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**Interim Guidance for Federal Facility
Compliance with Clean Air Act
Sections 118(c) and 118(d) and
Applicable Provisions of State Vehicle
Inspection and Maintenance Programs**

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Interim Guidance for Federal Facility Compliance With Clean Air Act Sections 118(c) and 118(d) and Applicable Provisions of State Vehicle Inspection and Maintenance Programs

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INTRODUCTION

Despite the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone and nearly all the carbon monoxide air pollution in United States cities. The Clean Air Act Amendments of 1990 (CAAA) enacted new regulatory requirements for motor vehicles operating in ozone and carbon monoxide non-attainment areas. Motor vehicle Inspection and Maintenance (I/M) programs are required in areas of states that do not meet national ambient air quality standards (NAAQS) for ozone and carbon monoxide. Federal facilities are generally required to comply with state regulatory requirements but only to the extent, such requirements also are imposed on non-governmental entities. Appendix 1 contains the language of CAA Section 118(a), which applies to Federal facilities. A list of areas that are required to implement I/M programs as of March 1999 is in Appendix 2. In the CAAA, Congress imposed additional requirements on the Federal government to assure that government and Federal employee vehicles operated on Federal facilities located within a state motor vehicle I/M program area shall be tested, regardless of whether the vehicles are registered in the state or local I/M area. The program applies to government owned/leased vehicles (CAA Section 118(c)) and employee owned/leased vehicles (CAA Section 118(d)) operated on Federal facilities more than 60 days per year regardless of the state where the vehicle is registered. Military tactical vehicles are exempt.

By November 15, 1997 all states were required to have their I/M programs in effect. Although some states were unable to meet this deadline, most state I/M programs are in effect in 1999. As a result, Federal facilities located in I/M program areas must begin as soon as possible to develop a means for complying with the extra requirements of Section 118 (c) and 118(d). To assist Federal facilities in meeting these requirements, a Federal interagency working group was formed to develop this guidance. The document is divided into two major sections:

- Government vehicles
- Federal employee vehicles operated on Federal facilities

DEFINITIONS

Basic I/M Program - any vehicle inspection and maintenance program which has been approved by EPA as meeting or exceeding the Basic I/M Performance Standard as defined in EPA's I/M rule (40 CFR 51.352), i.e., it is designated as a Basic I/M Program in the Federal Register approval notice for that state's I/M State Implementation Plan (SIP).

Enhanced I/M Program - any vehicle inspection and maintenance program which has been approved by EPA as meeting or exceeding either the Enhanced, Alternate Low Enhanced or Ozone Transport Region (OTR) Low Enhanced I/M Performance Standards as defined in EPA's I/M rule (40 CFR 51.351), i.e., it is designated as either an Enhanced I/M Program, Low Enhanced I/M Program or OTR Low Enhanced I/M Program in the Federal Register approval notice for that state's I/M State Implementation Plan (SIP).

Employee vehicle - any personal vehicle which is operated by an individual Federal employee on a Federal facility or property.

Facility Administrator - the agency or facility official(s) designated to administer that agency's or facility's compliance with CAA section 118(c) and 118(d).

Federal Agency - each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government.

Federal Employee - civilian or military personnel employed or stationed at a Federal facility. Contractors are not considered Federal employees.

Federal Facility - all buildings, structures, and parking areas, which are located on a single site or on contiguous or adjacent sites and which are owned, leased or operated by the same Federal Agency.

Government Vehicle - all motor vehicles owned or leased by a Federal facility or Agency and operated by a Federal employee or Federal contract employee in the performance of the government's official business.

I/M program - a vehicle emission control program promulgated pursuant to and in conformance with an EPA approved State Implementation Plan.

Leased Vehicle - a vehicle obtained by a Federal agency or facility by contract or other arrangement from a commercial source for a period of 60 continuous days or more.

Mass emission test - any emission test which operates the vehicle at transient speeds and measures emissions in grams per mile, such as the IM240, RG240, VMAS or NYTEST.

Military Tactical vehicle - any motor vehicle designed to military specifications or a commercially designed motor vehicle modified to military specification to meet direct transportation support of combat, tactical or relief operations, or for training of personnel for

such purposes.

Parking on the facility - parking an employee vehicle on a parking area owned, leased or under the control of the Federal facility to which the employee is primarily assigned.

Primarily assigned - Primarily assigned - the Federal facility at which an employee is principally employed. The term "primarily assigned" does not include personnel on temporary assignment or duty for 180 days or less; nor students temporarily assigned to the facility solely for training.

Primarily operated - the area in which the vehicle is garaged or driven in excess of 50% of its annual mileage.

Restricted access - a parking area for which the Federal facility has in place measures to ensure it is able to control which vehicles are authorized to park thereon.

GOVERNMENT VEHICLES: CAA Sections 118(a) & (c)

I. INTRODUCTION

Federal agencies and facilities that own or operate motor vehicles (referred to as government vehicles) must comply with all applicable vehicle inspection and maintenance (I/M) provisions of a valid I/M program, as described below. The following is intended as a guide to help the facility administrator determine:

- Which requirements apply to their government vehicles,
- Which government vehicles are covered,
- How to approach inspection and reporting requirements, and
- What constitutes compliance with the substantive and procedural requirements of the applicable I/M program for their facility.

Although some government vehicles may operate in more than one state or non-attainment or maintenance area, in all cases, the government vehicle must comply with the I/M program for the area where the vehicle is primarily operated. The program area where the vehicle is primarily operated is usually the program area where the vehicle is garaged. Thus, no two program areas can compel testing of any one Federal government vehicle. If the facility administrator wishes to submit a government vehicle to I/M program requirements in a program area other than (and in lieu of) the one where the government vehicle is garaged, the facility administrator should retain mileage records that identify that program area as the one in which the government vehicle primarily operates. In addition, for those Federal agencies that operate vehicles in connection with national security, investigative, law enforcement, or other sensitive missions, there are some special concerns which are addressed in Section VIII.

