

with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only 1 State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not economically significant within the meaning of EO 12866 and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: September 17, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99-25042 Filed 9-24-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA-25-7197c; A-1-FRL-6444-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the

Commonwealth of Massachusetts. This revision establishes 15 percent and post-1996 rate-of-progress plans for the Springfield Massachusetts serious ozone nonattainment area. The intended effect of this action is to propose approval of this SIP revision as meeting the requirements of the Clean Air Act (42 U.S.C. 7401, *et seq.*)

DATES: Written comments must be received on or before October 27, 1999. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Susan Studien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100-CAQ, 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, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

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

SUPPLEMENTARY INFORMATION:

This SUPPLEMENTARY INFORMATION section is organized as follows:

- A. What action is EPA taking today?
- B. Why was Massachusetts required to reduce its emissions of ozone forming pollutants?
- C. Which specific air pollutants are targeted by the Commonwealth's plan?
- D. What are the sources of these pollutants?
- E. What harmful effects can these pollutants produce?
- F. Should I be concerned if I live near an industry that emits a significant amount of these pollutants?
- G. To what degree do the Commonwealth's plans reduce emissions?
- H. Why didn't EPA approve the Commonwealth's prior versions of these plans?
- I. How will the Commonwealth achieve these emission reductions?
- J. The Commonwealth was supposed to achieve a portion of these emission reductions by 1996, and the remainder by 1999. Has that happened?
- K. Why is EPA approving a plan that only covers the western part of the State?
- L. Have these emission reductions improved air quality in Massachusetts?
- M. Massachusetts is downwind of many large metropolitan areas. Do pollutants emitted in other states affect air quality in Massachusetts?
- N. EPA recently required 22 eastern states, including Massachusetts, to develop plans that will significantly reduce nitrogen oxide emissions. Given that requirement, why is approval of these plans needed?

O. Has Massachusetts met its contingency measure obligation?

P. Are conformity budgets contained in these plans?

A. What Action is EPA Taking Today?

EPA is proposing approval of rate-of-progress (ROP) emission reduction plans submitted by the Commonwealth of Massachusetts for the Springfield serious ozone nonattainment area as revisions to the Commonwealth's SIP. The ROP plans document how Massachusetts complied with the provisions of sections 182 (b)(1) and (c)(2) of the Federal Clean Air Act (the Act). These sections of the Act require states containing certain ozone nonattainment areas to develop strategies to reduce emissions of the pollutants that react to form ground level ozone.

B. Why Was Massachusetts Required To Reduce Its Emissions of Ozone Forming Pollutants?

Massachusetts was required to develop plans to reduce ozone precursor emissions because it contains a serious ozone nonattainment area. A final rule published by EPA on November 6, 1991 (56 FR 56694) designated four counties in the western part of the State a serious ozone nonattainment area. The four counties included are Berkshire, Franklin, Hampden, and Hampshire counties, and the area is referred to as the Springfield, Massachusetts serious ozone nonattainment area. Sections 182 (b)(1) and (c)(2) of the Act require that serious ozone nonattainment areas develop ROP plans to reduce ozone forming pollutant emissions in the nonattainment area.

As stated above, two provisions of the Act make achieving these emission reductions necessary. Under section 182(b)(1), Massachusetts needed to develop a plan to reduce volatile organic compound (VOC) emissions by 15 percent by 1996. These plans are referred to as "15 percent ROP" plans. Requirements in section 182(c)(2) of the Act instruct Massachusetts to achieve additional emission reductions. These additional reductions must lower ozone precursor emissions (VOC or nitrogen oxides) by 9 percent by 1999. These plans are referred to as "post 1996 ROP" plans.

C. Which Specific Air Pollutants Are Targeted by the Commonwealth's Plan?

The Commonwealth's plans are geared toward reducing emissions of VOCs and nitrogen oxides (NO_x). These compounds react in the presence of heat and sunlight to form ozone, which is a primary ingredient of smog.

D. What Are the Sources of These Pollutants?

VOCs are emitted from a variety of sources, including motor vehicles, a variety of consumer and commercial products such as paints and solvents, chemical plants, gasoline stations, and other industrial sources. NO_x is emitted from motor vehicles, power plants, and other sources that burn fossil fuels.

E. What Harmful Effects Can These Pollutants Produce?

VOCs and NO_x react in the atmosphere to form ozone, the prime ingredient of smog in our cities and many rural areas of the country. Though it occurs naturally at elevated levels in our atmosphere, at ground level it is the prime ingredient of smog. When inhaled, even at very low levels, ozone can:

- Cause acute respiratory problems;
- Aggravate asthma;
- Cause significant temporary decreases in lung capacity in some healthy adults;
- Cause inflammation of lung tissue;
- Lead to hospital admissions and emergency room visits; and
- Impair the body's immune system defenses.

F. Should I Be Concerned if I Live Near an Industry That Emits a Significant Amount of These Pollutants?

Industrial facilities that emit large amounts of these pollutants are monitored by the Commonwealth's environmental agency, the Department of Environmental Protection (DEP). Many facilities are required to emit air pollutants through tall stacks to ensure that high concentrations of pollutants do not exist at ground level. Permits issued to these facilities include information on which pollutants are being released, how much may be released, and what steps the source's owner or operator is taking to reduce pollution. The Massachusetts DEP makes permit applications and permits readily available to the public for review. You can contact the Massachusetts DEP for more information about air pollution emitted by industrial facilities in your neighborhood.

G. To What Degree Do the Commonwealth's Plans Reduce Emissions?

By 1999, the Commonwealth's plans will reduce VOC emissions in the Springfield area by 20 percent and NO_x emissions by 8 percent compared to 1990 emission levels.

H. Why Didn't EPA Approve the Commonwealth's Prior Versions of These Plans?

EPA proposed to approve a prior version of the Massachusetts 15 percent plan submitted to EPA in 1997 (see July 14, 1997 **Federal Register**, 62 FR 37527). EPA did not grant final approval because the Commonwealth did not meet the conditions EPA listed in that proposal. Specifically, the Commonwealth did not meet its commitment to begin an automobile emission "inspection and maintenance" (I/M) program. EPA did not propose action on the Commonwealth's post 1996 ROP plan in the July 14, 1999 document.

On April 1, 1999, June 25, 1999, and September 9, 1999, Massachusetts submitted revisions to its 15 percent and post 1996 ROP plans (the "revised ROP plans".) These revisions contain a new start-up date for the Commonwealth's automobile I/M program, and revised emission reduction estimates for this program.

I. How Will the Commonwealth Achieve These Emission Reductions?

The Commonwealth will achieve emission reductions using essentially the same control strategy outlined in a previous submittal that was dated March 31, 1997. EPA's July 14, 1997 proposed approval of that version of the Massachusetts 15 percent plan noted that EPA had not approved the Commonwealth's VOC reasonably available control technology (RACT) rules, but would by the time final approval was granted to the 15 percent plan. EPA approved the referenced Massachusetts VOC RACT rules in a document published in the **Federal Register** on September 3, 1999 (64 FR 48297).

One notable difference between the Commonwealth's prior 15 percent ROP plan and the revised ROP plans is the amount of emission reductions claimed from the I/M program. Massachusetts still assumes emission reductions from its I/M program, but over a much shorter time-frame due to the anticipated October 1, 1999 start date. The 15 percent plan submitted by the Commonwealth in 1997 had assumed that the I/M program would begin no later than January 1, 1998.

EPA is also proposing approval of the Massachusetts I/M program in the proposed rules section of today's **Federal Register**. EPA notes that there are minor differences between the characteristics of the I/M program submitted by the Commonwealth and the parameters of the I/M program that Massachusetts used to determine emission reduction credit for its ROP plans. The primary difference is that the State's I/M SIP includes provisions for a remote sensing program. This characteristic was not accounted for when the State determined emission reductions from I/M for use in its ROP plans. Inclusion of the new remote sensing program in the Commonwealth's I/M strategy slightly lowers the amount of emission reductions that I/M will achieve. However, the DEP has supplied documentation that illustrates this impact is minimal, particularly in light of the small amount of emission reduction credit claimed due to the October 1, 1999 projected start date. EPA agrees with Massachusetts' assessment that the remote sensing program will not hinder the Commonwealth's ability to meet its ROP emission targets.

As mentioned above, the Massachusetts ROP plans contain a

demonstration that the amount of emission reductions required of 15 percent and post-96 plans can be achieved despite lessening the emission reductions attributable to the I/M program. The Commonwealth accomplished this primarily by changing the way that emission increases due to growth were determined, and by considering November 15, 1999 the evaluation date for achievement of the overall required reduction. The Commonwealth's revised growth estimates are based upon 1996 emission estimates, calculated using the same emission estimation procedures as the base year emissions, projected to 1999. This methodology should yield a more accurate projection of 1999 emission levels than the prior estimates, which were projected from the 1990 base year.

EPA's July 14, 1997 proposed approval of the Massachusetts 15 percent ROP plan outlines the control strategy used by the Commonwealth to generate emission reductions for that plan. Since the EPA's July 14, 1997 document only dealt with the Massachusetts 15 percent plan, that notice does not describe measures included in the Commonwealth's post-1996 plan. The Massachusetts post-1996 plan is described below.

Massachusetts used the appropriate EPA guidance to calculate the 1999 VOC and NO_x emission target levels, and the amount of reductions needed to achieve its emission target levels. Table 1 illustrates the steps used by Massachusetts to derive its 1999 emission target levels for VOC and NO_x. The ROP plans indicate that 1999 projected, controlled emissions are below the target levels for the Springfield nonattainment area.

| Target level calculations Springfield, MA nonattainment area | VOC Emissions (tpsd) | NO _x Emissions (tpsd) |
|--|----------------------|----------------------------------|
| 1990 Base Year Inventory | 436 | 115 |
| Rate-of Progress Inventory (biogenics and non-reactives subtracted) | 153 | 115 |
| non-creditable reductions ¹ | 13 | 10 |
| Calculate required reduction (State will use 2% VOC and 7% NO _x for 1996 to 1999 ROP) | 2%*153=3 | 7%*115=8 |
| Calculate Total Expected Reductions (sum of FMVCP and required 9% reduction.) ² | 6 | 18 |
| Set Target Level for 1999 ³ | 115 | 97 |
| Incorporate growth and controls to determine 1999 emission levels | 115 | 97 |

¹ States cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures (new car emission standards) promulgated prior to 1990 or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990.

² For VOC, 10 of the 13 tpsd non-creditable FMVCP reduction occurs between 1990 and 1996, and is accounted for in the determination of the State's 1996 emission target level.

³ The 1999 VOC target level is obtained by subtracting FMVCP reductions that accrue between 1996 to 1999 (3 tpsd) and the reductions need for ROP (also 3 tpsd), from the 1996 target.

The Commonwealth's post-1996 control strategy matches the control

strategy described in the EPA's July 14, 1997 proposed approval of the

Massachusetts 15 percent plan, and also includes emission reductions from the

Commonwealth's NO_x RACT rule, and emission reductions from federal measures limiting emissions from non-road engines promulgated between 1996 and 1999. Reductions from the NO_x RACT rule and from the federal non-road standards are described further below.

NO_x RACT

Massachusetts has adopted a NO_x RACT regulation, the citation for which is 310 Code of Massachusetts Regulations 7.19. The regulation applies to facilities with potential emissions of 50 tons per year or greater. Facilities covered by the rule needed to comply by May 31, 1995. Massachusetts

submitted the rule to EPA on July 15, 1994, as a revision to the Commonwealth's SIP. EPA approved the Commonwealth's NO_x RACT rule on September 2, 1999 (64 FR 48095). The rule will reduce NO_x emissions from point sources by 6 tons per day in the Springfield area.

Federal Non-Road Standards

In the July 3, 1995 **Federal Register** (60 FR 34581), EPA promulgated the first phase of the regulations to control emissions from new non-road spark-ignition engines. The regulation is found at 40 CFR part 90, and is titled, "Control of Emissions From Non-road Spark-Ignition Engines." EPA has

determined that the first phase of the new non-road standards will cause a reduction of VOC emissions of 23.9 percent by 1999. Massachusetts applied this reduction percentage to its non-road inventory. The sale of reformulated gasoline in Massachusetts also reduces non-road emissions in the Commonwealth. The combined effect of reformulated gasoline and the new non-road standards will lower non-road VOC emissions by 7 tpsd in the Springfield area.

Table 2 summarizes the emission reductions contained within the Massachusetts ROP plans.

TABLE 2.—SUMMARY OF EMISSION REDUCTIONS: SPRINGFIELD, MASSACHUSETTS SERIOUS OZONE NONATTAINMENT AREA [tons/day]

| Control measure | VOC reduction (tpsd) | NO _x reduction (tpsd) |
|--|----------------------|----------------------------------|
| Point Source RACT | 5 | 6 |
| Auto Refinishing | 2 | 0 |
| Commercial and Consumer Products | 1 | 0 |
| Architectural Coatings | 1 | 0 |
| On-road Control Measures: Reformulated gas, I/M, Tier 1, CA-LEV, Stage II | 23 | 16 |
| Non-road Control Measures: Reformulated gas, federal non-road engine standards | 7 | (2 tpsd increase) |

The Massachusetts ROP plans demonstrate that the VOC and NO_x emission reductions from the control strategy will achieve sufficient emission reductions to lower 1999 emission levels below the target levels calculated for each pollutant.

