copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 8, 1999.

Stanley A. Meiburg,

Acting Regional Administrator, Region 4.

Part 52 of Chapter I, Title 40, *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—L Georgia

2. Accordingly, § 52.570 is amended by adding paragraph (e) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) EPA Approved Georgia Nonregulatory Provisions

Name of nonregulatory SIP Provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date
1. High Occupancy Vehicle (HOV) lane on I–85 from Chamblee-Tucker Road to State Road 316.	Atlanta Metropolitan Area ..	November 15, 1993 and amended on June 17, 1996.	March 18, 1999 and April 26, 1999.
2. Clean Fuel Vehicles Revolving Loan Program.			
3. Regional Commute Options Program and HOV Marketing Program.			
4. HOV lanes on I–75 and I–85.			
5. Two Park and Ride Lots: Rockdale County-Sigman at I-20 and Douglas County-Chapel Hill at I–20.			
6. MARTA Express Bus routes (15 buses).			
7. Signal preemption for MARTA routes #15 and #23.			
8. Improve and expand service on MARTA's existing routes in southeast DeKalb County.			
9. Acquisition of clean fuel buses for MARTA and Cobb County Transit.			
10. ATMS/ Incident Management Program on I–75/I–85 inside I–285 and northern ARC of I–285 between I–75 and I–85.			
11. Upgrading, coordination and computerizing intersections.			

[FR Doc. 99–33527 Filed 12–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK–21–1709–a; FRL–6515–3]

Approval and Promulgation of State Implementation Plans: Alaska

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves various revisions to the carbon monoxide (CO) Alaska State Implementation Plan (SIP) for Alaska. These revisions to the SIP were submitted in three different packages to EPA, dated February 6, 1997, June 1, 1998, and September 10, 1998.

The revisions cover numerous regulations, the Transportation Conformity Rule (18 AAC 50); Emissions Inspection and Maintenance (I/M) requirements for Motor Vehicles (18 AAC 52); and Fuel Requirements for Motor Vehicles (18 AAC 53). Highlights include changing the I/M program schedule from annual to biennial, replacing the CO contingency measures for Anchorage, and streamlining and updating several portions of the Alaska Air Quality Control Plan for more efficient reading and organization.

DATES: This direct final rule is effective on February 28, 2000 without further notice, unless EPA receives adverse comment by January 28, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Ms. Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801–1795.

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

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

A. What SIP Amendments is EPA Approving?
B. What CO Updates and Changes Were Made to Air Quality Projections and CO Contingency Measures?
C. What Are the Significant Changes to Alaska's I/M Air Quality Program and Regulations (AAC 52)?
D. What Are the Overall Changes to Alaska's Regulations AAC 50 and 53?
E. What Is Transportation Conformity?
F. How Does Transportation Conformity Work?

G. What Are the Effects to Alaska's Transportation Conformity Program from the I/M Rule Change?
H. Why Must the State Have A Transportation Conformity SIP?
I. What is EPA Approving Today for Transportation Conformity and Why?
J. How Did the State Satisfy the Transportation Conformity Interagency Consultation Process (40 CFR 93.105)?
K. What Parts of the Transportation Conformity Rule Are Excluded?

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
2–6–97	—Alaska State Air Quality Control Plan: Volume II, Section I. —Alaska State Inspection and Maintenance Program Manual. —Biennial Vehicle Inspection Program. —Revised Rollback Calculation.
6–1–98	—Emission Inspection and Maintenance Requirements.
9–10–98	—Alaska State Air Quality Control Plan: Volume II, Sections II and III. —Air Quality Control Regulations, Transportation Conformity Rule 18 AAC 50. —Fuel Requirements for Motor Vehicles: Regulations 18 AAC 53. —Anchorage Carbon Monoxide Contingency Measures.

B. What CO Updates and Changes Were Made to Air Quality Projections and CO Contingency Measures?

• EPA Approves a new CO Contingency Measure for Anchorage that replaces its past two CO Contingency Measures.