II. WHICH REGULATIONS APPLY?

Federal facilities or agencies that own or operate government vehicles will be subject to either a Section 118(a) I/M program or a Section 118(c) I/M program. Section 118(a) requires that each agency and employee of the Federal government comply with all Federal, State, interstate and local requirements respecting the control and abatement of air pollution in the same manner and the same extent as any non-governmental entity. Under Section 118(c), each agency must comply with all applicable provisions of a valid inspection and maintenance program for all government vehicles. The determination whether an I/M program qualifies as a Section 118(a) or Section 118(c) program is dependent upon the manner in which the State drafted its regulations. If a State's I/M program qualifies as a Section 118(a) program, then full compliance with the state's I/M regulation is required. However, if the state's I/M program cannot qualify as a Section 118(a) program then Section 118(c) enables the Federal facility or agency to comply solely with the requirements for government vehicle I/M compliance under the Act. These requirements will ultimately be established under EPA rules interpreting the Act. Until such rules are adopted the workgroup recommends that agencies comply with the program outlined in this document.

The determination whether a state I/M program qualifies as a Section 118(a) or 118(c) program

will be made by the Environmental Protection Agency through notice-and-comment rulemaking. Affected Facility Managers will be notified of which program they should implement. Practically speaking, there may be very little difference in the facility's I/M compliance program whether it falls under Section 118(a) or 118(c) programs, since, under both, the facility will be complying with the state testing and emissions standards. There are however, some differences in enforcement authority, and there may be differences in reporting, fees, and other areas, as well as legal issues, which should be reviewed by the Federal facility's or agency's counsel.

Most states with an I/M program that qualifies as a Section 118(a) program make the regulations directly applicable to Federal agencies or government vehicles and they treat Federal facilities the same as any non-governmental entities. The Federal government will usually be specifically identified in the definition section of the state regulations if the I/M program is a Section 118(a) program. Either the Federal government will be defined as a "person" subject to the program or government vehicles will be specifically included in the vehicles covered by the I/M requirements. Government vehicles must comply with the testing and reporting requirements including display of I/M stickers in these states (where applicable) or collection of a valid certificate of compliance (unless vehicles are tested at Federal fleet testing centers). For sensitive-mission vehicles, see Section VIII.

If the Federal agency or government vehicles are not specifically listed or covered by the state I/M program, or if the state has developed an I/M program that imposes more stringent requirements on Federal government vehicles as compared to vehicles operated by non-governmental entities; then the Federal facility or agency should set up a Section 118(c) program. In any event, it is important to identify the program area in which that vehicle is primarily operated. As indicated above, the program area where the vehicle is primarily operated is usually the program area where the vehicle is garaged.

III. AFFECTED VEHICLES

A. Exempt Vehicles.

The CAA specifically exempts Military Tactical Vehicles. In addition, a Federal agency or facility should review the local I/M program regulations for any other vehicles specifically exempted from the state or local I/M program. Some of the more commonly found exemptions are for emergency vehicles, certain newer or older model year vehicles, diesel and alternatively fueled vehicles, collectors & historical vehicles, and motorcycles.

B. General Services Administration (GSA) Leased Vehicles.

Vehicles assigned to Federal facilities, their contractors, or eligible grantees, from the General Services Administration's Interagency Fleet Management System (IFMS) must meet the I/M requirements established for the program area in which the vehicle is garaged or primarily operated. The manager of the affected GSA Fleet Management Center (FMC) will determine which vehicles are covered by an area's program and will notify the using agency or facility when testing for a covered vehicle should be performed. The using agency is responsible for having the actual I/M test performed. The IFMS is responsible for payment of testing fees and reporting of appropriate information to the individual state.

C. Government Vehicles Leased from Federal Agencies Other Than GSA.

Federal agencies will agree in the lease or transfer agreement on which agency will be responsible for testing vehicles, payment of fees if applicable, and reporting.

D. Commercially Leased Vehicles.

The Facility Administrator is responsible for ensuring that vehicles obtained by an agency from a commercial source meet the I/M requirements established for the program area within the state. The facility administrator shall identify all such vehicles that are covered by the applicable program. The terms of the contract or lease agreement may be used to allocate the task of arranging necessary emissions tests and the cost of arranging compliance as between the owner/lessor or government/lessee.

E. Federally Owned Vehicles.

Facility administrators are responsible for ensuring that all Federally owned government vehicles subject to a state I/M program are tested/inspected in accordance with the appropriate I/M program requirements. As stated in Section I, the government vehicle must comply with the I/M program in effect for the area where the vehicle is primarily operated. The program area where the vehicle is primarily operated is usually the program area where the government vehicle is garaged. Thus, no two program areas can compel testing of any one government vehicle. If the Federal agency or facility wishes to submit a government vehicle to I/M program requirements in a program area other than (and in lieu of) the one where the government vehicle is garaged, the Federal agency or facility should retain mileage records that substantiates the program area in which the government vehicle primarily operates.

IV. EMISSIONS TESTING

As a practical matter, in many cases the easiest way for facility administrators to ensure that covered vehicles comply with the applicable I/M requirements is to have the vehicles inspected at a state approved/licensed inspection station. However, alternative means of ensuring that the vehicles meet emission standards can be used, such as utilizing multi-agency Federal fleet inspection stations. Facility administrators should have government vehicles inspected at the same inspection interval as for non-government vehicles. For example, in a jurisdiction where annual inspections are required, the government fleet vehicles should be inspected within a year of the date the program becomes effective and annually thereafter. In states where residents are given the option of registering and inspecting their vehicle biennially, Federal agencies can elect to have their vehicles inspected at that same interval.

