(2) *Cause of action and remedies.* The section 104(a)(2) exclusion may apply to damages recovered for a physical personal injury or sickness under a statute, even if that statute does not provide for a broad range of remedies. The injury need not be defined as a tort under state or common law.

(3) *Effective/applicability date.* This paragraph (c) applies to damages paid pursuant to a written binding agreement, court decree, or mediation award entered into or issued after September 13, 1995, and received after the date these regulations are published as final regulations in the **Federal Register**. Taxpayers also may apply these proposed regulations to damages paid pursuant to a written binding agreement, court decree, or mediation award entered into or issued after September 13, 1995, and received after August 20, 1996. If applying these proposed regulations to damages received after August 20, 1996, results in an overpayment of tax, the taxpayer may file a claim for refund before the period of limitations under section 6511 expires.

Notwithstanding the date these regulations are proposed to become effective, the statutory amendments to section 104(a) under section 1605 of the Small Business Job Protection Act of 1996, Public Law 104–188, (110 Stat. 1838), are effective for amounts received after August 20, 1996, except for any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

* * * * *

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9–22221 Filed 9–14–09; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2008–0690; FRL–8956–7]

Approval and Promulgation of State Implementation Plans: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve numerous revisions to Alaska's State Implementation Plan (SIP) relating to the motor vehicle inspection and maintenance program for control of carbon monoxide (CO) in Anchorage and Fairbanks. The State of Alaska submitted three revisions to the Alaska SIP: a March 29, 2002 submittal containing minor revisions to the Statewide Inspection and Maintenance Program, a December 11, 2006 submittal containing more substantial revisions to the Statewide Inspection and Maintenance Program, and a June 5, 2008 submittal containing major revisions to the Statewide Inspection and Maintenance Program discontinuing the Inspection and Maintenance Program in Fairbanks as an active control measure in the SIP and shifting it to contingency measures. EPA is proposing to approve these submittals because they satisfy the requirements of the Clean Air Act (hereinafter the Act or CAA).

Also in this action, EPA is proposing a technical correction to the boundary description for the Fairbanks CO maintenance area, to correct a transcription error in the boundary description.

DATES: Written comments must be received on or before October 15, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2008–0690, by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *Mail:* Gina Bonifacino, EPA, Office of Air, Waste, and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

C. *Hand Delivery:* EPA, Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: Gina Bonifacino, Office of Air Waste, and Toxics (AWT–107). Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2008–0690. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Gina Bonifacino, (206) 553–2970, or by e-mail at *R10-Public_Comments@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Information is organized as follows:

Table of Contents

I. Background
II. Proposed Actions
  A. 2008 Submittal
  B. 2006 Submittal
  C. 2002 Submittal
  D. 110(k)(6) Correction
III. Statutory and Executive Order Reviews

I. Background

Fairbanks North Star Borough Maintenance Area Planning History

The urban portion of the Fairbanks North Star Borough (FNSB or Fairbanks) was designated in 1990 as a nonattainment area for CO and classified as moderate. On March 30, 1998, Fairbanks was reclassified as a serious nonattainment area for failing to attain the ambient eight-hour CO

standard by the December 31, 1995 deadline. A new plan was required by October 1, 1999; however, an attainment plan was not submitted to EPA by the deadline. On April 3, 2000, EPA published a **Federal Register** Notice (65 FR 17444) stating that initial, mandatory sanctions would be triggered if a new plan was not submitted by October 2, 2001. On March, 2001, Fairbanks and the Alaska Department of Environmental Conservation (ADEC or the State) submitted a request to EPA for an extension of the attainment date from December 31, 2000 to December 31, 2001. On May 25, 2001, EPA granted approval. *See* 66 FR 28836. Alaska submitted a new plan on August 30, 2001, and EPA approved the plan on February 4, 2002 (67 FR 5064). ADEC submitted a maintenance plan and redesignation request to EPA on June 21, 2004. EPA proposed (69 FR 44632) and approved (69 FR 44601) the plan and redesignated the Fairbanks CO area to attainment on July 27, 2004. The maintenance plan relies on control strategies needed to assure maintenance of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide: The Federal Motor Vehicle Emission Control Program, a basic inspection and maintenance (I/M) program, a plug-in ordinance, and a woodstove curtailment program.

Anchorage Maintenance Area Planning History

Anchorage, Alaska, was first declared a nonattainment area for CO and classified as moderate on January 27, 1978. The Municipality of Anchorage (MOA) prepared a plan to attain the NAAQS by December 31, 1987; however, Anchorage failed to achieve attainment by December 31, 1987. The Clean Air Act was amended in November 1990, and EPA designated Anchorage as a moderate nonattainment area for CO and required submission of a revised air quality plan to bring Anchorage into attainment by December 31, 1995. EPA approved the plan in 1995. However, two violations of the NAAQS in 1996 resulted in EPA reclassifying Anchorage to serious nonattainment on July 13, 1998 with an attainment date of December 31, 2000. The MOA submitted a new plan on January 4, 2002 and EPA proposed approval of the plan (67 FR 38218) on June 3, 2002. On September 18, 2002, EPA approved the Anchorage CO attainment plan (67 FR 58711). The MOA submitted a maintenance plan and a redesignation request for the Anchorage CO nonattainment area on February 18, 2004. EPA proposed approval of the Anchorage CO maintenance plan (69 FR 25869) on May 10, 2004 and approved the plan on June 23, 2004 (69 FR 34935). The maintenance plan relies on control strategies needed to assure maintenance of the NAAQS for CO. The strategy focuses on the Federal Motor Vehicle Emission Control Program, an I/M program, expanded wintertime transit service and promotion of engine preheaters.

II. Proposed Actions

As stated above, the EPA is proposing to approve numerous revisions to the Alaska I/M program contained in three SIP submittals. The March 29, 2002 submittal (the 2002 submittal) includes minor revisions to the statewide I/M program contained in 18 Alaska Administrative Code (AAC) 50 and 52, the December 11, 2006 (the 2006 submittal) contains revisions to the statewide I/M program contained in 18 AAC 50 and 52 and the June 5, 2008 (the 2008 submittal) contains substantial revisions to 18 AAC 52 removing the I/M program in Fairbanks from the active part of the SIP and moving it to the contingency measures portion of the SIP. Upon EPA approval of the revised maintenance plan, the I/M program in Fairbanks will no longer be an active control measure in the SIP but will be a contingency measure that may be implemented in the future if the need arises.

Alaska's SIP amendment submittals are reviewed below in reverse chronological order. Following the EPA's review of each of the submittals, we establish the basis for a technical correction to the Fairbanks CO area boundary under section 110(k)(6) of the Act. The EPA has also prepared a Technical Support Document (TSD) with more detailed analysis of the SIP revisions the State of Alaska has submitted for approval. The TSD is available for public review as part of the docket for this action.

A. 2008 Submittal

Clean Air Act Basis for Review

Section 110(l) of the Clean Air Act states:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

EPA's Evaluation of the State's CAA Section 110(l) Demonstration in the 2008 Submittal

The I/M program is a primary control measure in the current Federally approved CO maintenance plan for the Fairbanks area. The State's 2008 submittal revises the maintenance plan for the Fairbanks area to discontinue the I/M program beginning in calendar year 2010 and to shift it to the contingency measures section of the SIP. To satisfy section 110(l) of the Act, the State submitted a technical analysis using probabilistic rollback modeling that demonstrates that the State will continue to maintain the CO standard in Fairbanks without the I/M program in place. In addition, since based on 2006–2008 air quality monitoring data, the State is violating the 2006 24-hour $PM_{2.5}$ standard, the State submitted a technical analysis demonstrating that removal of the I/M program in Fairbanks will not result in an increase in $PM_{2.5}$ direct or precursor emissions.[1] The State is well within the compliance levels for the remaining NAAQS.[2]

Based on our review of the State's analyses for CO and $PM_{2.5}$, we have concluded that the 2008 SIP revision discontinuing the I/M program in Fairbanks as a control measure in the Fairbanks maintenance plan will not interfere with attainment or maintenance of the NAAQS, including CO, $PM_{2.5}$, or any other requirement of the Act. Accordingly, we are proposing to approve the removal of the I/M program in Fairbanks from the active control measures portion of the maintenance plan. Based on section 175(A)(d) of the Act, any measure that is removed from the active portion of a maintenance plan must be retained as a contingency measure, therefore, EPA is proposing to retain the I/M program in the Fairbanks CO maintenance plan as a contingency measure. *See* September 4, 1992 memorandum from John Calcagni to the EPA Air Division Directors (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division), which is included in the docket for this action.

The following is EPA's evaluation of the State's 2008 SIP revision that demonstrates that removing the I/M program in Fairbanks will not impact attainment or maintenance of the CO standard in Fairbanks followed by our evaluation of the State's analysis

[1] *See* EPA Air Quality Monitoring data *http://epa.gov/air/data/monvals.html?st~K~Alaska.*

[2] *See* EPA's Green Book *http://www.epa.gov/oar/oaqps/greenbk/index.html.*

demonstrating that removal of the I/M program in Fairbanks will not impact attainment or maintenance of the 24-hour $PM_{2.5}$ standard in Fairbanks.

EPA's Evaluation of the Updated Components of the Federally Approved CO Maintenance Plan for Fairbanks and our Evaluation of the State's Analysis of Impacts of Removing the I/M Program in Fairbanks on the CO Standard

In the 2008 submittal, the State provided updates to components of the Fairbanks CO maintenance plan reflecting removal of the I/M program in Fairbanks and demonstrating continued maintenance of the CO standard in Fairbanks. These components include an updated emissions inventory for the period 2006–2015 reflecting the removal of the I/M program beginning in calendar year 2010, a demonstration of maintenance of the CO standard in Fairbanks without the I/M program in place, updated contingency measures that incorporate the I/M program as a contingency measure, and an updated motor vehicle emissions budget for the CO SIP that reflects the removal of the I/M program in Fairbanks.

The following is EPA's evaluation of these updated components. All of the technical work contained in the State's 2008 submittal was performed using the same methodology that was used to demonstrate maintenance in the Fairbanks CO maintenance plan that EPA approved in 2004. *See* 69 FR 44601. Where data was available, emissions inventory and modeling inputs were updated with more recent information. This is explained further in our evaluation below and in the TSD for this proposed action.

Emissions Inventory

The State submitted an updated emissions inventory for the period 2006–2015 reflecting the discontinuation of the I/M program in Fairbanks in 2010. The inventory was prepared in accordance with EPA's CO emissions inventory guidance.[3] The inventory includes emissions for stationary sources, area sources, non-road mobile sources and on-road mobile sources on a worst case or ''design day.'' [4] The complete inventory is included in the Appendix to Volume II Section III.C. of the State's submittal. The base year for the inventory is 2005 which corresponds to a year when the area was in attainment with the standard.

The State projected the 2005 base year inventory to the years 2006–2015 to serve as the modeling inventory. This modeling inventory accounts for the elimination of the I/M program after 2009. EPA's review of the modeling inventory indicates that there is an overall decline in base emissions by 4.84 tons per day (tpd) (14%) between the 2005 base year and the 2015 horizon planning year. This is caused by a 24% reduction in on-road emissions (from 25.29 tpd to 19.18 tpd) during this timeframe. The primary driver in lower on-road emissions is a sustained reduction in average in-use emission rates as newer, cleaner vehicles continue to replace older, higher emitting vehicles. The TSD for this proposed action contains a detailed discussion and table of emissions from the 2006–2015 inventory.

Maintenance Demonstration

The State used a probabilistic rollback approach for the maintenance demonstration in the 2008 SIP submittal. This is the same methodology that the State used and EPA approved in previous submittals to model attainment/maintenance with the CO standard in Fairbanks. *See* 69 FR 44601 and the Technical Support Document for 69 FR 44601. A detailed discussion of the methodology and results can be found in the Appendix to Volume II Section III.C of the State's submittal and in EPA's TSD for this proposed action.

The State's 2008 submittal contains a summary of the probability of attainment through 2015 without the I/M program in place from the probabilistic rollback analysis. Consistent with methods used in previous plans submitted by the State and approved by EPA, at least a 90% confidence interval is desirable for a long-term demonstration of attainment for a maintenance plan. Based on the modeling results contained in the State's submittal, the probability of attainment is 93% or above for all years in the State's maintenance demonstration (2006–2015). EPA's evaluation of the probabilistic rollback modeling in the State's 2008 submittal concludes that the Fairbanks area will continue to attain and maintain the CO standard through the year 2015 without the I/M program in place.

Contingency Measures

As a primary control strategy in the Alaska SIP, the I/M program for Fairbanks must be retained as a contingency measure. In addition to this contingency measure, the previously approved contingency measures in the SIP continue to apply. *See* 69 FR 44604. As stated above, Section 175A(d) of the Clean Air Act requires that maintenance plans include as contingency measures all control measures which were contained in the State implementation plan before redesignation to attainment. To satisfy this requirement, EPA will be removing the Fairbanks I/M Program as a control measure in the SIP and shifting it to a contingency measure that will be available for implementation if needed to ensure continued maintenance of the ambient CO standard. As documented in the State's submittal in Section III.C.9, Fairbanks will retain the local legal authority necessary to implement the I/M Program as a contingency measure. Similarly, the State will retain its authority to implement the I/M Program under State regulation, 18 AAC 52 (included in the State's submittal in the Appendix to Section III.A.2), as specified in Alaska Statutes 46.14.400 (included in the State' submittal in the Appendix to Volume II. of this plan).

Conformity Budget

Under section 176 of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are founded or approved under 23 U.S.C. or the Federal Transit Act must conform to an approved SIP. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years. A motor vehicle emissions budget applies as a ceiling on emissions in the year for which it is defined, and for all subsequent years until another year for which a budget is defined or until a SIP revision modifies the budget. Section III.C.10 of the State's submittal discusses the motor vehicle emissions budgets for the Fairbanks, Alaska area. For transportation conformity and regional conformity analysis purposes, motor vehicle emissions budgets for CO have been established for on-road motor vehicle emissions.

The budget is based on the emission inventories and attainment projections found in the State's submittal in Volume III Appendix to Section III.C.3. This motor vehicle emissions budget applies for each of the years listed in Table 1. The values presented for 2006, 2010 and 2015 are based upon the 90% confidence level target for maintenance plans that EPA has used in past approvals of the Fairbanks CO SIP.

[3] Emissions Inventory Requirements for Carbon Monoxide State Implementation Plans EPA–450/4–91–011.

[4] A worst case design day for Fairbanks is during the wintertime when meteorological conditions such as inversions are present that are most likely to cause exceedances and emissions are highest.

TABLE 1—FNSB MOTOR VEHICLE EMISSIONS BUDGET

Calendar year	CO emissions (tons/day)
2006	24.62
2010	24.01
2015	23.61

The motor vehicle emissions budget in the submitted SIP meets the following criteria contained in the conformity rule (40 CFR 93.118(3)(4)) and summarized here. The budget must: be endorsed by the Governor (or a designee); be subject to a public hearing; be developed through consultation among Federal, State and local agencies; be supported by documentation that has been provided to EPA; address any EPA concerns received during the comment period; clearly identify and precisely quantify the revised budget; show that the motor vehicle emissions budget, when considered together with all other emissions sources, is consistent with the requirements for continued maintenance of the ambient CO standard; demonstrate that the budget is consistent with and clearly related to the emissions inventory and the control measures in the plan revision; explain and document revisions to the previous budget and control measures, and include any impacts on point or area sources; and address all public comment on the plan's revisions and include a compilation of these comments. EPA's TSD for this proposed action contains a detailed review of the Agency's determination that these criteria have been satisfied.

Once a motor vehicle emissions budget is approved by EPA, the Fairbanks Transportation Plan and Transportation Improvement Program (TIP) must be less than or equal to the motor vehicle emissions budget. For projects not from a conforming TIP, the additional emissions from the project together with the TIP emission must be less than or equal to the budget.

Consistent with the previously approved maintenance plan, the on-road source budget is based on emissions inventories and attainment thresholds calculated using a AKMOBILE6, a hybrid method that specialized combined measured idle test data with MOBILE6.2. *See* 67 FR 5067 (February 4, 2002). As a result of the hybrid method used for calculation of Fairbanks mobile source emissions, it is necessary to clearly set out a means for agencies to compute emissions for use in TIP and project conformity determinations. Volume III. Section III.C.10 of the State's submittal contains an explanation on this.

EPA has found that the conformity budget in the 2008 submittal meets the purpose of section 176(c)(2)(A) and meets the criteria contained in the conformity rule 40 CFR 93.118(3)(4). Accordingly, EPA is proposing to approve the conformity budget contained in the State's 2008 submittal.

EPA's Evaluation of the State's Analysis of the Impact of Removing I/M Program on $PM_{2.5}$ in Fairbanks

Based on a review of the most recent three years of data in EPA's Air Quality System database for, Alaska is within the attainment limits for all of the criteria pollutant standards except the 24-hour $PM_{2.5}$ standard.[5, 6]

As stated above, section 110(l) of the Clean Air Act states:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

The State acknowledged in its submittal that recent air quality monitoring data shows exceedances of the 24-hour $PM_{2.5}$ standard in Fairbanks and in light of this submitted a technical analysis that demonstrates that $PM_{2.5}$ direct and precursor emissions will decline through 2015 in Fairbanks without the I/M program in place.

EPA's Review of the State's 110(l) Analysis for $PM_{2.5}$

To assess the impact of discontinuing the I/M program on $PM_{2.5}$ and precursor emissions, the State provided estimates of motor vehicle emissions within the CO maintenance area with and without the I/M program using EPA's approved regulatory model for calculating emissions from motor vehicles, MOBILE6.2. *See* 69 FR 28830 (May 19, 2004). These estimates were computed using the MOBILE6.2 settings and activity data used to prepare the maintenance demonstration discussed above in this proposed action. A review of monitoring data collected in Fairbanks in recent years shows that the exceedances of the $PM_{2.5}$ standard in Fairbanks are seasonal, episodic and occur in winter.[7] Because the exceedances of the $PM_{2.5}$ standard have occurred in the winter in Fairbanks, the State's analysis examined the impact of removing the I/M program in Fairbanks on direct $PM_{2.5}$ and precursor emissions during the winter season. Estimates were prepared for directly emitted $PM_{2.5}$, VOCs or hydrocarbon (HC), NO_X, SO_X, and NH_3 emissions. With the exception of ammonia, the State's analysis shows that emissions of all pollutants are projected to decline substantially between 2005 and 2015. The increase in ammonia is slight (by .01 tons per day), and EPA does not believe this increase in ammonia will interfere with attainment the 24-hour $PM_{2.5}$ standard. As with the CO projections described above, the primary driver for lower on-road emissions is a sustained reduction of average in-use emission rates, as newer, cleaner vehicles continue to replace older, higher emitting vehicles. EPA's TSD for this proposed action contains EPA's detailed review of the State's $PM_{2.5}$ analysis.

Conclusion

The State's forecast of motor vehicle pollutant emissions shows that with the exception of ammonia, $PM_{2.5}$ and its precursors will decline substantially in Fairbanks between 2005 and 2015 without the I/M program in place. Because the increase in ammonia is slight (by .01 ton/day) we do not believe this increase in ammonia will not interfere with attainment the 24-hour $PM_{2.5}$ standard in Fairbanks. Based on this, EPA finds that the discontinuation of the I/M program will not interfere with attainment of the ambient $PM_{2.5}$ standard in Fairbanks. As stated above, the State's submittal demonstrates that removal of the I/M program for control of CO in Fairbanks will not interfere with attainment and maintainence of the CO standard in Fairbanks. The 2008 submittal meets the requirements of section 110(l) of the Clean Air Act.

B. 2006 Submittal

The 2006 submittal contains minor revisions to the Statewide Emissions and Inspection and Maintenance Requirements for Motor Vehicles and the State Air Quality Control Plan that: remove outdated language and requirements from the SIP documents that are obsolete with previous EPA approved revisions to the SIP or with outdated timeframes; clarify wording and add flexibility to enforce the I/M programs by allowing the implementing

[5] *http://epa.gov/air/data/monvals.html?st~AK~Alaska.*

[6] Based on the most recent three years of data (2006–2008) the Fairbanks area is in violation of the 24-hour $PM_{2.5}$ standard.

[7] *http://epa.gov/air/data/monvals.html?st~AK~Alaska.*

agency to bring a civil action for pollution under AS 46.03.760(e); and update the Alaska I/M program manual to include the latest technologies and the list of aftermarket parts that could be used in the repair of a vehicle which fails the test. The 2006 revisions also contain a more substantive revision that lengthens the grace period for new vehicles to obtain the first certificate of inspection from two years to four years. The Statewide Inspection and Maintenance Requirements are approved measures in the maintenance plans for the Fairbanks maintenance area and for the Anchorage maintenance area; therefore, any revisions to them are subject to section 110(l) of the Act.

EPA's Review of the 2006 Submittal

To address the requirements of Section 110(l) of the Act, the State submitted a technical analysis that shows that the 2006 revision to the statewide I/M program that lengthens the time period before new vehicles are required to obtain their first certificate of inspection from two years to four years will not result in any substantial increase in CO emissions and therefore will not impact attainment or maintenance of the CO standard in Anchorage and Fairbanks.

EPA's review of the State's submittal confirms that the 2006 revisions are minor revisions that are administrative in nature, with the exception of the lengthening of the time period before new vehicles are required to obtain the first certificate of inspection from two years to four years.

As stated above, the State's analysis focuses on demonstrating continued maintenance of the CO standard by showing that CO emissions will not increase substantially as a result of lengthening the time period before new vehicles are required to obtain the first certificate of inspection from two to four years. *See* Appendix to Vol. II Section III.B and III.C of the State's submittal for the analysis. For the analysis, the State prepared a revised emissions inventory reflecting the change in the new vehicle grace period from two years to four years. The same methods that were used to prepare the emissions inventory for the 2004 maintenance plans for Anchorage and Fairbanks were used. *See* 69 FR 44601 and 69 FR 34935, respectively. The analysis in the State's submittal demonstrates that the impact of the revision of the new vehicle grace period is small, and constitutes a .3% increase in total area wide emissions for the year 2006, the first year of the grace period, from 119.7 tons per day to 120.1 tons per day in Anchorage and a .27% increase in the Fairbanks emissions from 2005–2015. Given this negligible change in emissions, EPA finds that the revision in the new vehicle inspection grace period will not impact continued attainment of the CO standard or any of the other NAAQS in Anchorage or Fairbanks for the remainder of the maintenance period approved by EPA in 2004. *See* 69 FR 44601 and 69 FR 34935, respectively.

Additionally, the State is well below the standards for the other NAAQS with the exception of the current 24-hour $PM_{2.5}$ standard.[8] Given that the increase in CO emissions from this revision are less than a half percent, EPA does not believe that $PM_{2.5}$ or any of the other NAAQS will increase from this revision to the extent that it will interfere with attainment of the NAAQS.

Conclusion

With the exception of the revision of the grace period for new vehicle inspection from 2–4 years, the revisions submitted to the Alaska SIP are administrative changes and updates that will not result in a change in emissions. The State's analysis of changes in emissions resulting from the revised grace period indicates that any increases due to a revision of the grace period for new vehicle inspection from two to four years are negligible. Therefore, elimination of the I/M program will not interfere with either the attainment or reasonable further progress towards attainment of the ambient $PM_{2.5}$ standard in Fairbanks and EPA proposes to approve the 2006 SIP revisions.

C. 2002 Submittal

The March 2002 submittal contains revisions to the Statewide Inspection and Maintenance Program contained in 18 AAC 52 that: provide for electronic vehicle registration renewal and remove the requirement for the paper part of the certificate of inspection to be maintained in the vehicle, replacing it with display certificates of inspection on car windshields; and update the Alaska I/M Program Manual from the manual dated January 2, 2000 to the manual dated February 21, 2002 to incorporate up to date technology and Federal changes to the on-board diagnostic or OBDII portion of the I/M program.

EPA's Review and Conclusions on the State's 2002 Submittal

As stated above, revisions to the I/M program in Alaska are subject to Section 110(l) of the Act. EPA's review of the State's 2002 submittal finds that these are minor revisions that are administrative in nature and will not result in an increase or change in CO emissions since these revisions simplify implementation of the program by moving from paper systems to electronic systems and update I/M program elements to reflect updated Federal requirements.[9] Based on this, EPA concludes that the 2002 revisions to the I/M program in Alaska will not interfere with either the attainment or maintenance of the CO standard or any of the NAAQS or applicable requirements in the Act in Anchorage and Fairbanks.

Based on EPA's review of the State's 2002 submittal which finds that the 2002 revisions to the AK I/M program are administrative in nature that do not result in any increase or change in emissions, our review of the 2006 SIP revisions which finds that revision to the I/M grace period for new vehicles from two years to four years the 2006 revisions would result in a negligible change in CO emissions and our review of the 2008 submittal which finds that the area will continue to maintain the CO standard and $PM_{2.5}$ emissions will decrease through 2015 without the I/M program in place, we are proposing to approve the State's 2002, 2006 and 2008 submittals.