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

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

The TTC program, found in State regulation 18 AAC 52.400–410, was adopted by the State as a CO contingency measure for Anchorage upon Anchorage's reclassification to a serious CO nonattainment area. In addition, the TTC program was already approved by EPA on February 14, 1996 (61 FR 5704) as a CO contingency measure for Fairbanks, Alaska.

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

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

Using the CNG procurement requirements for government fleets as a contingency measure was determined unworkable at this time. Major issues included lack of a refueling infrastructure for CNG vehicles in and around Anchorage, and there are only selected models available now which are dedicated CNG vehicles certified to ultra low emission vehicle standards. The extent of these issues were such that it would be infeasible to implement the CNG contingency measure in Anchorage and expect to gain meaningful reductions in emissions.

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

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

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

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

• How Does Approval of the New Contingency Measure Change Alaska's Air Quality Control Regulations in 18 AAC 53, *Fuel Requirements for Motor Vehicles?*

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

• The Rollback Modeling Calculation Used to Determine CO Emission Reductions is Clarified.

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

amount of control necessary to attain and maintain the CO NAAQS.

• Long-Term Air Quality Projections are Updated.

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

Also, data was updated to include 1995 2nd highest 8-hour ambient CO concentrations recorded at Anchorage monitoring sites.

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

• Information is Streamlined and Reorganized in Alaska's CO SIP.

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

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

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

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

EPA approves all the changes to Alaska's I/M regulations submitted by the Alaska Department of Environmental Conservation (ADEC) on February 6, 1997 and June 1, 1998. The following explains the major changes:

• I/M Program Changes From Annual to Biennial.

In 1995, the Alaska State Legislature in Senate Bill 28 required that all State I/M programs implement biennial I/M testing beginning no later than January 1, 1997. In February 1997, ADEC submitted to EPA the updated State I/M regulations that reflect this change. Many States nationwide have changed their I/M programs from annual to biennial programs. This change has provided more convenience to vehicle owners (inspections are required less frequently, except when ownership of a vehicle is transferred), only negligible increases in vehicle emissions, and improved I/M program efficiency. ADEC analyzed the impact of changing the I/M program from an annual to a biennial program on motor vehicle emissions and found it would not significantly impact emission reductions. The I/M regulations also reflect a change in fees. Alaska's I/M programs in Fairbanks and Anchorage are operated by local government, Fairbanks North Star Borough and the Municipality of Anchorage, respectively, who have the authority to set their own program fees. In addition, in June 1998 the vehicle inspection schedule was changed to match the vehicle registration schedule (required by Alaska Statute 28.10.108), resulting in vehicle inspection and registration occurring on the same biennial schedule. The certificate of inspection is $18 in both Anchorage and Fairbanks. Anchorage has set a maximum of $60 and Fairbanks $35 for inspection testing.

• Provisions for Waivers and Emissions-Related Repair Costs Changed.

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

• New Requirements for Dealers of Used Motor Vehicles.

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

• ADEC's Dual Authority With an Implementing Agency Clarified.

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

• Notice of Violation Provisions Pertaining to Motorist Updated.

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

• New Provision Allows for Visual Identification of Certificate of Inspection ('Sticker Program').

A new provision allows the implementing agency to require a visual identification, such as windshield sticker or license plate tab, that clearly shows compliance with inspection requirements. A sticker program (or similar program) provides easy visual verification of program compliance, which improves enforcement and

provides incentive to motorists to have their cars inspected. Details of this provision are outlined in 18 AAC 52.025.

• Update to Requirements for Grey Market Vehicles.

Grey market vehicles are manufactured for use outside of, and imported into, the United States. The revised provision for grey market vehicles (18 AAC 52.080) reduces the requirements for issuing a certificate of inspection on a grey market vehicle when it has a United States title. However, grey market vehicles are required to pass visual and functional inspections and/or tailpipe emission standards required by the I/M program manual. In addition, motorists are still required to obtain the applicable importation documents issued by EPA or the U.S. Department of Transportation.