EPA believes that the Commonwealth's analysis of the reductions that its adopted control measures will achieve is generally valid. Some uncertainty exists in the amount of emission reductions that are occurring from the Massachusetts stage II gasoline vapor recovery regulation.⁴ But any shortfall in emissions reductions from that program that might occur due to poor rule effectiveness will be more than compensated for by excess emissions reductions from the reformulated gasoline (RFG) program. EPA's survey of the actual content of RFG in the Commonwealth indicates that the program is consistently achieving greater VOC emissions

reductions than required under the RFG program.

J. The Commonwealth Was Supposed To Achieve a Portion of These Emission Reductions by 1996, and the Remainder by 1999. Has That Happened?

Although Massachusetts did not reduce its hydrocarbon emissions by 15 percent by November 15, 1996, the Commonwealth has shown that all of the emission reductions required of 15 percent plans by 1996, and post-1996 plans by 1999, will occur by November 15, 1999. EPA believes it can approve both of these plans for the reasons provided below.

It is not possible for Massachusetts to demonstrate a 15 percent emission reduction by November 15, 1996, as that date has passed. Once a statutory deadline has passed and has not been replaced by a later one, the deadline then becomes "as soon as possible." *Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable."

The EPA examined other potentially available SIP measures to determine if they were practicable for the Springfield nonattainment area, and if they would meaningfully accelerate the date by which the area achieves emission reductions. EPA believes that the Commonwealth's SIP submittal contains

the appropriate measures. The rationale for this determination is that although several area source measures exist which the Commonwealth could implement, these measures would not achieve the same level of emission reductions expected from the Commonwealth's I/M program, and additionally, would not meaningfully accelerate the achievement of the required reductions, as the Commonwealth would have to go through its rule adoption process to implement these measures. Therefore, EPA believes that the ROP plans for the Springfield area as resubmitted to EPA on April 1, 1999, June 25, 1999, and September 9, 1999, meet the as soon as practicable requirement.

EPA has determined that it will approve Massachusetts' ROP plans if these plans demonstrate that by November 15, 1999, ozone precursor emissions are lowered by 24 percent. A 24 percent emission reduction represents the combined total emission reduction that the 15 percent and post-96 ROP plans must achieve by November 15, 1999. Under section 182(c)(2)(C) of the act, NO_x emission reductions can only be used after November 15, 1996, and therefore can only represent 9 percent of the 24 percent reduction required by November 15, 1999. EPA believes it is appropriate to approve the plans

⁴ There is evidence that suggests Massachusetts stage II rule may not be as effective as DEP has assumed. Recent DEP and EPA inspections have revealed substantial noncompliance at service stations across the Commonwealth. In its July 27, 1998 one hour ozone attainment demonstration submittal, Massachusetts committed to address this poor compliance rate for its Stage II program by modifying the regulation to enhance the compliance assurance mechanisms designed into the rule. When EPA acts on the attainment demonstration, we will evaluate whether Massachusetts has adequately addressed these compliance issues.

because although the 15 percent plan portion of the emission reduction did not occur on time, the Massachusetts' plan accomplishes the required amount of emission reductions as soon as is practicable. Ultimately the overall environmental benefit required of sections 182(b) and (c)(2) of the Act will be achieved if ozone precursor emissions are 24 percent lower than baseline levels by November 15, 1999.

K. Why Is EPA Approving a Plan That Only Covers the Western Part of the State?

A plan is not needed for the Eastern Massachusetts serious area because that area recently met the one-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon three years of complete, quality assured ambient air monitoring data for the years 1996–98 that demonstrate that the one hour ozone NAAQS has been attained in this area. On the basis of this determination, EPA is also determining that certain ROP and attainment demonstration requirements, along with certain other related requirements, of part D of Title 1 of the Clean Air Act are not applicable to this area for so long as the area continues to attain the one hour ozone NAAQS. The Springfield nonattainment area in western Massachusetts continues to monitor violations of the one hour ozone standard, and therefore continues to be subject to ROP requirements.

L. Have These Emission Reductions Improved Air Quality in Massachusetts?

Ozone levels have decreased in the Springfield area during the 1990's, due in part to emission reductions achieved by the Commonwealth's plans. Pollution control measures implemented by States upwind of Massachusetts have also helped ozone levels decline in this area of the State.

M. Massachusetts Is Downwind of Many Large Metropolitan Areas. Do Pollutants Emitted in Other States Affect Air Quality in Massachusetts?