V. FLEET INSPECTION STATIONS

A Federal facility may operate its own inspection station for self-testing of its own government or other Federal facilities' government vehicles only if the program falls under Section 118(a) and the State permits fleet self-testing or if it falls under 118(c). It must comply with the requirements established for any other similar state or privately operated inspection stations, including the submission of reports to the state, with the limited exception for covert vehicles involved in national and law enforcement security issues. At a minimum, the Federal inspection

station must use the state specified equipment, emission standards, test procedures, quality control and quality assurance procedures and meet state reporting requirements. Fleet inspection stations essentially must subject Federal government fleet vehicles to the same test scrutiny to which the non-governmental fleet is subject. Other test types considered more stringent, such as the use of an "enhanced" test (e.g. dynamometer testing) in lieu of a "basic" I/M test (e.g. idle testing), can be adopted pursuant to department or agency policy. Facility Administrators are encouraged to work closely with the State and local I/M program officials to ensure that Federal fleet inspection stations model the local program requirements.

VI. REPAIR COST WAIVERS

Under the CAA, vehicles that fail the I/M test and cannot pass the test without expensive repairs can be granted a waiver if certain conditions are met. This repair cost waiver is established by Federal and state law and may vary between I/M program areas. The CAA establishes a certain waiver amount for enhanced I/M programs only, to be adjusted each year. Basic I/M programs have waiver amounts, which are generally, less than those of enhanced I/M programs. Federal facility administrators shall confirm what the local I/M program waiver limits are in order to ensure consistency with the local program requirements. Government vehicles that need repairs to pass I/M testing may utilize a repair cost waiver only after the local minimum expenditure limit has been reached and the Federal agency determines that it is in the best interest of the government to seek a waiver.

Repair expenditures can be established by providing repair bills from a commercial repair center or a contractor, or where the repair is performed in-house, repair expenditures can be established by providing rates from standard commercial estimating rate books, sheets, or flat rate manuals for the locality where the vehicle is garaged. The repairs must be related to the cause of the original I/M test failure and costs can only be based upon parts and labor for emission-related components such as, but are not limited to: the air induction system, fuel metering system, ignition system, exhaust gas re-circulation system, positive crankcase ventilation system, evaporative emission control system, exhaust, emission control sensors, or on board diagnostics. A complete list of covered emission parts is available from EPA or state agencies.

Facilities which elect to repair vehicles identified by self testing should ensure that the repair facility and the technicians doing the repairs are certified to meet the State's standards. In program areas where local technicians and facilities are required to be certified by the State, Facility Administrators are encouraged to work closely with the State and local I/M program officials to seek the appropriate State certifications.

VII. REPORTING REQUIREMENTS

A. Reporting Requirements for State Programs under CAA Section 118(a).

Except for facilities that have authorized alternative reporting procedures, facilities shall report data on vehicle I/M testing for Federally owned and commercially leased vehicles, as specified by the state for similarly situated non-governmental fleet vehicles. The applicable GSA FMC shall report such information for IFMS vehicles. Facilities or agencies that operate their own inspection stations shall report in the same manner and extent as is applicable to non-Federal test stations.

B. Reporting Requirements For States That Do Not Cover Federal Vehicles - Section 118(c) Programs.

For vehicles in a Section 118(c) program, individual testing data may be summarized to reflect the number of vehicles subject to I/M testing, the number of vehicles which passed the test, and the disposition of those not taking or not passing the test or the number that have received repair cost waivers. Additionally, should the local I/M program be based on a mass emission test (see definitions), for vehicles which failed the test and were repaired, fleet-self testing stations shall report data on the average increase or decrease in emission levels pursuant to 40 CFR 51.366(a)(5). This data will have to be collected in any case to determine if a vehicle passes and upon retest for failed and repaired vehicles. This information should be reported to EPA with a copy to the individual state. Appendix 3 contains a sample report form.

VIII. SENSITIVE-MISSION VEHICLES

Federal facilities with sensitive-mission vehicles shall take all reasonable steps to comply with the testing requirements of the I/M program of the area in which the agency primarily operates the vehicle. Federal facilities that use vehicles in connection with national security, investigative, law enforcement, or other sensitive missions shall develop internal procedures to ensure that compliance with enhanced I/M program requirements does not compromise the sensitive mission. A Federal facility may refrain from testing a sensitive-mission vehicle only upon a written determination made by the facility administrator, or his or her delegee, that testing of the sensitive-mission vehicle will compromise the sensitive mission. All such determinations shall be made on a case by case basis.

Federal facilities with sensitive-mission vehicles shall comply, to the maximum extent practicable, with the substantive reporting requirements of the I/M program of the area in which the agency primarily operates the vehicle. Facility Administrators are encouraged to work closely with the Federal, State and local I/M program officials to provide the assurance that sensitive mission vehicles are being tested appropriately and that sufficient internal auditing is being performed to guarantee compliance.

Government vehicle personnel must be advised that some states may require either commercial or Federal fleet inspection stations to provide certain information pertaining to the vehicle, including title, registration, license, and/or vehicle identification information, to a state-wide computer database as a prerequisite to testing. Prior to taking a sensitive-mission vehicle to a test site that requires such information described above, the agency shall ensure that appropriate mechanisms are in place so that its mission is not compromised.

Notwithstanding any inspection and maintenance program requirement, no Federal agency or Federal fleet inspection station shall report any information that is classified or in a way that would compromise national security or any law enforcement, investigative, or other sensitive mission, or that may endanger a Federal employee. Federal personnel are encouraged to reach agreements with regulatory officials on the contents of required reports or information to be provided. For sensitive-mission vehicles, Federal agencies may report overall percentages in lieu of actual numbers, where an agency arranges for alternative reporting requirements with regulatory officials. The agency shall maintain specific internal documentation of the agency's compliance with Section 118(c).

Some I/M programs may require Federal agencies to pay program administration fees in connection with Federal vehicles subject to the program. In cases where the assessment of these fees is determined consistent with Federal law, but the payment of these fees would compromise national security or any law enforcement, investigative, or other sensitive mission, Federal personnel are encouraged to reach agreements with regulatory officials on the appropriate sum and method of payment.

IX. ENFORCEMENT ISSUES

If the state's I/M program qualifies as a Section 118(a) program, then the Federal facility or agency is subject to the exercise of any Federal, state, or local administrative authority and to process and sanction, whether enforced in Federal, state, or local courts, or in any manner. Federal facilities or agencies are not subject to state-imposed punitive fines for Clean Air Act violations.

If the state's I/M program cannot qualify as a Section 118(a) program, then the Federal agency or facility will institute a Section 118(c) program. In all Section 118(c) programs, the Federal agency or facility is neither subject to any State or local administrative authority nor to any process or sanction enforced in State or local courts. However, the Administrative Procedures Act may subject the Federal agency or facility to individual or state suit. Further, the Federal agency or facility may be subject to EPA enforcement under the Clean Air Act.

EMPLOYEE VEHICLES OPERATED ON FEDERAL FACILITIES: CAA Section 118(d)

I. INTRODUCTION

CAA Section 118(d) mandates that each Federal facility or agency in an I/M area shall require their employees, if they operate personal vehicles on the facility or property, to furnish proof of compliance with the local I/M program. The following sections outline these requirements.

II. WHAT IS AN AFFECTED FACILITY?

CAA Section 118(d) applies to any Federal facility located within a vehicle inspection and maintenance (I/M) program area that has control (owned, leased, or operated) over a parking area provided to its Federal employees. At a multi-tenant facility that lacks a restricted-access parking area, and where the parking area is shared by two or more Federal agencies, each tenant agency will enforce Section 118(d) requirements relative to its own employees. For multi-tenant facilities with a restricted-access parking area, the host agency will retain compliance responsibility unless it chooses to delegate such responsibility to the tenant agency. Facilities with ten or fewer employees may choose not to implement this guidance, but should inform employees that they may have an obligation to have their vehicle tested pursuant to State law.

III. WHO ARE AFFECTED EMPLOYEES?

Affected employees are only those Federal employees who are primarily assigned to that facility. Contractors are not considered employees and therefore are not subject to these requirements.

IV. WHAT ARE AFFECTED VEHICLES?

Under CAA section 118(d), Federal employee vehicles (whether registered inside or outside the local I/M program area) may become subject to the local program including its emissions testing requirements only if such vehicles meet all of the following criteria. The vehicles must be:

- operated by the employee,
- not exempt under the state's regulations (e.g., model year, fuel type, etc.), and
- driven to and parked on the Federal facility's parking area 60 or more days per calendar year.

When employees leave a vehicle parked on a facility to which they are primarily assigned while on temporary duty elsewhere for 30 days or more, such period will not apply toward the 60 day minimum requirement (e.g. military personnel deployed overseas).

V. HOW DO FEDERAL FACILITIES COMPLY?

A. Notice.

Federal facilities shall provide notice to all employees of I/M program compliance requirements as early as practical.

B. Proof of Compliance.

The Federal facility administrator must require that employees who operate personal motor vehicles on the facility or property provide proof of compliance with the local I/M program in one of three ways:

1. Employees can self-certify that they meet local program requirements. The self-certification form should include a statement that false statements may subject employees to criminal prosecution under 18 USC §1001. Self-certification may be accomplished using an agency-approved form and without supporting documentation. A sample self-certification form is included in Appendix 4. While EPA will propose to find that self certification is acceptable under 118(d)(1) and (2) without prior state approval, Facility Administrators should make State and local I/M program officials aware of its use as a method of compliance demonstration.
2. Where a state utilizes a registration denial program as its primary means of motorist enforcement, employees may present proof of vehicle registration:
 - a) within the geographic area covered by the local I/M program, or
 - b) from any program area which also utilizes registration denial and that has an I/M program that is of the same class of I/M programs as the local I/M program (i.e. basic or enhanced).
3. Employees may present a valid certificate of compliance from the local I/M program or any other program that is of the same class of I/M programs as the local program (i.e. basic or enhanced).

Where a state utilizes a sticker program in place of registration denial, the sticker serves as the valid certificate of compliance. When a sticker is not issued for exempt vehicles and self certification form is not used, the employee shall identify the exemption and present evidence confirming the vehicle meets the exemption (i.e., model year, fuel type, etc. usually noted on the state vehicle registration).

C. Privacy Act Requirements

When a Federal agency collects personal information on an individual and retains that information in a system of records, the agency is required to give that individual a Privacy Act Statement (PAS). The PAS must disclose to the individual the authority for the system of records, the purpose for collecting the information, the routine uses of the information, and whether the disclosure is voluntary or mandatory, including any consequences of nondisclosure.

In order to implement CAA Section 118(d), each agency must collect and retain information regarding an employee's vehicle. Information about an employee's vehicle is protected by the

Privacy Act and must be maintained in a system of records. When an agency establishes or revises a system of records, the agency must publish in the Federal Register a notice which includes, among other things: the policies and practices of the agency regarding the storage, retrieval, access controls, retention and disposition of records; the title and business address of the agency official responsible for the system of records; and, the agency procedures which explain how a person can gain access to his or her records.

It is recommended that each agency coordinate with their Privacy Act and legal departments to discuss the best way to comply with the Privacy Act. These offices should be able to assist in developing a PAS and should have well defined procedures for establishing or revising a system of records.

D. Enforcement.

Each Federal agency or facility shall prepare and implement a Plan of Action to ensure compliance using measures and resources that are reasonably available. While the procedures in the Plan of Action shall be appropriate for the size of the facility, the number of employees assigned there, and the characteristics of the Federal property, agencies may develop a national Plan of Action which their facilities implement. See Appendix 5 and the Federal Property Management Regulations (41 CFR Part 101.20) for discussions of enforcement options available for Federal facilities. This list is not comprehensive nor is it exclusive. Other enforcement actions designed to ensure compliance may be included in the Plan of Action. Facility Managers are encouraged to make the Plan of Action available for review by State and local I/M program officials upon request.

At a multi-tenant facility that lacks a restricted-access parking area, and where the parking area is shared by two or more Federal agencies, each tenant agency will enforce Section 118(d) requirements relative to its own employees. For multi-tenant facilities with a restricted-access parking area, the host agency will retain compliance responsibility unless it chooses to delegate such responsibility to the tenant agency.

For Section 118(d) programs, the Federal agency or facility itself is neither subject to any State or local administrative authority nor to any process or sanction enforced in State or local courts. However, the Administrative Procedures Act may subject the Federal agency or facility to individual or state suit. Further, the Federal agency or facility may be subject to EPA enforcement under the Clean Air Act.

E. Reporting.

Federal agencies or facilities shall annually submit a report to EPA and are encouraged to provide a copy to the individual state regarding its efforts to comply with CAA Section 118 (d). However, the agency or facility only needs to collect proof of compliance as frequently as the jurisdiction in which the facility is located requires inspection. Thus, for instance, in a state with a biennial inspection cycle, an annual report would be issued, but proof of compliance would be obtained biennially.

Where there is potential for adverse impacts to national security, law enforcement efforts or related activities, the agency and program enforcement authority may agree to alternate reporting requirements. Any negotiated exception from reporting does not relieve the facility of its

obligation to ensure employee compliance with Section 118(d).

At a multi-tenant facility where the parking area is shared by two or more Federal agencies, each tenant agency is responsible for furnishing its own report unless access to the parking area is restricted and the host agency has not delegated this reporting responsibility under section 118(d) to the tenant agency.

Agencies or facilities shall report aggregate numbers only, i.e., the total number of covered vehicles, vehicles registered inside and outside the program area, and vehicles that are not in compliance with the CAA. Where appropriate for national security and law enforcement purposes, percentages, rather than numbers, may be used for these categories. For reporting purposes, an employee's vehicle is not in compliance if the employee fails to furnish proof of compliance.

The report shall include a brief statement of how the agency will address non-compliant vehicles. For example, "We have notified these employees that they are not in compliance and must come into compliance within ___ days [or the facility's administrative procedures will be applied]." See Appendix 3 for a sample report form.

F. Fees.

Agencies or facilities shall not on behalf of its Federal employees pay or collect fees connected with the local I/M program.

Appendix 1 - Clean Air Act § 118: Control of pollution from Federal facilities

42 U.S.C. §7418

(a) General compliance

Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same manner, and to the same extent as any non-governmental entity. The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner. This subsection shall apply notwithstanding any immunity of such agencies, officers, agents, or employees under any law or rule of law. No officer, agent, or employee of the United States shall be personally liable for any civil penalty for which he is not otherwise liable.

(b) Exemption

The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 7411 of this title, and an exemption from section 7412 of this title may be granted only in accordance with section 7412(i)(4) of this title. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. In addition to any such exemption of a particular emission source, the President may, if he determines it to be in the paramount interest of the United States to do so, issue regulations exempting from compliance with the requirements of this section any weaponry, equipment, aircraft, vehicles, or other classes or categories of property which are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State and which are uniquely military in nature. The President shall reconsider the need for such regulations at three-year intervals. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

(c) Government vehicles

Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall comply with all applicable provisions of a valid inspection and maintenance program established under the provisions of subpart 2 of part D of this subchapter or subpart 3 of part D of this subchapter except for such vehicles that are considered military tactical vehicles.

(d) Vehicles operated on Federal facilities

Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility shall require all employees which operate motor vehicles on the property or facility to furnish proof of compliance with the applicable requirements of any vehicle inspection and maintenance program established under the provisions of subpart 2 of part D of this subchapter or subpart 3 of part D of this subchapter for the State in which such property or facility is located (without regard to whether such vehicles are registered in the State). The facility shall use one of the following methods to establish proof of compliance—

- (1) presentation by the vehicle owner of a valid certificate of compliance from the vehicle inspection and maintenance program;
- (2) presentation by the vehicle owner of proof of vehicle registration within the geographic area covered by the vehicle inspection and maintenance program (except for any program whose enforcement mechanism is not through the denial of vehicle registration);
- (3) another method approved by the vehicle inspection and maintenance program administrator.

Appendix 2 - I/M Program Areas

(STATE, City or County, I/M Program Level)*

ALASKA

Anchorage, Basic
North Star Borough, Basic

ARIZONA

Maricopa, Enhanced
Pima, Basic

CALIFORNIA

Alameda, Basic
Butte, Basic
Colusa, Basic
Contra Costa, Basic
El Dorado, Basic
Fresno, Enhanced and Basic
Glenn, Basic
Kern, Enhanced and Basic
Kings, Basic
Los Angeles, Enhanced
Madera, Basic
Marin, Basic
Merced, Basic
Monterey, Basic
Napa, Basic
Nevada, Basic
Orange, Enhanced
Placer, Enhanced and Basic
Riverside, Enhanced and Basic
Sacramento, Enhanced and Basic
San Benito, Basic
San Bernardino, Enhanced and Basic
San Diego, Enhanced and Basic
San Francisco, Basic
San Joaquin, Enhanced and Basic
San Luis Obispo, Basic
San Mateo, Basic
Santa Barbara, Basic
Santa Clara, Basic
Santa Cruz, Basic
Shasta, Basic
Solano, Enhanced and Basic
Sonoma, Basic
Stanislaus, Enhanced and Basic
Sutter, Basic
Tehama, Basic
Tulare, Basic
Ventura, Enhanced and Basic

Yolo, Enhanced and Basic
Yuba, Basic

COLORADO

Denver, Enhanced
Adams, Enhanced
Arapahoe, Enhanced
Douglas, Enhanced
Jefferson, Enhanced
Boulder, Enhanced
Weld, Basic
Larimer, Basic
El Paso, Basic

CONNECTICUT

Statewide, Enhanced

DELAWARE

Kent, Low Enhanced
New Castle, Low Enhanced
Sussex, Basic

FLORIDA

Dade, Basic
Broward, Basic
Palm Beach, Basic
Hillsborough, Basic
Pinellas, Basic
Duval, Basic

GEORGIA

Fulton, Low Enhanced
De Kalb, Low Enhanced
Douglas, Low Enhanced
Cherokee, Low Enhanced
Cobb, Low Enhanced
Gwinnett, Low Enhanced
Fayette, Low Enhanced
Coweta, Low Enhanced
Henry, Low Enhanced
Clayton, Low Enhanced
Rockdale, Low Enhanced
Paulding, Low Enhanced
Forsyth, Low Enhanced

ILLINOIS

Cook, Enhanced
Dupage, Enhanced
Lake, Enhanced
Madison, Enhanced

St. Clair, Enhanced
Kendall, Enhanced
Grundy, Enhanced
Kane, Enhanced
McHenry, Enhanced
Will, Enhanced

INDIANA

Lake, Enhanced
Porter, Enhanced
Harrison, Enhanced
Floyd, Enhanced
Clark, Enhanced

KENTUCKY

Jefferson, Basic

LOUISIANA

East Baton Rouge, Low Enhanced
West Baton Rouge, Low Enhanced

MAINE

Cumberland, OTR Low Enhanced

MARYLAND

Queen Anne's, Enhanced
Washington, Enhanced
Frederick, Enhanced
Carroll, Enhanced
Baltimore, Enhanced
Harford, Enhanced
Howard, Enhanced
Montgomery, Enhanced
Prince George's, Enhanced
Anne Arundel, Enhanced
Calvert, Enhanced
Charles, Enhanced
Cecil, Enhanced

MASSACHUSETTS

Statewide, Enhanced

MINNESOTA

Anoka, Basic
Washington, Basic
Dakota, Basic
Scott, Basic

Carver, Basic
Hennepin, Basic
Ramsey, Basic

MISSOURI

St. Louis City, Basic
St. Louis County, Basic
Jefferson, Basic
St. Charles, Basic

NEVADA

Clark, Low Enhanced
Washoe, Basic

NEW HAMPSHIRE

Hillsborough, Low Enhanced
Rockingham, Low Enhanced
Strafford, Low Enhanced

NEW JERSEY

Statewide, Enhanced

NEW MEXICO

Bernalillo, Basic

NEW YORK

The Bronx, Enhanced
New York, Enhanced
Richmond, Enhanced
Queens, Enhanced
Kings, Enhanced
Suffolk, Enhanced
Rockland, Enhanced
Westchester, Enhanced
Nassau, Enhanced
Statewide outside NYC area,
OTR Low Enhanced

NORTH CAROLINA

Wake, Basic
Durham, Basic
Orange, Basic
Guilford, Basic
Forsyth, Basic
Mecklenburg, Basic
Union, Basic
Cabarrus, Basic
Gaston, Basic

OHIO

Cuyahoga, Enhanced
Geauga, Enhanced
Lake, Enhanced
Lorain, Enhanced

Medina, Enhanced
Portage, Enhanced
Summit, Enhanced
Montgomery, Enhanced
Clark, Enhanced
Greene, Enhanced
Butler, Enhanced
Warren, Enhanced
Hamilton, Enhanced
Clermont, Enhanced

OREGON

Clackamas, Enhanced
Washington, Enhanced
Multnomah, Enhanced
Columbia, Enhanced
Yamhill, Enhanced
Jackson, Basic

PENNSYLVANIA

Allegheny, Low Enhanced
Beaver, Low Enhanced
Bucks, Low Enhanced
Berks, OTR Low Enhanced
Blair, OTR Low Enhanced
Cambria, OTR Low Enhanced
Centre, OTR Low Enhanced
Chester, Low Enhanced
Cumberland, OTR Low
Enhanced
Dauphin, OTR Low Enhanced
Delaware, Low Enhanced
Erie, OTR Low Enhanced
Lackawanna, OTR Low
Enhanced
Lancaster, OTR Low Enhanced
Lebanon, OTR Low Enhanced
Lehigh, OTR Low Enhanced
Luzerne, OTR Low Enhanced
Lycoming, OTR Low Enhanced
Mercer, Low Enhanced
Montgomery, Low Enhanced
Northampton, OTR Low
Enhanced
Philadelphia, Low Enhanced
Washington, Low Enhanced
Westmoreland, Low Enhanced
York, OTR Low Enhanced

RHODE ISLAND

Statewide, Enhanced

TENNESSEE

Davidson, Basic

Rutherford, Basic
Sumner, Basic
Williamson, Basic
Wilson, Basic
Shelby, Basic

TEXAS

Dallas, Low Enhanced
Tarrant, Low Enhanced
Harris, Low Enhanced
El Paso, Low Enhanced

