

Anchorage, Alaska 99503; telephone (907) 786-3467. For questions related to subsistence management issues on National Forest Service lands, inquiries may also be directed to Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802-1628; telephone (907) 586-7921.

SUPPLEMENTARY INFORMATION: The following agenda items will be discussed at the respective Regional Council meetings:

Joint Region 7 and Region 8 meeting—
Subsistence take of muskox on Federal lands in parts of Units 22 and 23.

Region 2—Proposed customary and traditional use determinations for the Kenai Peninsula and proposed subsistence harvest regulations for the taking of moose on Federal lands in Unit 15.

The Regional Councils have been established in accordance with Section 805 of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, and Subsistence Management Regulations for Public Lands in Alaska, subparts A, B, and C (57 FR 22940-22964). The Regional Councils advise the Federal Government on all matters related to the subsistence taking of fish and wildlife on public lands in Alaska and operate in accordance with provisions of the Federal Advisory Committee Act. The identified Regional Council meetings will be open to the public. The public is invited to attend these meetings, observe the proceedings, and provide comments to the Regional Councils.

Dated: June 15, 1995.

Mitch Demientieff,

Chair, Federal Subsistence Board.

[FR Doc. 95-15921 Filed 6-28-95; 8:45 am]

BILLING CODE 3410-11-M; 4310-55-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AK9-1-6975a; FRL-5223-1]

Approval and Promulgation of Implementation Plan for Vehicle Miles Traveled Forecasting and Tracking: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA today approves the State Implementation Plan (SIP) revision submitted by the State of

Alaska for the purpose of forecasting and tracking vehicle miles traveled (VMT) in the Anchorage area. On March 24, 1994, the Alaska Department of Environmental Conservation (ADEC) submitted a SIP revision to EPA to satisfy the requirements of sections 187(a)(2)(A) and 187(a)(3) of the Clean Air Act, as amended in 1990 (CAA).

Section 187(a)(2)(A) requires Moderate and Serious carbon monoxide (CO) non-attainment areas with a design value above 12.7 to submit a SIP revision that contains a forecast of VMT in the non-attainment area for each year before the year in which the SIP projects the National Ambient Air Quality Standard (NAAQS) for CO to be attained. The SIP revision, which was due by November 15, 1992, also requires annual updates of the forecasts and specific contingency measures to be implemented if the annual estimate of actual VMT or a subsequent VMT forecast exceeds the most recent prior forecast of VMT or if the area fails to attain the CO NAAQS by the attainment date.

DATES: This action will be effective on August 28, 1995 unless adverse or critical comments are received by July 31, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Air & Radiation Branch (AT-082), 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, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, Washington 98101, and ADEC, 410 Willoughby, Suite 105, Juneau, AK 99801-1795.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Air & Radiation Branch (AT-082), EPA, Seattle, Washington 98101, (206) 553-0180.

SUPPLEMENTARY INFORMATION:

I. Background

Section 187(a)(2)(A) of the Clean Air Act required EPA, in consultation with the U.S. Department of Transportation (DOT), to develop guidance for states to use in complying with the VMT forecasting and tracking provisions of section 187. A Notice of Availability for the resulting *Section 187 VMT*

Forecasting and Tracking Guidance was published in the **Federal Register** on March 19, 1992.

The Section 187 Guidance identifies the Federal Highway Administration's Highway Performance Monitoring System (HPMS) as the foundation for VMT estimates and forecasts. HPMS was chosen as the best method for estimating actual VMT since it is a count-based, statistically-based, nationwide program with auditing procedures in place, and since travel demand models would require resource intensive, annual updates of input data and annual validation against traffic counts in order to be useful for estimating annual VMT. EPA believes that these time and resource requirements generally make travel demand models an unrealistic option for estimating actual annual VMT with reasonable accuracy.

