Dated: July 29, 1996.

William J. Muszynski,

Deputy 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 FF—New Jersey

2. Section 52.1582 is amended by adding paragraphs (e) and (f) to read as follows:

§ 52. 1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(e) The November 15, 1993 SIP revision adds 136 transportation control measures to the SIP which will contribute emission reductions towards meeting the 15 Percent requirement of the ozone SIP.

(f) The November 15, 1993 SIP revision provides a 1993 demonstration that growth in emissions from growth in vehicle miles traveled will not increase through 2007 and that offsetting emission reductions are not required.

[FR Doc. 96–26202 Filed 10–11–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MA–29–01–6537; A–1–FRL–5613–3]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Amendment to Massachusetts' SIP (for Ozone and for Carbon Monoxide) for Establishment of a South Boston Parking Freeze

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 the Boston Air Pollution Control Commission (BAPCC) and the Massachusetts Port Authority (Massport) to control the growth of parking spaces in the South Boston neighborhood of Boston. The effect of controlling parking growth is anticipated to be a decrease in vehicle miles travelled (VMT), thereby holding automobile usage to levels within the practical capacity of the local street network. Vehicular emissions of carbon monoxide, hydrocarbons and nitrogen oxides will be reduced compared with their expected levels if parking is not constrained. These pollutants contribute to the carbon monoxide and ozone air pollution problems in the Boston urbanized area. This SIP revision adds the South Boston Parking Freeze Area to ongoing parking management plans in the Metropolitan Boston Area. The intended effect of this action is to approve the changes to Massachusetts' SIP. This action is being taken in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This rule is effective on November 14, 1996.

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, Region I, One Congress Street, 11th 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 Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, (617) 565–3508.

SUPPLEMENTARY INFORMATION: On October 3, 1994 (59 FR 50211–50214), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Massachusetts. The NPR proposed approval of a revision to Massachusetts Department of Environmental Protection (DEP) State Implementation Plan (SIP) by adding or amending four definitions in 310 CMR 7.00, and inserting provisions for a City of Boston/South Boston Parking Freeze at 310 CMR 7.33. The formal SIP revision was submitted by Massachusetts on July 30, 1993.

Air Quality Impacts

The South Boston Parking Freeze is designed to reduce the growth of VMT and travel-related air emissions by controlling the growth of parking spaces serving South Boston. The freeze will result in air quality improvements beyond those which would occur in the future without this measure.

For the three South Boston zones, DEP expects the proposed freeze to reduce total future trips by 15,220 per day or 19 percent of the approximately 80,105 trips forecast with unconstrained parking. This is a 5.3 percent reduction in the future year trips without the freeze in the Central Artery Study area, and a 0.3 percent reduction overall in Eastern Massachusetts.

Without the South Boston freeze, the amount of VMT increases in the South Boston zones are large. On average in the three South Boston zones, DEP expects trips to rise by about 35 percent between now and the year 2010. Based on vehicle trip reductions and the related VMT change, a reduction of 8.06 percent in VMT is obtained below the level which would otherwise occur with unconstrained parking within the Central Artery Study area, and 0.3 percent over the entire region.

Using EPA's Mobile Emission Factor Model (MOBILE4.1, the current version at the time of the DEP's analysis) and the Central Artery Traffic Model, the South Boston Parking Freeze would reduce emissions of volatile organic compounds (VOCs) by approximately 74.86 kilograms per day by the year 2010 within the Central Artery Study area. Carbon Monoxide emissions would be reduced by 558.50 kilograms per day within the Central Artery Study area.

Using the EPA MOBILE4.1 emission Model and the Central Transportation Planning Staff (CTPS) regional transportation model, the South Boston Parking Freeze will reduce emissions of VOCs by 269.79 kilograms per day, and of carbon monoxide (CO) by approximately 1,663.91 kilograms per day within Eastern Massachusetts. The regional model also accounts for the secondary effects of reducing traffic, which will in turn reduce congestion and emissions elsewhere in the region.

EPA supports the South Boston Parking Freeze Plan as a means to reduce VMT and ultimately eliminate motor vehicle emissions associated with reduced VMT. The VMT reduction anticipated with implementing the South Boston Parking Freeze Plan will be accounted for through Highway Performance Monitoring System's (HPMS) statistical sampling of VMT within the Boston Metropolitan area. VMT reductions resulting from the South Boston freeze will be documented by Massachusetts in their emission inventories and regional emission analysis (prepared for transportation conformity) and result in improved ambient air quality. Specific emission credit associated with the South Boston Parking Freeze Plan is not being assigned in the SIP. In addition, because Massachusetts will account for VMT and emission benefits in the base scenario for their ozone SIP, Massachusetts' Reasonable Further Progress Plan does not identify the South Boston Parking Freeze as an

emission reduction element or as a contingency measure.