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

EPA is approves in part, and takes no action on the following Alaska Air Quality Control Regulations:

Approvals 18 AAC 50

EPA is approving the following transportation conformity regulations under 18 AAC 50 as adopted by ADEC and effective on September 4, 1998: Section 700; 705; Section 710 with the exception of incorporation by reference of sections 93.102(c), 93.102(d), 93.104(d), 93.104(e)(2), 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1) and (b), and 93.124(b); 715; and 720. EPA takes no action at this time on the exceptions found under section 710. (For an explanation of incorporation by reference, please see ''I.'')

No Action 18 AAC 50

In addition to the transportation conformity exceptions listed in the preceding paragraph, EPA is taking no action at this time on any of the 18 AAC 50 regulations, Articles 1 through 9, submitted on September 10, 1998. These regulations that are not being acted upon relate to the permitting of new and modified stationary sources or do not relate to the purposes of the SIP under section 110 of the Act or implement other provisions of the Clean Air Act.

Approvals 18 AAC 53

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

Repeal of 18 AAC 53.015

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

E. What is Transportation Conformity?

Conformity first appeared in the Act's 1977 amendments (Pub. L. 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated. The Act's 1990 Amendments expanded the scope and content of the conformity concept by defining conformity to an implementation plan. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. Also, the Act states that no Federal activity will: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

F. How Does Transportation Conformity Work?

The Federal or State Transportation Conformity Rule applies to all nonattainment and maintenance areas in the State. The Metropolitan Planning Organizations (MPO), the State Departments of Transportation (in absence of a MPO), and U.S. Department of Transportation make conformity determinations. These agencies make conformity determinations on programs and plans such as transportation improvement programs, transportation plans, and projects. The MPOs calculate the projected emissions for the transportation plans and programs and compare those calculated emissions to the motor vehicle emissions ceiling established in the SIP. The calculated emissions must be smaller than the motor vehicle emissions ceiling for showing a positive conformity with the SIP.

G. What are the Effects to Alaska's Transportation Conformity Program From the I/M Rule Change?

The I/M action has no impact on the transportation emissions budget. However, the switch to biennial I/M does make it somewhat more difficult to demonstrate regional conformity, since it results in small increases in future emissions projections (while the allowable emissions budgets do not increase). However, this impact has not caused a significant problem in continuing to demonstrate conformity in Anchorage and Fairbanks, largely due to the continued decline in projected emissions resulting from fleet turnover.

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

H. Why Must the State Have a Transportation Conformity SIP?

EPA was required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP by section 176(c) of the Act. The Act also required the procedure to include a requirement that each State submit a revision to its SIP including conformity criteria and procedures. EPA published the first transportation conformity rule in the November 24, 1993, **Federal Register** (FR), and it was codified at 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. EPA required the States and local agencies to adopt and submit a transportation conformity SIP revision by November 25, 1994. The State of Alaska sent a transportation conformity SIP on November 6, 1994, and EPA approved this SIP on November 8, 1995 (60 FR 56244). EPA revised the transportation conformity rule on August 7, 1995 (60 FR 40098), November 14, 1995 (60 FR 57179), August 15, 1997 (62 FR 43780), and it was codified under 40 CFR part 51, subpart T and 40 CFR part 93, subpart A—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws (62 FR 43780). EPA's action of August 15, 1997, required the States to

change their rules and send a SIP revision by August 15, 1998.

I. What is EPA Approving Today for Transportation Conformity and Why?

EPA is approving the Alaska Transportation Conformity Rule that the Governor of Alaska submitted on December 10, 1998 except for the incorporation by reference of sections 93.102(c), 93.102 (d), 93.104(d), 93.104(e)(2), 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1) and (b), and 93.124(b) of 40 CFR into AAC 50.710. The rationale for exclusion of these sections is discussed in Question K.