To develop growth factors for forecasting VMT, the Section 187 Guidance offers as one alternative the use of network-based travel demand models. If these models are properly updated and validated, and if they use an equilibrium approach to allocating trips, they are considered to be the best predictor of growth factors for VMT forecasts. Moderate areas without a network model that is validated according to the specifications described in the Section 187 Guidance are offered the alternative of developing growth factors based on a linear regression extrapolation of the past six years' HPMS VMT. In both cases, the growth factors are applied to the HPMS VMT reported to the Federal Highway Administration.

As specified in the Act, the contingency measure triggers serve to address as early as possible any situation in which a trend towards higher than expected VMT has been detected, since such a trend may affect the forecasted attainment date.

When determining that actual annual VMT or a VMT forecast has exceeded the most recent prior forecast and, therefore, that contingency measures should be implemented, EPA believes that it is appropriate to take into account the statistical variability in the estimates of VMT generated through HPMS. Consequently, EPA has identified a margin of error to be applied when making VMT comparisons. With the expectation that HPMS sampling procedures will improve over the next few years in response to recent Federal Highway Administration guidance, the margin of error starts at 5.0 percent for VMT comparisons made in 1994, becomes 4.0 percent for VMT comparisons made in

1995, and is reduced to 3.0 percent for VMT comparisons made in 1996 and thereafter. However, since each revised VMT forecast becomes the VMT baseline for triggering contingency measures, the application of a margin of error every year could allow the forecasts to increase without bound, without ever triggering contingencies. To prevent this occurrence, EPA believes it is appropriate to allow the application of the margin of error only as long as, cumulatively, neither an estimate of actual VMT nor a VMT forecast ever exceed by more than 5.0 percent the VMT forecast relied upon in the area's attainment demonstration.

In practice, then, there are two ways in which an estimate of actual VMT or an updated forecast can be found to exceed a prior forecast. Individual yearly comparisons can result in an exceedance of the forecast made 12 months earlier by more than the prescribed percentage for that year, and exceedances can accumulate so that, cumulatively, they exceed the 5.0 percent cap above the attainment demonstration forecast.

EPA interprets the requirement for contingency measures to "take effect without further action by the State or the Administrator" to mean that no further rulemaking activities by the State or EPA would be needed to implement the measures. The *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, published in the **Federal Register** on April 16, 1992, offers guidance on the type and size of contingencies to be included in the SIP revision. This guidance is advisory in nature and is non-binding. (See 57 FR at 13532-33, April 16, 1992.)

The State of Alaska has submitted a SIP revision to EPA in order to satisfy the requirements of sections 187(a)(2)(A) and 187(a)(3). The State submittal provides for each of the following mandatory elements: (1) a

forecast of VMT in the non-attainment area for each year prior to the attainment year; (2) a provision for annual updates of the forecasts along with a provision for annual reports describing the extent to which the forecasts proved to be accurate; these reports shall provide estimates of actual VMT in each year for which a forecast was required; (3) adopted and enforceable contingency measures to be implemented without further action by the State or the Administrator if actual annual VMT or an updated forecast exceeds the most recent prior forecast or if the area fails to attain the CO NAAQS by the attainment date.

II. Analysis

The following items are the basis for approval of the SIP revision. The State has met the requirements of sections 187(a)(2)(A) and 187(a)(3) by submitting a SIP revision that implements all required elements.

1. VMT Forecasts

Section 187(a)(2)(A) requires that the State include in its SIP submittal a forecast of VMT in the non-attainment area for each year before the year in which the SIP projects the National Ambient Air Quality Standard for CO to be attained. The forecasts are to be based on guidance developed by EPA in consultation with DOT, i.e., the *Section 187 VMT Forecasting and Tracking Guidance*. To accurately forecast VMT in the Anchorage area, The Municipality of Anchorage and the State Departments of Environmental Conservation and Transportation and Public Facilities used the HPMS. The Central Region portion of the Alaska HPMS database was expanded to contain most of the eligible roads in the Anchorage area, and the HPMS sampling methodology was applied to increase the accuracy of traffic estimates. This procedure resulted in an increase in the number of roads included in the database, and an

