

2000 Archer Western Contractors, representatives of the owner, requested a deviation from the current operating regulation in 33 CFR 117.35 which requires the drawbridge to open promptly and fully when a request to open is given. This temporary deviation was requested to allow necessary repairs to the drawbridge.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.35 for the purpose of safely completing repairs. Under this deviation, the Boynton Beach Boulevard Drawbridge (S.R. 804) need only open a single leaf, with a four hour advanced notice for a double leaf opening. The deviation is effective from November 14, 2000 until December 31, 2000.

Dated: November 7, 2000.

**G.E. Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MA-25-7197a; A-1-FRL-6882-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. The revision establishes 15 percent and post-1996 rate-of-progress (ROP) plans for the Springfield Massachusetts serious ozone nonattainment area. The intended effect of this action is to approve this SIP revision as meeting the requirements of the Clean Air Act.

**EFFECTIVE DATE:** This rule will become effective on December 15, 2000.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Robert F. McConnell, (617) 918-1046.

#### SUPPLEMENTARY INFORMATION:

This SUPPLEMENTARY INFORMATION section is organized as follows:

- A. What action is EPA taking today?
- B. Are the 1990 emission estimates used in the ROP calculations consistent with those approved in the base year inventory?
- C. What are the Springfield area's 1999 emission target levels?
- D. What is the status of the Commonwealth's I/M program?
- E. When is the Commonwealth expected to meet its 1999 emission target levels?
- F. Has Massachusetts revised its Stage II regulation?
- G. Has the Commonwealth submitted a contingency plan?
- H. What are the current conformity budgets for the Springfield area?

#### A. What Action Is EPA Taking Today?

EPA is approving 15 percent and post-96 ROP plans submitted by the Commonwealth of Massachusetts for the Springfield serious ozone nonattainment area. On September 27, 1999 (64 FR 51944), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed approval of these ROP plans. A supplementary proposed rule was published on November 30, 1999 (64 FR 66829) that provided additional information on the automobile inspection and maintenance (I/M) program to be used in Massachusetts and the timing of 15% and 9% ROP plan reductions. The formal SIP revision was submitted by Massachusetts on April 1, 1999, and amended on June 25, 1999, and September 9, 1999.

#### B. Are the 1990 Emission Estimates Used in the ROP Calculations Consistent With Those Approved in the Base Year Inventory?

The 1990 base year inventory found in the ROP plans for the Western Massachusetts area matches the base year inventory for this area EPA approved in the July 14, 1997 **Federal Register** (62 FR 37510), with one exception. The NO<sub>x</sub> emission estimate for non-road engines approved in the July 14, 1997 **Federal Register** document was 19.9 tons per summer day (tpsd); this value was lowered to 17 tpsd in the inventory used in the Springfield area's ROP target emission level calculations. EPA's discussions with Massachusetts indicate that the 17 tpsd estimate used in the ROP plans is incorrect. On September 15, 2000 Massachusetts submitted a letter to EPA confirming that 19.9 tpsd is the correct NO<sub>x</sub> non-road base year emission estimate for the Springfield area, and

submitted a revised target level calculation utilizing the correct value, 19.9 tpsd.

#### C. What Are the Springfield Area's 1999 Emission Target Levels?

The 1999 emission target levels for the Springfield area are 115 tpsd for VOC, and 100 tpsd for NO<sub>x</sub>. The States' projected, controlled emissions for 1999 are both expected to equal the 1999 emission target levels for VOC and NO<sub>x</sub>.

#### D. What Is the Status of the Commonwealth's I/M Program?

The Commonwealth began its automobile I/M program on October 1, 1999, but experienced routine start-up difficulties which required that full enforcement of the program be delayed for two and one half months. The Commonwealth began fully enforcing the I/M program on December 15, 1999.