ADEC has adopted the Federal rules by ''incorporation by reference'' (except for the interagency consultation section 40 CFR 93.105 where they customized the rules for Alaska) ''Incorporation by Reference'' (IBR) means that the State adopted the Federal rules without rewriting the text of the Federal rules but by referring to them for inclusion as if they were printed in the state regulation. The Federal Transportation Conformity Rule required the states to adopt majority of the Federal rules in verbatim form with a few exceptions. The States can not make their rules more stringent than the Federal rules unless the State's rules apply equally to non-federal entities as well as Federal entities. The Alaska Transportation Conformity Rule is the same as the Federal rule and the State has made no additional changes or modifications, with the exception to the consultation section. EPA has evaluated this SIP revision and has determined that the State has fully adopted the Federal Transportation Conformity rules as described in 40 CFR part 51, subpart T and 40 CFR part 93, subpart A. Also, the ADEC has completed and satisfied the public participation and comprehensive interagency consultations during development and adoption of these rules at the local level. Therefore, EPA is approving this SIP revision.

J. How did the State Satisfy the Transportation Conformity Interagency Consultation Process (40 CFR 93.105)?

EPA's rule requires the States to develop their own processes and procedures for interagency consultation among the Federal, State, and local agencies and resolution of conflicts meeting the criteria in 40 CFR 93.105. The SIP revisions must include processes and procedures to be followed by the MPO, State Department of Transportation (DOT), and the U.S. Department of Transportation (USDOT) in consulting with the State and local air quality agencies and EPA before making conformity determinations. Also, the transportation conformity SIP revision must have processes and procedures for the State and local air quality agencies and EPA in coordinating development of applicable SIPs with MPOs, State DOT, and USDOT. The State developed its own consultation rule based on the elements in 40 CFR 93.105, and excluded this section from IBR.

The Alaska consultation rule specifically addresses interagency consultation procedures between ADEC, the local air planning agency, Alaska Department of Transportation and Public Facilities, the local transportation agency, any agency created under state law that sponsors or approves transportation projects, the U.S. EPA, the Federal Highway Administration, and the Federal Transit Administration. The rule includes provision for consultation, review procedures, and conflict resolution for elements such as: discussion draft conformity determinations on transportation plans, programs, and projects; traffic demand modeling; regional emissions modeling; transportation control measures; and projects that should be considered regionally significant. It also includes provision for public review of conformity determinations.

K. What Parts of the Transportation Conformity Rule are Excluded?

EPA promulgated the transportation conformity rule on August 15, 1997. On November 4, 1997, the United States Court of Appeals for the District of Columbia Circuit held in Sierra Club v. Environmental Protection Agency, No. 96–1007, ruled that EPA's grace period violates the plain terms of the Act and, therefore, is unlawful. Based on this court action, EPA cannot approve 40 CFR 93.102(d). On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund* v. *Environmental Protection Agency,* No. 97–1637. The Court granted the environmental group's petition for review and ruled that 40 CFR 93.102(c)(1), 93.121(a)(1), and 93.124(b) are unlawful and remanded 40 CFR 93.118(e) and 93.120(a)(2) to EPA for revision to harmonize these provisions with the requirements of the Act for an affirmative determination the Federal actions will not cause or increase violations or delay attainment. The sections that were included in this decision were: (a) 40 CFR 93.102(c)(1) which allowed certain projects for which the National Environmental Policy Act (NEPA) process has been completed by the DOT to proceed toward implementation without further conformity determinations during a conformity lapse, (b) 40 CFR 93.118(e) which allowed use of motor vehicle emissions budgets (MVEB) in the submitted SIPs after 45 days if EPA had not declared them inadequate, (c) 40 CFR 93.120(a)(2) which allowed use of the MVEB in a disapproved SIP for 120 days after disapproval, (d) 40 CFR 93.121(a)(1) which allowed the non-federally funded projects to be approved if included in the first three years of the most recently conforming transportation plan and transportation improvement programs, even if conformity status is currently lapsed, and (e) 40 CFR 93.124(b) which allowed areas to use a submitted SIP that allocated portions of a safety margin to transportation activities for conformity purposes before EPA approval. Since the States were required to submit transportation conformity SIPs not later than August 15, 1998, and include those provisions in verbatim form, the State's SIP revision includes all those sections which the Court ruled unlawful or remanded for consistency with the Act. The EPA can not approve these sections. EPA believes that ADEC has complied with the SIP requirements and has adopted the Federal rules which were in effect at the time that the transportation conformity SIP was due to EPA. If the court had issued its ruling before adoption and SIP submittal by the ADEC, we believe the ADEC would have removed these sections from its IBR. The ADEC has expended its resources and time in preparing this SIP and meeting the Act's statutory deadline, and EPA acknowledges the agency's good faith effort in submitting the transportation conformity SIP on time. ADEC will be required to submit a SIP revision in the future when EPA revises its rule to comply with the court decision. Because the court decision has invalidated these provisions, EPA believes that it would be reasonable to exclude the corresponding sections of the state rules from this SIP approval action. As a result, we are not taking any action on the IBR of sections 93.102(c), 93.102 (d), 93.104(d), 93.104(e)(2), 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1) and (b), and 93.124(b) of 40 CFR at 18 AAC 50.710 under the State Transportation Conformity Rule. The conformity determinations affected by these sections should comply with the relevant requirements of the statutory provisions of the Act underlying the court's decision on these issues. The EPA will be issuing guidance on how to