UTAH

Weber, Basic
Davis, Low Enhanced
Salt Lake, Low Enhanced
Utah, Low Enhanced

VERMONT

Statewide, OTR Low Enhanced

VIRGINIA

Arlington, Enhanced
Fairfax, Enhanced
Loudoun, Enhanced
Prince William, Enhanced
Stafford, Enhanced
Alexandria City, Enhanced
Fairfax City, Enhanced
Falls Church City, Enhanced
Manassas City, Enhanced
Manassas Park City, Enhanced

WASHINGTON

King, Low Enhanced
Snohomish, Low Enhanced
Pierce, Low Enhanced
Spokane, Low Enhanced
Clark, Low Enhanced

WASHINGTON DC

District of Columbia, Enhanced

WISCONSIN

Racine, Enhanced
Kenosha, Enhanced
Waukesha, Enhanced
Milwaukee, Enhanced
Ozaukee, Enhanced
Washington, Enhanced
Sheboygan, Enhanced

*I/M program areas are not all necessarily delimited county/city by county/city with the county/city borders as the boundaries. Many programs have I/M program areas, which cover only portions of certain counties. This list has been provided only as a guide to alert facility administrators which counties in their area have I/M programs. Facility administrators should always confirm with state authorities if their facility is actually sited within the I/M program area. It may be necessary also to confirm the program level for each individual area because some counties have both Basic and Enhanced program areas (as in California) or because program requirements change over time, i.e. states may opt to move up to more stringent I/M program requirements.

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Appendix 3 - Model Reporting Form

Federal Facility Compliance Report for Vehicle Inspection and Maintenance Programs

Facility Information			
Facility Name: _____			
Street Address: _____			
City: _____		State: _____	Zip Code: _____
Telephone Number: _____		Fax Number: _____	
Facility Administrator: _____		Title: _____	
Contact Person: _____		Telephone Number: _____	

Fleet Vehicle Report	
1. Total Number of Facility Owned or Leased Vehicles: (Agencies or facilities with sensitive missions may leave this field blank and use percentages for fields 2-5)	_____
2. Number or Percentage of Leased Vehicles Included in GSA's Comprehensive Federal Agency Fleet Vehicle Report:	_____
3. Number or Percentage of Facility Owned or Leased Vehicles Reported by this Facility (1 - 2):	_____
4. Number or Percentage of Facility Owned or Leased Vehicles in Compliance with Section 118(c) of the CAA:	_____
5. Number or Percentage of Facility Owned or Leased Vehicles not in Compliance with Section 118(c) of the CAA (3 - 4):	_____
6. For vehicles receiving a mass emission transient test, the average increase or decrease in tailpipe emission levels for HC, CO and NOx after repairs, by model year and vehicle type (attach sheet):	_____
7. Facility Efforts to Bring Non-compliant Vehicles into Compliance:	_____ _____ _____
Fleet Vehicle Report Certification & Signature	
<i>"I hereby certify that all information provided is true and correct to the best of my knowledge."</i>	
Signature: _____	Date: _____

Employee Vehicle Report	
1. Total Number of Employee Vehicles Driven to and Parked on this Facility 60 Days or more per year: (Agencies or facilities with sensitive missions may leave this field blank and use percentages for fields 2-4)	_____
2. Number or Percentage of Employee Vehicles in Compliance with Section 118(d) of the CAA:	_____
3. Number or Percentage of Employee Vehicles not in Compliance with Section 118(d) of the CAA (1 - 2):	_____
4. Number or Percentage of Employee Vehicles Registered within the Local Inspection & Maintenance Program Area:	_____
5. Facility Efforts to Bring Non-compliant Vehicles into Compliance:	

Employee Vehicle Report Certification & Signature	
"I hereby certify that all information provided is true and correct to the best of my knowledge."	
Signature:	Date:

Appendix 4 - Model Self-certification Form

**Federal Employee Vehicle Self-Certification Form for Vehicle Inspection
and Maintenance (I/M) Programs (form not to be used by contractors)**

1) Name (Last, First, Middle Initial):	2) Employee I.D. Number:	3) Organization/Agency:
4) Office Address (Street, City/County, State, Zip Code):		5) Office Telephone Number:
6) Home Address (Street, City/County, State, Zip Code):		
7) Are you primarily assigned to this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No; <i>If No, proceed to line 12. Please note that the term "primarily assigned" does not include employees on temporary assignment or duty; nor personnel temporarily assigned to the facility for study or training.</i>		
8) Will you drive an employee vehicle to and park on this facility 60 days or more per year? <input type="checkbox"/> Yes <input type="checkbox"/> No; <i>If No, proceed to line 12; If Yes, please note that a Self-Certification Form is required for <u>each</u> vehicle driven to and parked on this facility 60 days or more per year.</i>		
9) Vehicle Description:		
Year:	Make:	Model:
		Color:
		Permit No:
10) Vehicle Registration:		
State of Registration:	County or City of Registration:	Exp. Date:
		Plate No:
11) Method of Compliance:		
<input type="checkbox"/> (a) This vehicle is registered within the local I/M program area or within another I/M program area which requires compliance with vehicle registration and administers an I/M program of the same class of I/M program as the local I/M program (i.e., basic or enhanced); or,		
<input type="checkbox"/> (b) This vehicle is not registered within the local I/M program area, but has passed an inspection or obtained a waiver from the local I/M program or another I/M program of the same class of I/M programs as the local I/M program (i.e. basic or enhanced); or,		
<input type="checkbox"/> (c) This vehicle is exempt from the local I/M program. List exemption: _____		
Privacy Act Statement. This information is collected under authority of 42 USC 7418(d). The information will be used to document compliance with the local Vehicle Inspection and Maintenance (I/M) Program.	12) Certification Statement: "I hereby certify that all information provided is true and complete to the best of my knowledge." <p align="center">Signature:</p> _____	
	<p align="center">Date: _____</p> <i>False statements may subject employees to criminal prosecution under 18 USC 1001.</i>	

Requirements:

Section 118(d) of the Clean Air Act directs Federal facilities to require all employees who drive an employee vehicle to and park on a Federal facility 60 days or more per year to furnish proof of compliance with the local vehicle inspection and maintenance program. This form is intended to serve as proof of compliance.

Definitions:

Primarily assigned: the Federal facility at which an employee is principally employed. "Primarily assigned" does not include employees on temporary assignment or duty; nor personnel temporarily assigned to the facility for study or training.

Employee vehicle: Any personal vehicle which is operated by an individual Federal employee on the Federal facility or property.

On this facility: A parking area owned or leased by or under the control of the Federal facility to which you are primarily assigned.

Same class of I/M programs: An I/M program of the same program class, i.e., basic or enhanced. Your facility will provide a list of I/M programs designated basic or enhanced.

I/M program: A vehicle emission control program which requires regular vehicle inspection and requires repairs for failing vehicles.

Instructions:

1. **Lines 1 through 8:** Please complete.
2. **Line 9:** Please complete. If your facility does not administer a parking permit/decal program please leave the space provided for "Permit No." blank.
3. **Line 10:** Please complete.
4. **Line 11:** Please indicate the method of compliance for the vehicle described. Your facility will provide a list of I/M programs designated basic or enhanced. Please refer to this list when determining if a vehicle is registered within or has been inspected within an I/M program area of the same program class. Your facility will also provide a list of vehicles exempt from the local I/M program. Please refer to this list when determining whether a vehicle is exempt from the local I/M program.
5. **Line 12:** Please sign and date the certification statement and return the form to your agency I/M administer.

APPENDIX 5 - ENFORCEMENT OPTIONS

Possible Steps to Assure Employees Provide the Requisite Proof of Compliance

I. Introduction.

As Federal facilities or agencies must require employees who meet certain criteria to demonstrate proof of compliance with local I/M programs as a condition to parking on Federally-controlled parking areas, this suggests there must also be a means of ensuring employee compliance. The discussion below outlines some enforcement options for Federal facilities with either controlled access or open parking lots.

Before implementation of this guidance, Federal agencies or facilities must comply with their obligations under applicable labor relations law or authorities. Different agencies may have separate law or authorities in the area of labor relations. The obligations of Federal agencies or facilities with regard to their employee unions will differ depending on the contents of any collective bargaining agreements and local laws. Specific requirements concerning employee grievances and personnel policies would be based on the applicable collective bargaining agreements at individual facilities, including tenant activities. Those personnel implementing the I/M program should consult with their appropriate management officials and labor relations officials for guidance.

By way of example and not by limitation, 5 U.S. Code Section 7113 provides that any labor organization having national consultation rights shall be informed of any substantive change in conditions of employment proposed by a Federal agency. Although the Federal I/M program is required by Congress rather than by individual Federal agencies, many implementation details are within each Federal agency's discretion. The existence of this discretion, particularly as it relates to enforcement programs for the I/M program, makes it essential that unions with national consultation rights with an agency be consulted.

II. Enforcement Options

The discussion below outlines some enforcement options for Federal facilities with either controlled access or open parking lots.

A. Controlled Access Facilities.

One method of ensuring compliance with CAA Section 118(d) is to have controlled access to all Federal parking lots, and deny admission to cars that have neither met the local I/M program's requirements nor qualify for any of the local I/M program's exemptions. Facilities with controlled access generally issue decals to allow gate guards to screen arriving vehicles. In this situation, demonstrating proof of I/M compliance might become one of the conditions necessary to issuance of the decal. Nothing in the CAA, however, implies that Section 118(d) requires Federal facilities to have controlled access.

B. Facilities with Uncontrolled Access.

For parking lots with uncontrolled access, Federal agencies or facilities can require parking passes or decals and impose sanctions against those who park in trespass. While setting up a guard booth and directly controlling access to Federal parking lots is not implicit in Section 118(d), taking some measures to enforce controls on parking areas is implied. This may mean that the facility has someone check parking areas periodically and issues warnings or imposes sanctions.

C. Towing Programs.

One alternative to enforcing CAA Section 118(d) on facilities that have uncontrolled access is to establish and carry out a towing program. As the holders of property interests in a parking facility, Federal agencies can condition the privilege of entry and parking on meeting certain prerequisites. This may mean issuing a parking pass or decal to those employees who demonstrate all necessary conditions. Generally, towing requirements include:

- (i) posting a conspicuous notice at all entrances to the facility indicating that parking on the facility without a decal or pass will result in towing the car at owners' expense; and,
- (ii) notification to employees through in-processing information, newsletters, briefings, or other means.

D. Enforcement for Facilities without a Pass or Decal Program.

Just as nothing in the CAA Section 118(d) requires Federal agencies to control entry to parking lots, there is no specific requirement for instituting a parking pass or decal program. Enforcement might occur through a certification program and parking lot spot-checking. This could be accomplished by issuing parking permit letters (valid for a specified period) to employees who have demonstrated adequate proof of compliance.

E. If Local Police Can Enforce I/M.

If it is a violation of state or local law to operate a vehicle in an I/M area without proof of the appropriate I/M inspection, then law enforcement authorities might serve as the chief enforcement mechanism.

Federal facilities with exclusive Federal or concurrent state jurisdiction may enforce Federal and state laws that address vehicle requirements. If Federal or local law makes it an offense to drive a

vehicle in the area without proof of a current I/M inspection, Federal police officers (e.g., military police) may issue an employee operating a vehicle on Federal property a traffic ticket requiring the employee to pay a fine or report to Federal Magistrate Court.

On Federal property where the state has concurrent jurisdiction, state and local law enforcement authorities might patrol parking lots and issue citations to violators. Similarly, facility security officers could contact local police authorities to report a vehicle without an I/M sticker.