

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Dated: January 23, 1997.

Steve Rothblatt,

Acting 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 O—Illinois**

2. Section 52.726 is amended by adding paragraph (o) to read as follows:

**§ 52.726 Control strategy: Ozone.**

\* \* \* \* \*

(o) Negative declaration— Aerospace manufacturing and rework industry. On October 11, 1996, the State of Illinois certified to the satisfaction of the United States Environmental Protection Agency that no major sources categorized as part of the Aerospace Manufacturing and Rework Industry are located in the Chicago, Illinois ozone nonattainment area which is comprised of Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County or the Metro-East, Illinois ozone nonattainment area which is comprised of Madison, Monroe, and St. Clair Counties.

[FR Doc. 97-3252 Filed 2-10-97; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[AK14-7102a; FRL-5686-2]

**Clean Air Act Approval and Promulgation of Carbon Monoxide Implementation Plan for the State of Alaska: Anchorage and Fairbanks Emission Inventory**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the 1990 base year carbon monoxide (CO) emission inventory portion of the Anchorage and Fairbanks, Alaska CO State Implementation Plan (SIP) submitted on December 29, 1993, by the State of Alaska Department of Environmental Conservation (ADEC) for the purpose of bringing about the

attainment of the national ambient air quality standard (NAAQS) for CO. Also, ADEC submitted the required Periodic Update to its 1990 base year CO emission inventory on September 27, 1996.

**DATES:** This action is effective on April 14, 1997 unless adverse or critical comments are received by March 13, 1997. 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, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

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 Alaska Department of Environmental Conservation, 410 Wiloughby Ave., Room 105, Juneau, Alaska.

**FOR FURTHER INFORMATION CONTACT:** John Pavitt, EPA Region 10, Alaska Operations Office (AOO/A), 222 W. 7th Avenue, Box #19, Anchorage, AK 99513-7588, (907) 271-5083.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In a letter dated March 1, 1991 to the EPA Region 10 Administrator, the Governor of Alaska recommended the Anchorage and Fairbanks areas be designated as nonattainment for CO as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAAA or the Act) (Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q). The areas, which include lands within the Municipality of Anchorage and the Fairbanks North Star Borough, were designated nonattainment and classified as "moderate" under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694, November 6, 1991, codified at 40 CFR part 81, § 81.302.)

Because the Anchorage area had a design value of 13.1 ppm (based on 1989 data), it was classified as "moderate > 12.7 ppm" (moderate plus). Because the Fairbanks area had a design value of 10.4 (based on 1989 data), it was classified as "moderate < 12.7 ppm" (moderate).

Under the Clean Air Act as amended, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas

towards attainment. Under section 187(a)(1), the CAAA requires moderate CO nonattainment areas to submit a base year CO inventory that represents actual emissions in the CO season by November 15, 1992. Stationary point, stationary area, on-road mobile, and non-road mobile sources of CO are to be included in the inventory. This inventory is for calendar year 1990 and is denoted as the base year inventory. The inventory is to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO air quality concentrations occur. Moderate CO nonattainment areas are required to submit a periodic inventory that represents actual emissions no later than September 30, 1995, and every three years thereafter until the area is redesignated to attainment (section 187(a)(5)). ADEC submitted its required 1993 Periodic Update. Areas classified as moderate >12.7 ppm are required to submit an attainment demonstration plan by November 15, 1992 that demonstrates attainment by December 31, 1995 (187(a)(7)). To make the attainment demonstration, base year and projected modeling inventories are needed. The base year inventory is the primary inventory from which the periodic and modeling inventories are derived. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans," EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991.

**II. Today's Action**

The EPA is approving the carbon monoxide (CO) base year 1990 emission inventory submitted to EPA on December 29, 1993, based on the Level I, II, and III review findings.

**III. Review of State Submittal**

A. The Level I and II review process is used to determine that all components of the base year inventory are present. The review also evaluates the level of supporting documentation provided by the State and assesses whether the emissions were developed according to current EPA guidance. Alaska's inventory satisfies both Level I and Level II requirements. The Level III review process is outlined here and consists of 9 points that the inventory must include. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) must be provided and the Quality Assurance (QA) program

contained in the IPP must be performed and its implementation documented.

2. Adequate documentation must be provided that enables the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

3. The point source inventory must be complete.

4. Point source emissions inventory must have been prepared or calculated according to the current EPA guidance.

5. The area source inventory must be complete.

6. The area source emissions inventory must have been prepared or calculated according to the current EPA guidance.

7. The method (e.g., Highway Performance Modeling System or a network transportation planning model) used to develop vehicle miles traveled (VMT) estimates must follow EPA guidance. The VMT development methods must be adequately described and documented in the inventory report.

8. The MOBILE model must be correctly used to produce emission factors for each of the vehicle classes.

9. Non-road mobile emissions inventory must be prepared according to current EPA guidance for all of the source categories.

B. The EPA is approving this emission inventory as meeting the requirements of section 187(a)(1) of the Act. The reasons why this submittal meets the Level III criteria are discussed below.

Initially, EPA subjected the Alaska State CO emission inventory to a rigorous review. This review pointed out various deficiencies in the inventory. In their updates to the original emissions inventory submitted on August 27, 1992 (Anchorage) and November 11, 1992 (Fairbanks), ADEC corrected these deficiencies. Corrections were made and submitted on December 29, 1993 and December 1, 1994. The December 1, 1994 submittal was primarily an update to mobile sources emission estimates, replacing model Mobile 4.1 with Mobile 5.0a, which is the EPA approved model consistent with CAAA requirements and transportation conformity regulations.

1. *Inventory Preparation Plan.* Alaska submitted a final Inventory Preparation Plan (IPP) and accompanying final Quality Assurance Plan which satisfied the EPA's requirements, and which were approved in January 1992.

2. *Quality assurance.* Throughout the emissions inventory, ADEC provides documentation of quality assurance. For each source category, ADEC identifies the methodology employed. Where ADEC methods deviate from EPA

suggested procedures, the rationale for the alternate method is noted. For each CO source category, ADEC provides the reference from which it excerpted information. When needed, projection equations are provided to show emission amounts beyond the base year.

3. *Point Source Inventory.* ADEC's point source inventory identifies sources whose emissions exceed 10 tons per year of carbon monoxide. There are four CO point sources in the Anchorage nonattainment area and nine in the Fairbanks nonattainment area. The dominant industry with CO point sources for both nonattainment areas is electric utility power generation. While natural gas is the primary fuel used in Anchorage, it is not available in Fairbanks.

To compile the point source inventory, ADEC reviewed emission and fuel use information available from state air operating permits, and information supplied by permitted facilities through operating reports required to be submitted to ADEC. In addition, ADEC contacted Anchorage and Fairbanks area fuel distributors to identify any sources not already issued an operating permit capable of emitting more than 10 tons per year of carbon monoxide. There were no such sources.

ADEC reports that point source emissions for 1990 are 2.35 tons per day for Anchorage and 6.06 tons per day for Fairbanks.

4. *Area Source Inventory.* ADEC submitted a complete inventory for CO area sources divided into the following categories: natural gas combustion (Anchorage only) fuel oil combustion, coal combustion, propane combustion (Fairbanks only), wood combustion, industrial equipment, solid waste incineration, and open burning/structural fires. The largest contributor to CO emissions in both nonattainment areas was wood burning. Emissions for each source category (except as noted above) are calculated for the two nonattainment areas. The inventory provides a discussion per category, and displays equations that were used to develop emissions estimates. Sources of information are provided as needed. In some cases, ADEC's methodology differs from EPA's recommended procedures. When this occurs, ADEC notes the reason for the difference. Usually, ADEC uses data tailored to the local or state area rather than using the national equations or factors. Area source totals for 1990 were 4.96 tons per winter day within the Anchorage CO nonattainment area, and 12.99 tons per day for the Fairbanks CO nonattainment area.