implement these provisions in the interim prior to EPA amendment of the federal transportation conformity rules. Once these Federal rules have been revised, conformity determinations in Alaska should comply with the requirements of the revised Federal rule until corresponding provisions of the Alaska conformity SIP have been approved by EPA.

II. Summary of Action

EPA approves and takes no action on certain regulations found in 18 AAC 50, 52, and 53, which were submitted for inclusion into Alaska's SIP. EPA also approves deletions listed below from the Alaska SIP.

18 AAC 50 Approvals

EPA approves sections 700, 705, 710 except for the incorporation by reference of sections 93.102(c), 93.102 (d), 93.104(d), 93.104(e)(2), 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2); 715, and 720.

18 AAC 50 No Action

As stated in ''D'', EPA takes no action on the remainder of those regulations submitted on September 10, 1998, found in Articles 1–9, 18 AAC 50.

18 AAC 52

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

Effective January 1, 1997: Section 055; 090.

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

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

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

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

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

EPA also approves numerous edits, updates, and improved reorganization to the narrative portions of Alaska's CO SIP for easier reading and understanding.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 28, 2000 without further notice unless the Agency receives adverse comments by January 28, 2000.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 28, 2000 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This direct final rule will 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, because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

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

costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 February 28, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

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

PART 52—[AMENDED]

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

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

Subpart C—Alaska

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

§ 52.70 Identification of plan.

* * * * *

(c) * * *

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

(i) Incorporation by reference.

(A) Air Quality Control Regulations, 18 AAC 50.

Effective September 4, 1998: Section 700; Section 705; Section 710 (except for the incorporation by reference of

sections 93.102(c), 93.102 (d), 93.104(d), 93.104(e)(2), 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1) and (b), and 93.124(b) of 40 CFR); Section 715; and Section 720.

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

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

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

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

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

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

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

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

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

(ii) Additional Material.

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

[FR Doc. 99–33525 Filed 12–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP–300961; FRL–6484–8]

RIN 2070–AB78

Phosphine; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Tolerances are being revised and consolidated for residues of phosphine in or on certain agricultural commodities and animal feeds. None of these tolerances are new, although the change will facilitate new application methods. The Agency is merely changing the tolerance expression to eliminate references concerning how the phosphine is generated. The Agency published a detailed discussion of the change in the tolerance expression, including a risk assessment, on June 9, 1999, as a proposed rule.

DATES: This regulation is effective December 29, 1999. Objections and requests for hearings, identified by docket control number OPP–300961, must be received by EPA on or before February 28, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300961 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308-6742; and e-mail address: McNeilly.Dennis@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300961. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday,