

(B) The taxpayer may designate all or any part of the annualized electible farm income as elected farm income.

(2) *Changes in filing status.* An individual is not prohibited from making a farm income averaging election solely because the individual's filing status is not the same in an election year and the base years. For example, an individual who files married filing jointly in the election year, but filed as single in one or more of the base years, may still elect to average farm income using the single filing status used in the base year.

(3) *Employment tax.* A farm income averaging election has no effect in determining the amount of wages for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (Federal income tax withholding), or the amount of net earnings from self-employment for purposes of the Self-Employment Contributions Act (SECA).

(4) *Alternative minimum tax.* A farm income averaging election does not apply in determining the section 55 alternative minimum tax for any base year or the section 55(b) tentative minimum tax for the election year or any base year. The election does, however, apply in determining the regular tax under sections 53(c) and 55(c) for the election year.

(5) *Unearned income of minor child.* In an election year, if a minor child's investment income is taxable under section 1(g) and a parent makes a farm income averaging election, the tax rate used for purposes of applying section 1(g) is the rate determined after application of the election. In a base year, however, the tax on a minor child's investment income is not affected by a farm income averaging election.

(g) *Effective date.* The rules of this section apply to taxable years beginning after December 31, 2001, except with respect to the written agreement requirement of paragraph (b)(2) of this section.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 3.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 4.** In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

**§ 602.101 OMB control numbers.**

CFR part or section where identified and described	Current OMB control No.
* * * * *	* * * * *
(b) * * *	
1.1301-1 .....	1545-1662
* * * * *	* * * * *

**Robert E. Wenzel,**  
*Deputy Commissioner of Internal Revenue.*

Approved: December 12, 2001.

**Mark Weinberger,**  
*Assistant Secretary of the Treasury.*  
[FR Doc. 02-183 Filed 1-7-02; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[AK-21-1709-a; FRL-7123-2]**

**Approval and Promulgation of State Implementation Plans; Inspection and Maintenance Program and Fuel Requirements: Alaska**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves two revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) in the Alaska Administrative Code (AAC). These two revisions to the SIP were submitted on February 24, 2000 and February 2, 2001. EPA is also granting final approval of

Alaska's revised Inspection and Maintenance (I/M) Program SIP credit claim to 100% of credit applied to centralized I/M programs under Section 348 of the National Highway System Designation Act. This claim was resubmitted on November 7, 2001.

**DATES:** This direct final rule is effective on March 11, 2002 without further notice, unless EPA receives adverse comment by February 7, 2002. 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: Mr. Wayne Elson, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's submittals and other information supporting this action are available for inspection 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:** Mr. Wayne Elson, Office of Air Quality (OAQ-107), EPA, Seattle, Washington 98101, (206) 553-1463.

**SUPPLEMENTARY INFORMATION:** The information in this section is organized as follows:

- A. What SIP amendments is EPA approving?
- B. What are I/M programs?
- C. What are the changes that have been made to Alaska's I/M program that EPA is approving?
- D. What is the new "sticker program"?
- E. What changes are being made to oxygenated fuel requirements?
- F. What is I/M program credit?
- G. What is the basis for EPA's final approval of Alaska's I/M program credit claim of 100%?
- H. How do these approvals effect on-going air quality planning in Alaska?

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

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

Date of submittal to EPA	Items revised
2-24-2000 .....	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Alaska Inspection and Maintenance Program Manual Amendments 18 AAC 50.
2-2-2001 .....	—Alaska State Air Quality Control Plan: Volume II, Sections II, III.A., III.B., and III.C. 18 AAC 50. —Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52. —Fuel Requirements for Motor Vehicles, and Air Quality Control Plan 18 AAC 53.

Date of submittal to EPA	Items revised
11-7-2001 .....	—Alaska ECOS/STAPPA/EPA I/M Credit Evaluation Data resubmittal under the National Highway System Designation Act.