5. *Vehicle Miles Traveled (VMT).* In Fairbanks, the Alaska Department of Transportation and Public Facilities (ADOT&PF) used a combination of actual 1990 traffic count data and QRS2 modeling results for 1990 to provide VMT and travel-weighted speed estimates for each roadway functional class. Traffic counts were obtained from both the Highway Performance Monitoring System (HPMS) and additional sampling locations operated by ADOT&PF. ADOT&PF estimated VMT during an average winter weekday in Fairbanks to be 1,296,041. In Anchorage, the Municipality used MinUTP modeling results for 1990 to provide travel-weighted speed data and VMT for each roadway functional class, generating HPMS-equivalent estimates (based on ADOT&PF guidance). The Municipality estimated VMT during an average winter weekday in Anchorage to be 2,854,000.

The VMT development methods were adequately described and documented in the SIP and satisfy EPA's requirements. (See 60 FR 33727, June 19, 1995.)

6. *Use of the Mobile Model.* The Mobile 4.1 model was used in the original 1992 submittal to EPA, being then the most recent emission factor model, and was retained for the revised 1993 submittal for consistency. In December 1994, ADEC revised the mobile source emission estimates by substituting Mobile 5.0a for Mobile 4.1. Today's approval is based on the December 29, 1993 submittal using Mobile 4.1.

The model was correctly used to produce emission factors for each of the eight separate vehicle classes. Inputs specific to Anchorage and Fairbanks during the base year were used in the model: operating mode fractions (cold/hot/stabilized) =65%/0%/35%; VMT for motorcycles =0%; anti-tampering program in place; compliance rate =91% (Anchorage) and 96% (Fairbanks); annual inspection; decentralized I/M program, etc. A default value was used for the tampering rate. Quality Assurance is provided within the on-road discussion, and methodologies used to determine each of the input variables were presented. On-road mobile sources are 149.99 tons per day for Anchorage and 80.83 tons per day for Fairbanks.

7. *Non-road Inventory.* ADEC describes each category and the methodology employed. When ADEC's methodology deviates from EPA guidance, it is usually because ADEC uses numbers reflective of local scenarios as opposed to national averages. Assumptions, equations, and

sources are noted per source category. Major non-road contributors are aircraft, snowmobiles and railroad sources. Nonroad totals are 13.73 tons per day for Anchorage, and 5.40 tons per day for Fairbanks.

C. Procedural background. The Act requires States to observe certain procedural requirements in developing emission inventory submissions to EPA. Section 110(a)(2) of the Act requires that each emission inventory submitted by a State has to be adopted after reasonable notice and public hearing.<sup>1</sup> CO nonattainment areas with design values greater than 12.7 ppm must submit the entire SIP (emissions inventories, attainment demonstrations, and control strategies) by November 15, 1992, and EPA expects the emissions inventories to have gone through the public hearing process as part of the full CO SIP.<sup>2</sup>

The State of Alaska held numerous public meetings in Anchorage and Fairbanks in 1992 to entertain public comment on air quality control plans, including the 1990 base year emission inventories for the Anchorage and Fairbanks Carbon Monoxide Nonattainment Areas. In both areas, local transportation planning boards (Fairbanks Metropolitan Area Transportation Study (FMATS) and Anchorage Metropolitan Area Transportation Study (AMATS)), including citizen advisory committees, reviewed and took public comment on the control plans and inventories. In 1992, following the public meetings, the Anchorage Assembly and the Fairbanks North Star Borough adopted their respective air quality control plans and inventories. The CO Emission Inventory was submitted to EPA on December 29, 1993 as a proposed revision to the SIP.

IV. Implications of Today's Action

The EPA is approving the Alaska carbon monoxide emission inventory submitted the Alaska SIP on December 29, 1993. The State has submitted a complete inventory containing point, area, on-road, and non-road mobile source data, and documentation. Emissions for these groupings are presented in the following table:

Emission category	Daily emissions (tons/day)	
	Base year 1990 Anchorage	Base year 1990 Fairbanks
Point sources .....	2.35	6.06
Area sources .....	4.96	12.99
Non-road mobile sources .....	13.73	5.40
On-road mobile sources .....	149.99	80.83
Total .....	171.03	105.28

This inventory is complete and approvable according to the criteria set out in the November 12, 1992 memorandum from J. David Mobley, Chief Emission Inventory Branch, Technical Support Document (TSD) to G. T. Helms, Chief Ozone/Carbon Monoxide Programs Branch, AQMD.