In a separate action in the rules section of today's **Federal Register**, EPA is publishing a limited approval for the Commonwealth's I/M program. EPA has considered whether the ROP plans should also receive limited approval and determined that full approval of the ROP plans is more appropriate. Essentially, the issues that cause EPA to limit its approval of the I/M program have no impact on achieving the reductions necessary to support these ROP plans. The Commonwealth began fully enforcing its motor vehicle emissions testing program on December 15, 1999, and has continued to operate the program since that time without encountering major difficulties. It is the testing of motor vehicles and subsequent requirement that high polluting vehicles be repaired to emit less pollution that achieves the emission reductions attributable to automobile I/M programs. The reason EPA is not granting full approval of the Commonwealth's I/M program pertain to requirements that Massachusetts fully document that the I/M program complies with the provisions of section 182(c)(3) of the CAA. Achievement of these conditions, although necessary for full approval of the I/M program, are not prerequisite to achieving the relatively low level of emission reductions from the program on which these ROP plans rely. The I/M program as currently implemented, and which is fully enforceable in the SIP pursuant to our limited approval, is accomplishing the minimal emission reductions needed to support the ROP plans, and therefore full approval of the ROP plans is appropriate.

### E. When Is the Commonwealth Expected To Meet Its 1999 Emission Target Levels?

EPA believes that it is unlikely the Commonwealth met its emission target levels by November 15, 1999, but that it now meets these emission levels.

The EPA's September 27, 1999 proposed approval of the Commonwealth's ROP plans noted that these plans relied, to a small degree, on the emission reductions from the I/M program scheduled to begin on October 1, 1999. However, the delayed enforcement of this program described above, and more conservative assumptions of the amount of credit derived from the program that Massachusetts is implementing as noted in the November 30, 1999 supplementary proposed rule, delayed the achievement of the emission reductions expected from this program. Based on the amount of vehicles subject to emission testing each month once the Commonwealth began enforcing this program on December 15, 1999, EPA believes the estimated reductions from I/M needed for the 15 percent and post-96 ROP plans were achieved and surpassed by the end of April, 2000, prior to the beginning of the ozone season. EPA believes that these reductions were achieved as expeditiously as practicable and that no other reasonable emissions control strategy would have allowed the Commonwealth or EPA to achieve these reductions sooner.

### F. Has Massachusetts Revised Its Stage II Regulation?

EPA's September 27, 1999 proposed approval of the Commonwealth's ROP plans noted compliance issues associated with this rule. Massachusetts committed, in its one hour ozone attainment demonstration submittal, to address these issues by modifying its Stage II regulation to enhance the compliance assurance mechanisms designed into the rule. Massachusetts held a public hearing on its proposed revisions to its Stage II, gasoline vapor recovery regulation on January 20, 2000. The Commonwealth submitted the revised Stage II rule to EPA for parallel processing on August 9, 2000, and EPA proposed approval of this rule on August 21, 2000 (65 FR 50669). When EPA acts on the attainment demonstration, we will evaluate whether Massachusetts has adequately addressed the compliance issues associated with this rule. Enforcement of the Stage II rule currently approved in the SIP supports these ROP plans.

### G. Has the Commonwealth Submitted a Contingency Plan?

Massachusetts has not submitted a contingency plan. Sections 172(c)(9) and 182(c)(9) of the federal Clean Air Act (CAA) require that contingency measures be implemented if an area misses an ozone SIP milestone, or does not attain the NAAQS by the applicable date. Massachusetts has not met its obligation to submit a contingency plan for the Springfield serious nonattainment area.

### H. What Are the Current Conformity Budgets for the Springfield Area?

The Commonwealth's revised ROP plans contain motor vehicle emission budgets for the year 1999. However, the Massachusetts DEP submitted an ozone attainment demonstration plan to EPA in 1998 that contains mobile source emission budgets for Western Massachusetts for 2003. Since the year 2003 budgets are more restrictive, cover a time frame later than the ROP plans (which include the current transportation analyses milestone years), and are based on the attainment plan, these 2003 VOC and NO<sub>x</sub> budgets take precedence over motor vehicle emission budgets for earlier years. The specific 2003 budgets for the Springfield area are 23.770 tpsd for VOC, and 49.110 tpsd for NO<sub>x</sub>.

Other specific requirements of the ROP plans and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

### Final Action

EPA is approving rate-of-progress emission reduction plans for the Springfield, Massachusetts ozone nonattainment area as a revision to the Massachusetts SIP. These plans meet the requirements of sections 182(b)(1) and 182(c)(2) of the CAA.

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

### Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as

meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999), 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. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for

the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 January 16, 2001. 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements..

Dated: September 20, 2000.

**Mindy S. Lubber,**

*Regional Administrator, EPA—New England.*

Part 52 of 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 W—Massachusetts

2. Section 52.1129 is added to subpart W to read as follows:

#### § 52.1129 Control strategy: Ozone.

Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on April 1, 1999, and supplemented on June 25, 1999 and September 9, 1999. The revisions are for the purpose of satisfying the rate of progress requirements of sections 182(b)(1) and 182(c)(2)(B) of the Clean Air Act for the Springfield, Massachusetts serious ozone nonattainment area.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MA-014-7195D; A-1-FRL-6882-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes and requires an enhanced inspection and maintenance program in Massachusetts. The intended effect of this action is to provide limited approval of the inspection and maintenance program which has been operating in Massachusetts since October 1, 1999. This action is being taken in accordance with the Clean Air Act.

**EFFECTIVE DATE:** This rule will become effective on December 15, 2000.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M-1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:**

Peter X. Hagerty, (617) 918-1049.

**SUPPLEMENTARY INFORMATION:** On September 27, 1999 (64 FR 51937), and

on November 30, 1999 (64 FR 66829), EPA published Notices of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPRs proposed approval of an enhanced inspection and maintenance (I/M) program once the Massachusetts Department of Environmental Protection (DEP) submitted supplemental documentation. Massachusetts submitted the formal SIP revision on May 14, 1999.

The September 27, 1999, proposed rulemaking notice stated that prior to final action, Massachusetts must submit certain items which had not yet been supplied by the program contractor. These items included requirements specified in the following sections of the EPA I/M Rule: Network Type and Program Evaluation—40 CFR 51.353, Test Procedures and Standards—40 CFR 51.357, Test Equipment—40 CFR 51.358, Quality Control—40 CFR 51.359, Quality Assurance—40 CFR 51.363, and On-road Testing—40 CFR 51.371. The November 30, 1999 supplemental notice indicated that Massachusetts could not claim full I/M 240 credit for the Massachusetts I/M program, but EPA believed the program would achieve at least low enhanced program credit, therefore proposed approval was still appropriate.

In response to the September 27, 1999, **Federal Register** document, Massachusetts made the following submissions: Test Procedures and Equipment Specifications on February 1, 2000, and Acceptance Test Protocol on March 15, 2000. These submittals were designed to better define the information required in Test Procedures and Standards—40 CFR 51.357, and Test Equipment—40 CFR 51.358. With these two submissions the Massachusetts I/M SIP now meets the requirements of these two sections of the EPA rule. On March 15, 2000 Massachusetts also submitted Overt Audit Software Specifications which addresses part of the requirements for Quality Assurance, 40 CFR 51.363. On July 14, 2000, Massachusetts submitted a Draft Quality Assurance and Quality Control Plan. In a letter dated August 8, 2000 EPA provided minor comments on this plan.

The following sections still require additional information to meet the requirements of the I/M rule: Network Type and Program Evaluation—40 CFR 51.353, Quality Control—40 CFR Part 51.359, Quality Assurance—40 CFR 51.363 and On-road Testing—40 CFR 51.371. These requirements were explained in the NPR and will not be restated here. In response to the Supplementary Proposed Rule