The SIP revisions cover amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). The most salient aspects of these rule changes include: requiring new I/M equipment specifications and amending the Alaska I/M Program Manual; delaying the start date for On-Board Diagnostic (OBD II) I/M test requirements; making vehicle stickers mandatory; removing the “fast fail” option and begin to require that all inspections be full and complete; and streamlining and updating several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This final approval of Alaska’s I/M program credit claim to 100% removes the interim status of EPA’s interim approvals of October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

#### B. What Are I/M Programs?

In local areas I/M programs are designed to reduce motor vehicle emissions by requiring that vehicles periodically pass a tailpipe emissions test or, depending on the model year, a check of the OBD II system. Vehicles emissions are reduced when vehicles are repaired in order to pass these tests.

#### C. What Are the Changes That Have Been Made To Alaska’s I/M Program That EPA Is Approving?

The changes being made update the I/M regulations and program manual to include new equipment specifications scheduled for early in the year 2000. These are called the “Alaska 2000 Emissions Inspection System”. The new specifications are necessary to replace any obsolete hardware and software with up-to-date versions; to avoid possible Y2K malfunctions; and to incorporate federal requirements for OBD II I/M emissions testing on new vehicles. Other changes include: implementing a vehicle sticker requirement to help visually identify vehicles in compliance with the program; removing of the “fast fail” option and requiring that all inspections be full and complete; increasing the state’s flexibility in establishing motorist response time when they are issued a violation; expanding equipment manufacturer enforcement and certification criteria; and expanding

the definition of “motorist” to include any operator of a motor vehicle within a nonattainment area. Also the start date for OBD II I/M test requirements will be delayed from January, 1, 2001 to July 1, 2001. The Air Quality Control Plan will be updated for equipment references, make “plain English” clarifications, remove redundancies, and update program information.

#### D. What Is the New “Sticker Program”?

EPA first approved the use of a sticker program in Alaska for the I/M program in a previous SIP revision (64 FR 72940, December 29, 1999). The new provision requires that the highly visible “sticker” program be implemented. This is to help visually identify vehicles in compliance with the I/M program.

#### E. What Changes Are Being Made To Oxygenated Fuel Requirements?

Gasoline fuel distributors, also referred to as Control Area Responsible parties (CAR), pay fees to ADEC to operate the oxygenated fuel program. These fees are being reduced to better match the costs of implementing the requirements of the oxygenated fuels program. This will reduce the initial costs by the CAR and reduce the unused fees refunded by ADEC at the end of the year.

#### F. What Is I/M Program Credit?

The National Highway System Designation Act of 1995 allowed states implementing a decentralized I/M programs, such as Alaska, to submit a SIP amendment that would allow more emissions credit than allowed under the automatic discount of 50% programmed in EPA’s mobile emissions model (currently MOBILE5).

#### G. What Is the Basis for EPA’s Final Approval of Alaska’s I/M Credit Claim of 100%?

EPA is approving the I/M program credit claim of 100% under Section 348 of the National Highway System Designation Act of 1995 and Section 110 of the Clean Air Act. EPA proposed interim approvals on October 10, 1996 (61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs. No comments were received by EPA on these interim approvals. The state subsequently submitted a qualitative program evaluation to document the credit claim on November 18, 1998. However, the

state recognized that this credit request was probably conservative and that, based on new information and program changes, the Anchorage and Fairbanks I/M programs could justifiably request 100% credit. The state resubmitted the qualitative program on November 7, 2001, claiming 100% of centralized I/M program credit. This was done with the provision that Anchorage or Fairbanks I/M programs could select a lower level of credit (such as 85%). This would be viewed as taking a more conservative approach in air quality planning rather than a less stringent I/M program.

The qualitative program evaluation which was already submitted (Alaska ECOS/STAPPA/EPA I/M Program Evaluation Data Submittal, November 1998) demonstrates that Alaska’s decentralized I/M program is similar to that of Oregon’s centralized I/M program. Other improvements in Alaska’s I/M program between 1995 and 2001 help reinforce this claim. Among these improvements include new test equipment, test procedures and quality control/quality assurance procedures that increase test accuracy and reduce fraud.

#### H. How Do These Approvals Effect On-Going Air Quality Planning in Alaska?

The Municipality of Anchorage and Fairbanks North Star Borough are currently preparing and submitting SIP revisions to demonstrate attainment of the national ambient air quality standard for carbon monoxide. The I/M program is an important and integral part of the ongoing local control measures for both communities. EPA’s approval of these submittals, which include improvements and updates to the I/M programs in each community will support and strengthen these programs.