increase in the number of sample sections on the roads. HPMS provides VMT estimates based on actual traffic counts collected from a representative set of sampling locations. The network-based travel demand modelling process described in *Section 187 VMT Tracking and Forecasting Guidance* was used to project future VMT for calendar years 1993, 1994 and 1995. The MinUPT travel demand model estimated growth in vehicle travel during the forecast period. This model is maintained by the Municipality of Anchorage Department of Economic Development and Planning. Demographic data (population, land use, and employment data) was used as inputs to the model. MinUTP model runs were performed for the base year 1990 and for future year 1995. Runs incorporated a population growth rate of roughly 1.2 percent per year. As a result of the modeling runs, VMT were projected to increase by 13.3 percent over the five-year period, or roughly 2.5 percent per year. VMT during intervening years was estimated from straight-line interpolation. Documentation on the model is contained in the *1985 Anchorage Metropolitan Area Transportation Model Report*. This annual VMT growth rate is more than double the projected increase in population for the same period. The use of a high ratio will provide a conservative estimate of future reductions in emissions and resulting air quality concentrations. A safety margin of 5.5 percent was added to the VMT forecasts. Best estimates of future-year VMT were increased by 5.5 percent. Attainment projections were prepared with this VMT included. For the 1990 base year, model estimates reflect the existing 1990 roadway network and the best available demographic data as inputs, and no safety margin is required.

Below is a table showing the forecasted VMT for Anchorage:

AVERAGE ANNUALIZED DAILY VMT FOR ANCHORAGE

Year	Projected VMT	Safety Margin (percent)	Forecasted VMT
1990	2,854,000	-0-	2,854,000
1993	3,081,530	+5.5	3,249,800
1994	3,157,373	+5.5	3,329,800
1995	3,233,216	+5.5	3,409,700

2. Annual VMT Updates/Reports

Section 187(a)(2)(A) specifies that the SIP revision provide for annual updates of the VMT forecasts and annual reports that describe the accuracy of the forecasts and that provide estimates of

actual VMT in each year for which a forecast was required. The *Section 187 VMT Forecasting and Tracking Guidance* specifies that annual reports should be submitted to EPA by September 30 of the year following the

year for which the VMT estimate is made.

Annual VMT tracking is done by the Alaska Department of Transportation and Public Facilities using the federally mandated and annually audited HPMS.

The 1990 base year VMT estimate was used as a "starting point" for future year VMT projections. The 1990 base year estimate of VMT and the VMT forecasts for future years are summarized in the Anchorage Air Quality Plan for Carbon Monoxide. Two additional reports provide primary support to the estimates contained in the Plan. The first report, *1990 Vehicle Miles of Travel in the Anchorage Bowl*, Alaska Department of Transportation and Public Facilities and the Municipality of Anchorage, February 1992, describes the methods used to generate HPMS estimates of base year VMT. The second report, *Anchorage Metropolitan Area 1990-1995 VMT Forecast Procedures*, July 1992, describes the methods and assumptions used in developing VMT forecasts. Both of these reports are contained in the Appendix to the Air Quality Plan.

In addition, Alaska has committed to meet the annual reporting procedures requirements. The reports will contain annual updates of the VMT forecasts, describe the accuracy of the forecasts, and provide estimates of actual VMT in each year for which a forecast was required. The reports will contain estimates of actual vehicle miles traveled in each year for which the forecast was required. The annual reports will show the comparison of the estimate of actual VMT and the previously forecasted VMT. The reports will show that Anchorage area's actual VMT is well within the forecasted VMT.

3. Contingency Measure

Section 187(a)(3) specifies that the State, in its SIP revision, adopt specific, enforceable contingency measures to be implemented if the annual estimate of actual VMT or a subsequent VMT forecast exceeds the most recent prior forecast of VMT or if the area fails to attain the CO NAAQS by the attainment date. Implementation of the identified contingency measures must not require further rulemaking activities by the State or EPA. Alaska meets this requirement. The contingency measure that will be used by Alaska to satisfy the VMT requirement is the expansion of the oxygenated fuel control area, and the State has amended its regulation 18 AAC 53.015, "Expansion of Control Area," to provide for its implementation, if necessary. This amendment expands the oxygenated fuels' control area for Anchorage to include geographic areas outside of the municipality's boundaries, but within reasonable driving distances of the municipality. At this time, EPA is approving this contingency measure for the purpose of VMT exceedance.

III. Today's Action

In today's action, EPA is approving the SIP revision pertaining to VMT forecast which was submitted by the State of Alaska for the Anchorage area.

The State of Alaska has submitted a SIP revision implementing each of the required elements required by sections 187(a)(2)(A) and 187(a)(3) of the CAA for the Municipality of Anchorage: VMT forecasts, VMT updates/reports, and an enforceable contingency measure. If VMT projections are exceeded by actual VMT in future years, the implementation of the contingency measure will be triggered, together with a revision of the air quality plan, as required by the CAA. EPA is therefore approving this SIP revision.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 28, 1995 unless, by July 31, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the

effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective August 28, 1995.

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

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

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993

memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 28, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: June 6, 1995.

Chuck Clarke,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c)(23) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(23) On March 24, 1994, ADEC submitted a SIP revision to EPA to satisfy the requirements of sections 187(a)(2)(A) and 187(a)(3) of the CAA, forecasting and tracking VMT in the Anchorage area.

(i) Incorporation by reference.

(A) March 24, 1994 letter from the Alaska Governor to the EPA Regional Administrator including as a revision to the SIP the VMT requirement in the Anchorage area, contained in ADEC's State Air Quality Control Plan, Volume III: Appendices, Modifications to Section III.B.6, III.B.8, III.B.10 and III.B.11, adopted January 10, 1994; and

further description on pages 10-14, 57-60 and 69-75 contained in ADEC's State Air Quality Control Plan, Volume III: Appendices, Modifications to Section III.B, III.B.1, and III.B.3, adopted January 10, 1994.

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40 CFR Part 52

[ME-23-1-6827a; ME-4-1-6848; A-1-FRL-5214-4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Gasoline Marketing Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine on July 6, 1994. This revision consists of several regulations which require the implementation of reasonably available control technology (RACT) for controlling volatile organic compound (VOC) emissions from gasoline marketing operations. The intended effect of this action is to approve the gasoline marketing regulations submitted by Maine on July 6, 1994 into the Maine SIP. Some of these regulations are being approved as a direct final action, while others are being approved as a final rulemaking action. This action is being taken in accordance with the Clean Air Act.

DATES: Section 52.1020(c)(35) will become effective July 31, 1995. Section 52.1020(c)(36) and the amendments to §§ 52.1022 and 52.1031 will become effective August 28, 1995, unless notice is received by July 31, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments on Section 52.1020(c)(36) may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401

M Street, S.W., (LE-131), Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565-3166.

SUPPLEMENTARY INFORMATION: On July 11, 1994, EPA received a formal State Implementation Plan (SIP) submittal from the Maine Department of Environmental Protection (DEP) containing the following regulations: Chapter 100 "Definitions Regulation" Chapter 112 "Petroleum Liquids Transfer Vapor Recovery" Chapter 118 "Gasoline Dispensing Facilities Vapor Control" Chapter 120 "Gasoline Tank Truck Tightness Self-Certification" Chapter 133 "Petroleum Liquids Transfer Vapor Recovery at Bulk Gasoline Plants"

These regulations had been recently adopted (or amended) pursuant to the requirements of Sections 182(b)(2) and 184(b)(1)(B) of the Clean Air Act (CAA).

Background

Under the pre-amended Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guidelines (CTGs) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under Section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under Section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Clean Air Act, portions of Maine were designated as rural nonattainment (i.e., the Metropolitan Portland Intrastate Air Quality Control Region (AQCR) and the Androscoggin Valley Interstate AQCR) and, therefore, were required to adopt