Specific requirements of the South Boston Parking Freeze and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. Public comments received on the NPR are addressed below:

Public Comment

Four public comments were received on the NPR. On November 2, 1994, the Conservation Law Foundation (CLF) submitted comments generally supporting approval of the South Boston Parking Freeze rule into the SIP. On November 3, 1994 the City of Boston Environmental Department (BED) and the Boston Air Pollution Control Commission (BAPCC) submitted comments questioning the potential air quality benefits associated with a South Boston Parking Freeze. However, the City of Boston's comments declared that the City is ready to administer the South Boston Freeze and that the City's comments were an effort to improve this Freeze. On November 14, 1994, the Dorchester Avenue Taxpayers Association (DATA) submitted comments asserting that the South Boston Parking Freeze will be a detriment to businesses and the economic viability of South Boston. Finally, on November 16, 1994 the Boston Redevelopment Authority (BRA) submitted comments concurring on the BED and BAPCC comment letter of November 2, 1994.

The specific comments and EPA's responses are presented below. A memorandum summarizing these comments and EPA's response is also available at the address listed above.

1. CLF had recommended at the SIP development phase that the BAPCC be designated as the ''sole governing authority'' of the freeze program rather than divide implementation between BAPCC and Massport.

Response: 1. DEP has found that BAPCC possess adequate administrative and enforcement authority to administer the South Boston Parking freeze on private, public, and city property. Similarly DEP has determined that under state law the Massport Authority has the power of enforcement for the parking freeze on property owned or leased by Massport. Indeed each of these entities is currently administering the freezes in the Boston area. See e.g. 310 CMR 7.30 and 7.31. While it might be simpler to have the South Boston Parking Freeze administered by one entity, the CAA does not authorize EPA to second-guess DEP's choice for structuring the freeze, absent a finding that the local or regional entities lack the authority to implement the freeze. See CAA Section 110(a)(2)(E). EPA believes that the proposed South Boston Parking Freeze SIP can be implemented and is legally enforceable, even though the administration is divided as proposed between BAPCC and Massport. Consistent with CAA Section 110(a)(2)(E)(iii) DEP retains authority to implement the freeze if BAPCC or Massport fail to do so.

2. CLF raised their concern that approval of the South Boston Parking Freeze as a Transportation Control Measure (TCM) in the SIP, would add additional conformity criteria that must be satisfied before a conformity determination could be made. Specifically, once the parking freeze is approved in the SIP, the Boston Transportation Improvement Program (TIP) or Boston Transportation Plan would not be able to conform to the SIP unless the parking freeze is being implemented in a timely manner, with a commitment of adequate funds for implementing the freeze. CLF then expanded on the requirements of conformity to ensure timely implementation of TCMs found at 40 CFR Section 51.418.

Response: 2. In order to make a positive transportation conformity determination, in accordance with requirements set forth by section 51.418(c)(1), The Boston Metropolitan Planning Organization must affirm whether past obstacles to implementation of TCMs in the SIP (including the Boston, the East Boston/Logan, the Cambridge and the new South Boston Parking Freezes) which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether State and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs.

3. The City of Boston believes that the addition of a parking freeze covering South Boston is not a viable air quality measure as proposed and may actually be counterproductive. The City raises its concern that reductions in vehicle trips to and from South Boston may be more than outweighed by VMT growth that would result if development is displaced to the suburbs. Suburban vehicle trips tend to be longer with lower vehicle occupancy rates and there are negligible mass transit shares in the typical development in ''suburban sprawl'' locations. In order to determine the full environmental impact of the South Boston Freeze, the applicability of MEPA/NEPA notwithstanding, a detailed environmental impact report with wide circulation and an opportunity for comment may be the best method for testing assumptions about freezes and would provide a chance for review of the methodology.

Response: 3. EPA believes that there is a substantial history of parking freeze management regulations in the Boston area to support beneficial mobile source emission reductions. DEP submitted a careful modeling analysis of VMT reductions that result from the freeze. Although the City of Boston's assertions about possible development impacts may be valid concerns, they are not substantiated well enough for EPA to overrule DEP's determination that the Freeze will yield VMT reductions and air quality benefits. Pursuant to CAA requirements for a state public hearing on all SIP actions, there have been significant opportunities for the public to review and comment on the South Boston Parking Freeze Regulation.

4. The city of Boston questions the efficacy of such a labor intensive and complex bureaucracy for the sake of a .03%, at best, VMT reduction region wide. For what it will cost to implement this plan, the Boston Environmental Department believes compliance with existing ride sharing regulations, development of Transportation Management Associations (TMAs), and revision of cities and towns zoning requirements would result in more significant VMT reductions.

Response: 4. EPA endorses cost efficiency and the greatest possible emission reductions of nonattainment pollutants. The SIP process under the CAA leaves it to the States, however, to choose from a wide variety of programs to develop a strategy to attain clean air and achieve the National Ambient Air Quality Standards, as well as achieving all state air quality standards and state air quality guidelines. The state has the flexibility to include a South Boston Parking Freeze and Management Program as part of their overall strategy to attain clean air goals. Indeed EPA has no authority to disapprove a state's choice of control measure solely because EPA disagrees with the state's assessment of its cost-effectiveness. *Union Electric Co.* v. *EPA*, 427 U.S. 246 (1976). Furthermore, this parking freeze will complement existing Parking Freeze Programs in the Metropolitan Boston Area.

5. The City of Boston believes where the air quality problem is regional in nature, such as ground-level ozone, a regional solution is the only reasonable approach. The City of Boston Environmental Department and Air Pollution Control Commission oppose to the South Boston Parking Freeze

because it is a local approach better suited to localized pollution problems, such as carbon monoxide.

Response: 5. The Boston Environmental Department letter agrees with EPA that VMT reduction strategies such as parking freezes may be useful as one component of an overall traffic control program to reduce localized air quality problems, such as high carbon monoxide levels at intersections. EPA further believes that the parking freeze program would influence current single occupant vehicle commuters. Such trips originate from within Boston's large interstate commuting area (from the States of Rhode Island, Maine, and New Hampshire, as well as from central and western Massachusetts) and commuters now park in South Boston. The freeze will eventually create incentives for commuters to form carpools and utilize existing bus and mass transit options. Such a change in commuting habits would result in reduced regional VMT and would contribute to attainment of the ozone standard in the region.

6. The South Boston Parking Freeze Regulation was changed from the version DEP first proposed, to give Massport administrative control over the freeze as it applies to Massport property. Since that change, the City of Boston has opposed the South Boston Parking Freeze in the belief that the freeze merely duplicates existing land use controls such as the Restricted Parking District zoning and other regulatory controls. The City of Boston believes the freeze should apply to Massport.

Response: 6. The existing state regulation now being approved will place a cap on parking spaces under the jurisdiction of both the City of Boston and Massport. The overall number of spaces allowed under the freeze has not changed as a result of giving Massport control over spaces it operates. There has been no relaxation of the parking freeze regulation as it applies to Massport property. EPA cannot require DEP to adopt a specific structure for implementing the freeze, as long as the freeze is structured so that DEP may implement it if the City of Boston or Massport fail to do so, consistent with CAA section 110(a)(2)(E)(iii). Furthermore, it is EPA's opinion that the parking freeze regulation will compliment existing land use controls such as the Restricted Parking District Zoning and other regulatory controls by adding federal and state enforcement provisions to controls that have been effective at limiting parking growth in South Boston.

7. Several commenters believed that the definition of ''motor vehicle'' in the state regulation is ambiguous especially as to trucks, buses, construction equipment and other vehicles.

Response: 7. The definition for motor vehicle and parking space clearly covers passenger vehicles using parking spaces within the South Boston Parking Freeze area, which is the overwhelming bulk of the parking supply that Massachusetts seeks to regulate. However, the definition of motor vehicles is not clear when one thinks about trucks, busses and commercial vehicles that park on streets or odd corners of lots. Massachusetts agrees with EPA that the application of the South Boston Parking Freeze Regulation to commercial vehicles (trucks, busses and the like) is unclear in the existing regulation. EPA understands that DEP will address this implementation question in the near future through operational guidance. In any case, the rule is clear as to passenger vehicles, and will address the vast majority of vehicles using South Boston for parking.

8. The Boston Redevelopment Authority (BRA) identified two economic initiatives that in their opinion required a delay in the SIP amendment until the impact of the parking freeze could be determined. The first initiative is a City report calling for a major exposition center to be developed in the South Boston Industrial Zone or in the Piers Zone. The second initiative is a June 29, 1994 Boston Empowerment Zone application, which calls for much of the area under the South Boston Parking Freeze to be the location for major public and private investment in economic development and job opportunities for poor residents of the City.

Response 8: EPA does not envision the endorsement of the existing State regulation to impose any new developmental constraints or to have any derogatory effect on BRA's proposed development plans. In fact, many of the Federal government's recent actions in South Boston to fund public transit projects and mass transit improvements, modify the approaches and connecting roads to the Third Harbor Tunnel (Ted Williams Tunnel), and undertake the construction of a new Federal Courthouse in South Boston have all been consistent with BRA's development plans for South Boston. Furthermore, EPA has no authority to disapprove the proposed SIP amendment because of possible development plans that may be implemented in the future.

9. Several commenters raised concern that the South Boston Parking Freeze might place South Boston businesses and industries at a competitive disadvantage to suburban locations, in part, because of the perception of yet another regulatory hurdle placed in the way of new investment. At a time when Boston Harbor and the Port of Boston is being revitalized, an additional regulatory initiative targeting this neighborhood threatens to drive out existing business and frighten off the financial community, stifling the rebirth of this industrial, commercial and residential community.

Response: 9. The state regulation for South Boston Parking Freeze has been in place since April 9, 1993, with no reports of adverse economic impact. Since that time considerable federal, state, city and local funds have supported projects in South Boston including: Boston Harbor clean-up and improvement; the Port of Boston; the new Federal Courthouse; planning and future implementation of the South Boston Piers Transitway Project; rail and road enhancement projects associated with the Central Artery/Third Harbor Tunnel construction in South Boston; and new business start ups in South Boston. Moreover, the CAA SIP process leaves decisions about the economic impact of SIP control measures to the State. As discussed above, EPA has no authority to disapprove a state's SIP proposal for reasons of economic hardship. *Union Electric,* supra.

10. Several commenters raised a concern regarding funds and funding source(s) necessary for the City of Boston to implement the Freeze.

Response: 10. At the request of the City of Boston, the Massachusetts' State Auditor has determined that the South Boston Parking Freeze need not be carried out by the City until funding is provided by the State. This ruling is based on the Local Mandate Law [General Laws Chapter 29, Section 27c, so-called ''Proposition 2½''], which allows for the City of Boston to request a compliance exemption from a State imposed unfunded mandate. Here the City argues and the Massachusetts Auditor agrees that the State's South Boston Parking Regulation imposes an unfunded state mandate on Boston. Such an action could: one, force the State to provide funds that the City may determine necessary to implement the freeze; or two, force the State to implement the freeze itself. However, neither action would change the requirement to implement and enforce the South Boston Parking Freeze as a federally approved SIP control measure. Note that while approving the freeze into the SIP does make it federally enforceable, the freeze is not a federally required control program under the

Clean Air Act and EPA's SIP approval does not impose any new requirements beyond those already included in the state regulations.

11. DATA commented that the public notification process by DEP was flawed.

Response: 11. EPA regrets that DATA did not learn about the Commonwealth's November 30, 1992 public meeting/hearing on the South Boston Parking Freeze. However, DEP followed state regulations and policy regarding public participation and outreach throughout the development of 310 CMR 7.33, and has submitted ample documentation that it met the procedural requirements of CAA section 110(l) and 40 CFR sections 51.102 and 51.104(f). DATA submitted a comment letter dated November 10, 1994 (received November 16) to EPA which EPA is now addressing. EPA notes that DATA has since participated in the implementation of the South Boston Parking Freeze when several of its members testified during a July 8, 1994 public hearing held by DEP on the parking freeze plan and inventory.

12. DATA commented that the South Boston Parking Freeze is arbitrary and that the regulations will not resolve the regional air quality problem.

Response: 12. The South Boston Parking Freeze is a transportation control measure chosen by the Commonwealth of Massachusetts as one of its strategies to attain clean air. The South Boston area was part of the Boston moderate carbon monoxide (CO) nonattainment area, which was redesignated by EPA to attainment for CO on April 1, 1996. Since CO is a pollutant of local concern the reduction of motor vehicle emissions will assist the state in attaining and maintaining the CO ambient air quality standard. In fact, the Boston CO redesignation effort and the Boston CO maintenance plan both assume the implementation of the current South Boston parking freeze regulation. The South Boston area is also part of the eastern Massachusetts serious ozone (O_3) nonattainment area, where a reduction in vehicle miles traveled will reduce mobile source emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_X), both precursors for the formation of ozone. Much of the VMT reduction may well be outside of the parking freeze limits, but ozone is a regional pollutant which forms over time and often at significant distances from the original source of the ozone precursors. VMT reductions will support other efforts within the Northeast Ozone Transport Region to reduce ozone concentrations and episodes. Projected emissions reductions calculated by DEP are detailed in the Technical Support Document which is contained in the docket supporting this action.

13. DATA commented that the parking freeze will impact South Boston's business community negatively, in light of the fact that the Pier and Industrial Zones of South Boston are not presently served by adequate public transportation.

Response: 13. The South Boston Piers/Fort Point Channel Transit Project will soon be built in South Boston through participation of the Federal Transit Administration, supplementing existing MBTA Bus service. See 310 CMR 7.36(2)(g). Indeed, this freeze works in conjunction with transit and high occupancy vehicle lane measures provided for in 310 CMR sections 7.36 and 7.37 as an integrated plan to encourage commuters to avoid single occupancy car trips.

14. DATA asserted that the parking freeze is unnecessary because existing zoning regulation will provide effective parking control.

Response: 14. The South Boston Parking Freeze will work in tandem with existing land use and zoning regulations. There may be future changes to the zoning regulations and individual waivers from zoning regulations, undertaken without carefully accounting for potential impacts on VMT or air quality. The SIP-approved parking freeze will provide additional assurance that efforts to restrict motor vehicle miles traveled and motor vehicle emissions in South Boston will not be relaxed without an analysis of the impacts on air quality.

15. DATA believes that the parking freeze is the wrong approach for improving air quality. A better way to improve the air quality is by increasing the levels of public transit and accessibility, by improving vehicle design to reduce emissions, and by using alternative fuels.

Response: 15. The Commonwealth is actively exploring other measures to attain and maintain air quality standards. Their current approach includes implementing the South Boston Parking Freeze, maintaining and enhancing existing mass transit services, including the South Boston Piers Transit project, conducting a statewide vehicle inspection and maintenance program, encouraging introduction of electric vehicles into the motor vehicle fleet, and encouraging the use of alternative fuels including reformulated fuels, methanol, compressed natural gas, and propane.

16. The BRA concurred in many of objections to the freeze described above, and added the point that Boston has submitted an empowerment zone application for the area covered by the freeze. The BRA maintains that the freeze imposes constraints on development inconsistent with the goals of an empowerment zone. The BRA cited to federal regulations (24 CFR Part 597) establishing the empowerment zone program which BRA asserts require that the federal government will work with communities that complete the nomination process for an empowerment zone ''to overcome programmatic regulations and statutory impediments to encourage more effective economic, physical, environmental and community development activities.''

Response: 16. EPA does not necessarily agree with BRA's assertion that the freeze is inconsistent with the development of an economically vibrant urban empowerment zone. The freeze is broadly consistent with the goals of fostering dense development, served by mass transit, with responsible measures designed to avoid automobile urban gridlock. More importantly, however, once the Commonwealth has decided that the freeze is its choice for a SIP control measure, the CAA does not give EPA authority to contradict a state's choice even if EPA believed the measure was not the most economically efficient way to control air emissions. *Union Electric,* supra.

Final Action

EPA is approving the South Boston Parking Freeze SIP Amendment as a revision to the Massachusetts SIP. Today's action makes final the action proposed on October 3, 1994 (59 FR 50211).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because such sources are already subject to these regulations

under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

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 Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not 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 Clean Air Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, supra; 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

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.

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 December 16, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: September 10, 1996.

John P. DeVillars,

Regional Administrator, Region I.

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. 7401–7671q.

Subpart W—Massachusetts

2. Section 52.1120 is amended by adding paragraph (c)(111) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(111) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on July 30, 1993.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated July 30, 1993 submitting a revision to the Massachusetts State Implementation Plan.

(B) Massachusetts Air Pollution Control Regulation 310 CMR 7.33, entitled ''City of Boston/South Boston Parking Freeze,'' and the following amendments to 310 CMR 7.00, entitled ''Definitions,'' which consist of adding or amending four definitions; motor vehicle parking space; off-peak parking spaces; remote parking spaces; and restricted use parking, effective in the Commonwealth of Massachusetts on April 9, 1993.

For the State of Massachusetts:

3. In § 52.1167 Table 52.1167 is amended by adding new entries to existing state citations for 310 CMR 7.00 Definitions; and by adding new state citations for 310 CMR 7.33 City of Boston/South Boston Parking Freeze to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS.

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.00 ...	Definitions	7/30/93	October 15, 1996.	[Insert FR citation from published date].	111	Adding or amending the following definitions: motor vehicle parking space; off-peak parking spaces; remote parking spaces; and restricted use parking.

TABLE 52.1167.—EPA-APPROVED RULES AND REGULATIONS.—Continued

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*		*	*	* *
310 CMR 7.33 ...	City of Boston/ South Boston Parking Freeze.	7/30/93	October 15, 1996.	[Insert FR citation from published date].	111	Applies to the parking of motor vehicles within the area of South Boston, including Massport property in South Boston.
*	*	*		*	*	* *

[FR Doc. 96–26201 Filed 10–11–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[TN–158–1–9632a; FRL–5619–6]

Approval and Promulgation of Implementation Plans State: Approval of Revisions to the Knox County Portion of the State of Tennessee's State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Knox County portion of the Tennessee State Implementation Plan (SIP) to allow the Knox County Department of Air Pollution Control (Knox County) to utilize permits-by-rule for the purpose of limiting potential to emit (PTE) criteria pollutants for certain source categories to less than the title V permitting major source thresholds. EPA is also approving under section 112(l) of the Clean Air Act several source categories of the submitted regulations for limiting PTE of hazardous air pollutants (HAP) to less than title V permitting major source thresholds. These permits-by-rule provide a way for sources to accept limitations on their operations without the added burden of obtaining source-specific permits for the following source categories: fuel-burning equipment burning natural gas/liquified petroleum gas (LPG) and/or distillate oil, fuel burning equipment burning natural gas/LPG and/or residual oil, on-site power generation, concrete mixing plants, coating operations, printing operations, and fiberglass molding and forming operations. On May 23, 1995, Knox County through the Tennessee Department of Environment and Conservation submitted a SIP revision fulfilling the requirements necessary to utilize exclusionary rules to limit PTE of air pollutants in a federally enforceable manner.

DATES: This final rule is effective December 16, 1996 unless adverse or critical comments are received by November 14, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Scott Miller at the Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN158–1–9632. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Scott Miller, 404/562–9120.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor, L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

Knox County Department of Air Pollution Control, Suite 339, City-County Building, 400 West Main Street, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Scott Miller at 404/562–9120.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

On May 23, 1995, the Knox County Department of Air Pollution Control through the Tennessee Department of Environment and Conservation submitted SIP revisions designed to allow Knox County to utilize permits-by-rule for the purpose of limiting PTE for fuel-burning equipment burning natural LPG and/or distillate oil, fuel burning equipment burning natural gas/LPG and/or residual oil, on-site power generation, concrete mixing plants, coating operations, printing operations, and fiberglass molding and forming operations. Permits-by-rule are designed to create federally enforceable limits on a facility's PTE in a manner that does not require a facility-specific evaluation of emissions and limiting conditions. As such, permits-by-rule are appropriate for the purpose of limiting PTE when a facility has one type of emission source. EPA is approving all source category permits-by-rule submitted for purposes of limiting PTE for criteria pollutants. EPA is approving under section 112(l) of the CAA, Knox County Air Pollution Control (KCAPC) regulations Section 25.10.7, Section 25.10.8, and Section 25.10.10 for purposes of limiting PTE of HAP from coating operations, printing operations, and fiberglass molding and forming operations. For a description of this and other ways to limit PTE for a facility see the EPA guidance document entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)'' dated January 25, 1995, from John Seitz to the EPA Regional Air Division Directors.

These permits-by-rule were designed to meet criteria listed in the EPA guidance memorandum entitled ''Guidance for State Rules for Optional Federally Enforceable Emissions Limits Based on Volatile Organic Compound Use'' dated October 15, 1993, from D. Kent Barry to the EPA Regional Air Division Directors, an EPA guidance document entitled ''Approaches to Creating federally-Enforceable Emissions Limits'' dated November 3, 1993, and the January 25, 1995, guidance memorandum referenced above. These guidance documents set out specific guidelines for permit-by-rule development regarding applicability, compliance determination and certification, monitoring, reporting, record keeping, public involvement, practical enforceability, and the requirement that a facility cannot rely on emission limits or caps contained in