D. Technical Correction to the Boundary

In an e-mail dated February 9, 2009 from Alice Edwards, Acting Director of the Air Quality Division of the Alaska Department of Environmental Conservation to Mahbubul Islam, Manager of the State and Tribal Air Programs Unit, Office of Air, Waste and Toxics, Region 10, EPA was notified of a discrepancy in the description of the boundary of the Fairbanks Nonattainment Area in the Alaska SIP documents and as published in 40 CFR Part 81. EPA has reviewed this discrepancy and determined that the description in 40 CFR 81.302 contains a transcription error. EPA is, therefore, providing notice of its intent to amend the boundary for the Fairbanks area in 40 CFR 81.302 to include the missing phrase included in the boundary description in the Alaska SIP.

Section 110 (k)(6) of the Act states:

> Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without

[8] *See* EPA's Green Book *http://www.epa.gov/oar/oaqps/greenbk/index.html.*

[9] *See* 40 CFR 51.358.

requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

The table in 40 CFR 81.302 contains the following description of the Fairbanks Area for Carbon Monoxide:

Fairbanks Area—Fairbanks Election District (part), Fairbanks nonattainment area boundary: (1) Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary, also, Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road and the portions of Sections 7, 8, and 18 and the portion of Section 19 north of the Richardson Highway. (Fairbanks and Ft. Wainwright) (2) Township 2 South, Range 2 East, the portions of Sections 9 and 10 southwest of the Richardson Highway. (North Pole.)

The description of the area in the State Implementation Plan (*See* Vol. II Analysis of Problems, Control Actions Section III.C.2–1 of the SIP (contained in the State's 2006 submittal)) is the following:

1. The Fairbanks/Fort Wainwright sub-area includes (a) Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary, and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary; (b) Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road, and the portions of Sections *14 and 23 southeast of the Chena River; and (c) Township 1 South, Range 1 East, Sections* 7, 8, and 18, and the portions of Section 19 north of the Richardson Highway.

2. The North Pole sub-area includes Township 2 South, Range 2 East, and the portions of Section 9 and 10 southwest of the Richardson Highway.

EPA's review of the boundary description in the Alaska SIP and the boundary description on 40 CFR 81.302 finds that the boundary description in 40 CFR 81.302 is ambiguous as to the eastern portion of the nonattainment area. The description of the boundary in 40 CFR 81.302 omits the phrase *14 and 23 southeast of the Chena River. Also, Township 1 South, Range 1 East, Sections* and by doing so defines sections 7, 8 and 19 as being part of Township 1 South Range 2 West. However, sections 7, 8 and 19 of Township 1 Range South Range 2 West are noncontiguous with the rest of the Fairbanks nonattainment area boundary and therefore the description is ambiguous and clearly erroneous. *See* Figure 4 of the TSD for this action for a figure of the Fairbanks area.

EPA also notes that all previous SIP elements including emissions inventories and modeling, regulations and contingency measures submitted by the State and approved by EPA were prepared and implemented for the area as it was described in the Alaska SIP. EPA notes that as a result of these planning efforts, the area has attained the CO standard.

For these reasons, EPA is under section 110(k)(6) of the Act correcting the boundary description for the Fairbanks CO area to include the phrase *14 and 23 southeast of the Chena River. Also, Township 1 South, Range 1 East, Sections.* The corrected version of the description of the description of the Fairbanks CO area in 40 CFR 81.302 will read in full as follows:

Fairbanks Area—Fairbanks Election District (part), Fairbanks nonattainment area boundary: (1) Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary, also, Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road and the portions of Sections *14 and 23 southeast of the Chena River; also Township 1 South, Range 1 East, Sections* 7, 8, and 18 and the portion of Section 19 north of the Richardson Highway. (Fairbanks and Ft. Wainwright). (2) Township 2 South, Range 2 East, the portions of Sections 9 and 10 southwest of the Richardson Highway. (North Pole).

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: September 8, 2009.

Daniel D. Opalski,

Acting Deputy Regional Administrator, Region 10.

[FR Doc. E9–22208 Filed 9–14–09; 8:45 am]

BILLING CODE 6560–50–P