

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. section 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act of 1995 (NTTAA) requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 2000. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action 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 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: October 19, 2000.

Carol M. Browner,
Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Section 52.66 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 52.66 Control Strategy: Ozone.

* * * * *

(b) The State of Alabama is required to submit an attainment demonstration SIP for the Birmingham 1-hour ozone nonattainment area by April 27, 2000. For purposes of the SIP revision required by this section, EPA may make a finding as applicable under section 179(a)(1)–(4) of the CAA, 42 U.S.C. 7509(a)(1)–(4), starting the sanctions process set forth in section 179(a) of the CAA. Any such finding will be deemed a finding under § 52.31(c) and sanctions will be imposed in accordance with the order of sanctions and the terms for such sanctions established in § 52.31.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–25–7223a; A–1–FRL–6891–6]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are converting our limited approval under the Clean Air Act of the State of Connecticut's State Implementation Plan (SIP) revision for an enhanced vehicle inspection and maintenance (I/M) program, which was granted on March 10, 1999 (64 FR 12005), to a full approval. In our March 10, 1999 limited approval, we said Connecticut needed to submit revisions to its SIP to address eight sections of EPA's enhanced I/M regulation for full approval. We have determined that on November 16, 1999 Connecticut submitted revisions that meet all of the conditions for full approval. The intent of this action is to convert our limited approval of Connecticut's enhanced vehicle I/M program SIP to a full approval.

DATES: This direct final rule is effective on December 26, 2000 without further notice, unless EPA receives relevant adverse comment by November 27, 2000. If adverse comment is received, EPA will publish a timely withdrawal of

the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and EPA's technical support document 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 Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT:

Peter Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION: This Supplementary Information section is organized as follows:

- I. What action Is EPA taking today?
- II. What Connecticut SIP revision is the topic of this action?
- III. What were the requirements for full approval of the Connecticut program?
- IV. How did Connecticut fulfill these requirements for full approval?
- V. EPA Action
- VI. Administrative Requirements

I. What Action Is EPA Taking Today?

In this action, we are converting our limited approval of Connecticut's I/M program as a revision to the SIP to a full approval.

II. What Connecticut SIP Revision Is the Topic of This Action?

This notice deals with a revision to the State of Connecticut's Clean Air Act SIP submitted by the State of Connecticut on November 16, 1999 for certain program elements necessary to complete the enhanced vehicle inspection and maintenance (I/M) program. Today we are acting only upon this November 16, 1999 submittal to determine that Connecticut submitted revisions meeting all of the conditions necessary to convert the limited approval of the enhanced I/M plan to a full approval. In so doing we are not reopening our March 10, 1999 final rulemaking granting limited approval of Connecticut's enhanced I/M SIP submitted on June 24, 1998, as supplemented on November 13, 1998.

III. What Were the Requirements for Full Approval of the Connecticut Program?

Approval of Connecticut's I/M program SIP required submission of information to meet the requirements of the following sections of the regulations: Network Type and Program Evaluation—40 CFR 51.353; Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360; Motorist Compliance Enforcement Program Oversight—40 CFR 51.362; Quality Assurance—40 CFR 51.363; Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364; Public Information and Consumer Protection—40 CFR 51.368; Compliance with Recall Notices—40 CFR 51.370; and On-road Testing—40 CFR 51.371.

IV. How Did Connecticut Fulfill These Requirements for Full Approval?

On November 16, 1999, Connecticut submitted revisions to its enhanced I/M SIP to EPA in order to correct conditions for full approval. The following is a description of the measures which Connecticut has submitted to meet each of the deficient areas described in the March 10, 1999 limited approval.

1. *Network Type and Program Evaluation*—40 CFR 51.353—Connecticut will utilize the NYTEST test performed on 1100 randomly selected vehicles in the test lanes. This is an acceptable option for program evaluation testing as explained in Inspection and Maintenance Program Evaluation Methodologies (EPA420-S-98-015). The legal authority for program evaluation is in Section 14-164c(e)(C) and Section 164h(a) and (b) of the Connecticut General Statutes. This section of the SIP now meets the requirements of EPA's I/M rule.

2. *Waivers and Compliance Via Diagnostic Inspection*—40 CFR 51.360—Connecticut has submitted revised regulation Section 14-164c-11a, entitled "Emissions Repairs Expenditure Requirements to Receive Waiver," requiring a \$450 expenditure for a waiver starting in January 2000, and \$450 adjusted each year for the cost of living beginning in January 2001. This regulation was effective on June 24, 1999. This section of the SIP now meets the requirements of EPA's I/M rule.

3. *Motorist Compliance Enforcement Program Oversight*—40 CFR 51.362—Exhibit 3 of the November 16, 1999 SIP submittal describes in detail an enforcement oversight program meeting the requirements of this section. The legal authority for this aspect of the program is at Section 14-164c(j) of the

Connecticut General Statutes. This section of the SIP now meets the requirements of EPA's I/M rule.

4. *Quality Assurance*—40 CFR 51.363—The state has submitted the needed procedures manuals in Exhibit 4 of the November 16, 1999 submittal. This section of the SIP now meets the requirements of EPA's I/M rule.

5. *Enforcement Against Contractors, Stations and Inspectors*—40 CFR 51.364—Exhibit 5 of the November 16, 1999 submittal contains a description of enforcement authority Connecticut has over the contractor that is operating the I/M program. Essentially, Connecticut can hold the contractor liable under the contract for monetary penalties for violations of the contract and the contract provides for disbarment of inspectors upon a finding of program violations or incompetence. The submittal also includes Connecticut Regulations pertaining to disciplinary and termination action with respect to state of Connecticut employees: Regulation 5-240-1.—Suspension.; Regulation 5-240-2.—Demotion.; and Regulation 5-240-3.—Dismissal. This section of the SIP now meets the requirements of EPA's I/M rule.

6. *Public Information and Consumer Protection*—40 CFR 51.368—Connecticut has submitted additional material in Exhibit 6 of the November 16, 1999. With this supplementary material the SIP meets all requirements of this section of EPA's I/M Rule.

7. *Compliance with Recall Notices*—40 CFR 51.370—Connecticut has provided in Exhibit 7 of the November 16, 1999 submittal an agreement with the contractor to enforce compliance with all recall notices prior to completing the next inspection. This agreement is adequate to meet the requirements of EPA's I/M rule.

8. *On-road Testing*—40 CFR 51.371—Connecticut has submitted a detailed description of remote sensing program screening 5500 vehicles per year. Legal authority for this program is at Section 14-164c(f) of the Connecticut General Statutes. When the March 10, 1999 limited approval was granted, states were required to have as part of the off-road testing program a requirement that vehicles which exceeded standards for this program be subjected to an out-of-cycle I/M test. However, the I/M flexibility rule EPA published in the **Federal Register** on July 24, 2000 (65 FR 45526) allows states to develop on-road testing programs that do not mandate out-of-cycle testing and repair. With this change to EPA's I/M rule, the Connecticut program meets the requirements of this section.

EPA's review of this material indicates that Connecticut has corrected all of the deficiencies with regard to I/M as described in the March 10, 1999 limited approval of the program.

V. EPA Action

EPA is converting its limited approval of Connecticut's enhanced I/M program to a full approval. An extensive discussion of Connecticut's enhanced I/M program and our rationale for our limited approval action was provided in the previous final rule for the Connecticut enhanced I/M program published on March 10, 1999 (see 64 FR 12005). This action to convert our limited approval to a full approval is being published without prior proposal because we view this as a noncontroversial amendment and because we anticipate no adverse comments. In a separate document in the "Proposed Rules" section of this **Federal Register** publication, we are proposing to convert our limited approval of Connecticut's enhanced I/M program SIP revision to a full approval if relevant adverse comments are filed. This action will be effective without further notice unless we receive relevant adverse comment by November 27, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. Any parties interested in commenting must do so at this time. If no such comments are received by November 27, 2000, you are advised that this action will be effective on December 26, 2000. You should send comments to the EPA-New England office listed in the *Addresses* section of this notice.

VI. 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. section 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. section 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 December 26, 2000. EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 19, 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 H—Connecticut

§ 52.369 [Removed]

2. Section 52.369 is removed and reserved to read as follows:

3. Section 52.370 is amended by adding paragraph (c)(89) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(89) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on November 16, 1999.

(i) Incorporation by reference.

(A) Subsection (b) of Section 14-164c-11a of the Regulations of Connecticut State Agencies Concerning Emissions Repairs Expenditure Requirement to Receive Waiver, adopted and effective June 24, 1999.

(ii) Additional materials.

(A) Letter from Connecticut Department of Environmental Protection dated November 19, 1999 submitting a revision to the Connecticut State Implementation Plan.

(B) Narrative portion of the Revision to State Implementation Plan for Enhanced Motor Vehicle Inspection and Maintenance Program, dated October 7, 1999.

4. In § 52.385, Table 52.385 is amended by removing entries "22a-174-27" and "14-164c" and adding new entries in their place to read as follows:

§ 52.385—EPA-approved Connecticut Regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates	Date adopted by State	Date approved by EPA	Federal Register citation	Section 52.370
22a-174-27	Emissions standards for periodic motor vehicle inspection and maintenance.	March 26, 1998.	March 10, 1999.	64 FR 12005	(c)78	Revised Department of Environmental Protection regulation contain I/M emission standards.
14-164c	Periodic Motor Vehicle Inspection and Maintenance.	April 7, 1998. June 24, 1999.	March 10, 1999. October 27, 2000.	64 FR 12005 [Insert FR citation from published date].	(c)78 (c)89	Revised Department of Motor Vehicles regulation for the Connecticut I/M Program. Revised subsection (b) of Section 14-164c-11a of the Department of Motor Vehicles regulation concerning emissions repairs expenditure requirement to receive waver.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA037-01-7211a; A-1-FRL-6891-9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; New Source Review Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions establish and require the implementation of the 1990 Clean Air Act Amendments (CAAA) requirements regarding New Source Review (NSR) in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, the revisions include other definitions and permitting procedures that make the Massachusetts nonattainment NSR rules consistent with Federal permitting requirements. The intended effect of this action is to approve revisions to 310 CMR 7.00 Appendix A, "Emission Offsets and Nonattainment Review." This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule is effective on December 26, 2000 without further notice, unless EPA receives adverse comment by November 27, 2000. If

adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permits Program, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA New England, One Congress Street, Suite 1100, Boston, MA 02114-2023. 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, Room M-1500, 401 M Street, (Mail Code 6102), S.W., Washington, D.C.; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 918-1652.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 1994, the Massachusetts Department of Environmental Protection (DEP) formally submitted a revision to its State Implementation Plan (SIP) for purposes of meeting the requirements of the Clean Air Act (CAA). The revision consists of changes to Massachusetts' 310 CMR 7.00 Appendix A, "Emission Offsets and Nonattainment Review." The DEP submitted additional changes to 310 CMR 7.00 Appendix A on April

14, 1995. The effect of the revisions is to make the DEP's rules regarding the permitting of new major sources or major modifications in nonattainment areas consistent with CAA requirements. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

A. General Requirements for Nonattainment NSR Requirements

The air quality planning requirements for nonattainment NSR are set out in part D of subchapter I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment area NSR SIP requirements [see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)]. Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

Summary of Massachusetts' Regulation

The general nonattainment NSR requirements are found in sections 172 and 173 of part D of subchapter I of the