#### I. Summary of Action

The SIP revisions include amendments to I/M requirements for Motor Vehicles (18 AAC 52), the State Air Quality Control Plan (18 AAC 50), and Fuel Requirements for Motor Vehicles (18 AAC 53). EPA approves streamlining and updating of several portions of the Alaska Air Quality Control Plan for more efficient reading and organization. This action also promulgates final approval of Alaska’s I/M program credit claim to 100% and removes the interim status of EPA’s interim approvals of October 10, 1996

(61 FR 53163) and May 19, 1997 (62 FR 27199) for 85% of credit applied to centralized I/M programs.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 March 11, 2002 without further notice unless the Agency receives adverse comments by February 7, 2002.

If the EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** 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 on this action. 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 March 11, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the

Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. Section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

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

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 11, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

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

Dated: December 12, 2001.

**L. John Iani,**

*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) (31) to read as follows:

#### § 52.70 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(31) The Environmental Protection Agency (EPA) approves various amendments to the Alaska State Air Quality Control Plan which are contained in two separate submittals to EPA, dated February 24, 2000 and February 2, 2001, and which include the inspection and maintenance and fuels program.

(i) Incorporation by reference.

(A) Air Quality Control Regulations, 18 AAC 50. Effective December 30, 2000: Section 030.

(B) Emissions Inspection and Maintenance Requirements for Motor Vehicles 18 AAC 52.

(1) Effective January 1, 2000: Sections 005; 015; 020; 025; 035; 037; 055; 060;

065; 070; 085; 100; 105; 410; 415; 420; 440; 500; 510; 515; 520; 525; 527; 530; 535; and 540.

(2) Effective December 30, 2000: Sections 050 and 990.

(C) Fuel Requirements for Motor Vehicles 18 AAC 53. Effective December 30, 2000: Section 080.

[FR Doc. 02-218 Filed 1-7-02; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[VA001-1000; FRL-7126-8]

#### Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Virginia; Department of Environmental Quality

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

**ACTION:** Direct final rule and delegation.

**SUMMARY:** EPA is taking direct final action to approve the Virginia Department of Environmental Quality's (VADEQ's) request for delegation of authority to implement and enforce Virginia's hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations (CFR). This approval will automatically delegate future amendments to these regulations once VADEQ incorporates those amendments into its regulations. In addition, EPA is taking direct final action to approve of VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails VADEQ's incorporation by reference of the Federal standards, unchanged, into its hazardous air pollutant regulations and VADEQ's notification to EPA of such incorporations. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both VADEQ and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the CAA's operating permit program.

The VADEQ's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the CAA's operating permit program, was initially approved on April 20, 1998. EPA is taking this action in accordance with the CAA.

**DATES:** This direct final rule will be effective March 11, 2002 unless EPA receives adverse or critical comments by February 7, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, and Dennis H. Treacy, Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103-2029, [mcnally.dianne@epa.gov](mailto:mcnally.dianne@epa.gov) (telephone 215-814-3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 112(l) of the Act and Title 40 Code of Federal Regulations (40 CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants (NESHAPs) set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) a demonstration of the state's authority and resources to implement

and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) a schedule demonstrating expeditious implementation of the regulation; and

(c) a plan that assures expeditious compliance by all sources subject to the regulation.

On April 20, 1998, the VADEQ received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On May 25, 2001, VADEQ submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the remaining affected sources defined in 40 CFR part 63. At the present time, this request includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting which have been adopted, by reference, from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. The VADEQ also requested that EPA automatically delegate future amendments to these regulations and approve VADEQ's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts, unchanged, from the Federal requirements. This mechanism entails VADEQ's incorporation, by reference, of the Federal standard, unchanged, into its regulation for hazardous air pollutant sources found at 9 VAC 5-60-100, and notification to EPA of each such incorporation.

##### II. EPA's Analysis of VADEQ's Submittal

Based on VADEQ's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that VADEQ has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), VADEQ submitted a written finding by the Commonwealth's Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii),