## § 51.360 Waivers and compliance via diagnostic inspection.

The program may allow the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria described below are met.

(a) \* \* \*

(1) Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed. Qualifying repairs include repairs of primary emission control components performed within 60 days of the test date.

(5) General repairs shall be performed by a recognized repair technician (i.e., one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair) in order to qualify for a waiver. I/M programs may allow repairs of primary emission control components performed by nontechnicians (e.g., owners) to apply toward the waiver limit.

(6) In basic programs, a minimum of \$75 for pre-81 vehicles and \$200 for 1981 and newer vehicles shall be spent in order to qualify for a waiver. These model year cutoffs and the associated dollar limits must be in full effect no later than January 1, 1998. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the basic I/M performance standard.

(7) Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least \$450 in repairs to qualify for a waiver. The I/M program shall provide that the \$450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard.

(ii) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used. The first Consumer Price Index adjustment to the minimum \$450 waiver expenditure shall go into effect on January 1, 1998.

(9) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met. After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle shall be tracked and reported by the program.

(b) Compliance via diagnostic inspection. Vehicles subject to a transient IM240 emission test at the cutpoints established in §§ 51.351 (f)(7) and (g)(7) of this subpart may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the I/M agency or a contractor to the I/M agency show that no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to approval by the Administrator.

4. Section 51.372 is amended by revising paragraph (c) introductory text, (c)(3) and (c)(4), and paragraph (e) to read as follows:

## § 51.372. State implementation plan submissions.

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under Sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or CO standard or other air quality problem, in accordance with the provisions of the maintenance plan.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones. The schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart. Schedule milestones shall be listed in months from the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Unless the state, in accordance with the provisions of the maintenance plan, chooses not to implement I/M, it must submit a SIP revision containing an I/M program no more than 18 months after notification by EPA.

\* \* \*

(e) SIP submittals to correct violations. SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in §51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect in within 24 months of the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

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## 40 CFR Part 70

[ND-001; FRL-5199-8]

## Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; State of North Dakota

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

**ACTION:** Proposed interim approval.

**SUMMARY:** The EPA proposes interim approval of the Operating Permits Program submitted by the State of North Dakota for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the alternative, EPA proposes disapproval of the North Dakota Operating Permits Program if the corrective action necessary for final interim PROGRAM approval is not