federal Register** action.

#### **V. Administrative Review**

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *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 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.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse

comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 5, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 5, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 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 June 5, 1995. 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), 42 U.S.C. 7607(b)(2).

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

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

**Note:** Incorporation by reference of the Implementation Plan for the state of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: March 2, 1995.

**Chuck Clarke,**  
*Regional Administrator.*

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. 7401-7671q.

**Subpart C—Alaska**

2. Section 52.70 is amended by adding paragraph (c) (21) to read as follows:

**§ 52.70 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(21) On July 11, 1994 ADEC submitted a SIP revision for a basic motor vehicle inspection and maintenance (I/M) program in the Municipality of Anchorage (MOA) and the Fairbanks North Star Borough (FNSB).

(i) Incorporation by reference.

(A) July 11, 1994 letter from the Governor of Alaska to the Regional Administrator of EPA submitting Alaska's amendments to the Air Quality Control Plan and to 18 AAC 52, Emissions Inspection and Maintenance Requirements for Motor Vehicles; the amendments to 18 AAC 52 (52.005, .015, .020, .030, .035, .040, .045, .050, .055, .060, .065, .070, .075, .080, .085, .090, .095, .100, .105, .400, .405, .410, .415, .420, .425, .430, .440, .445, .500, .505, .510, .515, .520, .525, .527, .530, .535, .540, .545, .550, and .990), effective February 1, 1994; and the State Air Quality Control Plan, Vol. II: Analysis of Problems, Control Actions, Modifications to Section I, June 9, 1994; Vol. II: Analysis of Problems, Control Actions, Modifications to Section I, II, III and V, adopted January 10, 1994; Vol. III: Appendices, Modifications to Section III.A, June 9, 1994; Vol. III: Appendices, Modifications to Section III.B, June 9, 1994; and Vol. III: Appendices, Modifications to Section III.C, June 9, 1994.

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BILLING CODE 6560-50-P

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

**43 CFR Part 12**

**RIN 1090-AA42**

**Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations**

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Final rule.

**SUMMARY:** This action finalizes an interim final rule the Department published in response to the publication by the Office of Management and Budget (OMB) of revised OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

Agencies were required to adopt those standards which would be imposed on grantees in codified regulations within six months after publication in the

**Federal Register.**

Over 200 comments were received by OMB from Federal agencies, non-profit organizations, professional organizations, and others in response to the notice published on August 27, 1992, (57 FR 39018) requesting comments on proposed revisions. The comments were considered in developing the final version. Consequently, the Department published an interim final rule because of the previous request for comment process used in the development of the Circular, the large number of comments already received and considered by OMB and the Federal agencies, and due to the limited flexibility to revise the rule provided by OMB.

**EFFECTIVE DATE:** May 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dean A. Titcomb, (Chief, Acquisition and Assistance Division), (202) 208-6432.

**SUPPLEMENTARY INFORMATION:** OMB Circular A-110 (58 FR 62991) covers both grants made by Federal agencies and subgrants made by States to nongovernmental organizations.

Following the August 26, 1994, publication in the **Federal Register** (59 FR 44040), no public comments were received by the Department.

This final rule essentially adopts all the language in the Circular with two exceptions. At Section 12.904, language has been added to describe the procedure for handling requests for