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 April 14, 1997 unless, by March 13, 1997, 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 document 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 April 14, 1997.

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

V. Administrative Review

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal

Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. 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 costs to State, local, or tribal governments in the aggregate; or to the 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 does not include a Federal mandate that may result in estimated costs of \$100 million or more to either

<sup>1</sup> Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

<sup>2</sup> Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I-X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

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.

#### *D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *E. 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 April 14, 1997. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 28, 1997.

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 52.76 is added to read as follows:

#### **§ 52.76 1990 Base Year Emission Inventory.**

EPA approves as a revision to the Alaska State Implementation Plan the

1990 Base Year Carbon Monoxide Emission Inventory for the Anchorage and Fairbanks areas designated as nonattainment for CO, submitted by the Alaska Department of Environmental Conservation on December 29, 1993. This submittal consists of the 1990 base year stationary, area, non-road mobile, and on-road mobile sources for the pollutant carbon monoxide.

[FR Doc. 97-3363 Filed 2-10-97; 8:45 am]

BILLING CODE 6560-50-P

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## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 502 and 510

[Docket No. 97-03]

#### **Implementation of 21 U.S.C. 862; Denial of Federal Benefits to Drug Traffickers and Possessors**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** This amends Commission regulations to reflect the redesignation of 21 U.S.C. 853a as 21 U.S.C. 862, which was effected by Public Law 101-647. No substantive change is involved.

**EFFECTIVE DATE:** February 11, 1997.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, D.C. 20573-0001, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** Commission regulations at 46 CFR 502.27 and 510.12 contain requirements for applicants for admission to practice before the Commission and for a freight forwarders license to submit a certification regarding non-conviction for drug offenses and eligibility for federal benefits. The prescribed certification includes a reference to "21 U.S.C. 853a." Subsequent to adoption of these rules 21 U.S.C. 853a was redesignated as 21 U.S.C. 862 by Public Law 101-647, 104 Stat. 4827. This document merely changes the references in Commission rules to reflect this redesignation and involves no substantive change.

List of Subjects

46 CFR Part 502

Administrative practice and procedure.

46 CFR Part 510

Freight forwarders.

For the reason set forth above, parts 502 and 510 of 46 CFR are amended as follows:

## **PART 502—RULES OF PRACTICE AND PROCEDURE**

1. The authority citation for part 502 is revised to read as follows.

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561-569, 571-596; 12 U.S.C. 1114j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817, 820, 821, 826, 841a, 1114(b), 1705, 1707-1711, 1713-1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 862; and Pub. L. 88-777 (46 U.S.C. app 817d, 817e).

#### **§ 502.27 [Amended]**

2. In § 502.27(a)(2) the reference to "21 U.S.C. 853a" is amended to read "21 U.S.C. 862".

## **PART 510—LICENSING OF OCEAN FREIGHT FORWARDERS**

1. The authority citation for part 510 is revised to read as follows.

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 862.

#### **§ 510.12 [Amended]**

2. In § 510.12(a)(2) is the reference to "21 U.S.C. 853a" is amended to read "21 U.S.C. 862".

By the Commission.

Joseph C. Polking,

*Secretary.*

[FR Doc. 97-3251 Filed 2-10-97; 8:45 am]

BILLING CODE 6730-01-M

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## DEPARTMENT OF COMMERCE

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 961126333-6333-01; I.D. 020597A]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim specification for pollock in this area.

**EFFECTIVE DATE:** 1200 hrs, Alaska local time (A.l.t.), February 7, 1997, until superseded by the Final 1997 Harvest Specifications for Groundfish.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-486-6919.