The pollutants that form ground level ozone can be transported hundreds of miles, and so pollutants emitted in other States can adversely impact air quality in Massachusetts. Air pollution emitted from sources in Massachusetts contributes to the Commonwealth's air quality problems, and can also negatively impact air quality in areas downwind of Massachusetts. Air quality modeling performed by the New England States and by the Ozone Transport Assessment Group (OTAG) indicates that ozone levels in

Massachusetts are highest when winds are from the south-west, which supports the conclusion that air quality in the Commonwealth is negatively impacted by the large metropolitan areas downwind of the state.

N. EPA Recently Required 22 Eastern States, Including Massachusetts, To Develop Plans That Will Significantly Reduce Nitrogen Oxide Emissions. Given That Requirement, Why Is Approval of These Plans Needed?

The rate-of-progress plans prepared by Massachusetts and other states with ozone nonattainment areas have helped lower ozone levels. Approval of these plans by EPA, and the pollution control measures associated with them, will ensure that improvements made in air quality are maintained. Additionally, approval of the regulations associated with them make the rules enforceable by EPA.

Despite the emission reductions achieved through implementation of rate-of-progress plans, many areas of the country still do not meet the one hour ozone standard. The modeling done by the OTAG for the eastern half of the United States indicates that the long distance transport of nitrogen oxides across state borders will prevent many areas from attaining this standard by relying solely on emission reductions from within their borders. The NO_x SIP call, which was published as a final rule on October 27, 1998 (63 FR 57356), will require large NO_x emission reductions across the eastern half of the United States. However, the U.S. Court of Appeals for the District of Columbia ordered on May 26, 1999 that the EPA suspend implementation of the NO_x SIP call pending consideration of a lawsuit that has challenged its requirements. In any case, these ROP plans are required by the CAA. Combined with the NO_x emission reductions EPA hopes to achieve in up-wind states, these ROP plans should assure progress toward attaining the one hour ozone standard.

O. Has Massachusetts Met its Contingency Measure Obligation?

Ozone nonattainment areas classified as serious or above must submit to the EPA, pursuant to sections 172(c)(9) and 182(c)(9) of the Act, contingency measures to be implemented if an area misses an ozone SIP milestone or does not attain the national ambient air quality standard by the applicable date.

On September 9, 1999, the Commonwealth submitted an amendment to its ROP plan for Western Massachusetts. The amendment included revised 1999 NO_x emission estimates that were higher than the

Commonwealth's prior submittal, and in essence erased the NO_x emission reduction surplus the State had previously forecast. Since Massachusetts had intended to use the surplus NO_x reductions to meet its contingency obligation, the September 9, 1999 amended submittal from Massachusetts no longer contains a contingency plan. The Commonwealth's September 9, 1999 submittal contains a commitment to submit a revised contingency plan shortly, and indicates that phase II of the reformulated gasoline program is likely to be cited as the control measure that will achieve the necessary reductions. EPA agrees that this control measure is likely to provide the necessary reductions, and will take action on the Commonwealth's contingency plan after it is revised and submitted as a SIP revision.

P. Are Conformity Budgets Contained in These Plans?

Section 176(c) of the Act, and 40 CFR 51.452(b) of the Federal transportation conformity rule require states to establish motor vehicle emissions budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. Massachusetts will use these budgets to determine whether proposed projects that attract traffic will "conform" to the emissions assumptions in the SIP.

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_x 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_x.

EPA's review of this material indicates that the Commonwealth has met the ROP requirements of the Act. EPA is proposing to approve the ROP plans that Massachusetts submitted as a SIP revision on April 1, 1999 and June 25, 1999. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional

office listed in the **ADDRESSES** section of this document.

II. Proposed Action

EPA is proposing to approve the rate-of-progress SIP revision submitted by Massachusetts on April 1, 1999 and June 25, 1999 as a revision to the SIP.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

EPA is proposing approval of the Massachusetts I/M program elsewhere in today's **Federal Register**. EPA intends to publish final rules for the ROP and I/M SIPs simultaneously at the completion of the public comment period, unless persuaded by comments that final approval of either of these actions is inappropriate.

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.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an

effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any new enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132, (64 FR 43255 (August 10, 1999)), which will take effect on November 2, 1999. In the interim, the current Executive Order 12612, (52 FR 41685 (October 30, 1987)), on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects only Massachusetts, and does not alter the relationship or the distribution of power established in the Clean Air Act.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not "economically significant" as defined under E.O. 12866, and it implements a previously promulgated health or safety-based Federal standard.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds

necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because approvals of SIP submittals 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 this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

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

Dated: September 17, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99-25043 Filed 9-24-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 51 and 64**

[CC Docket No. 96-115; 96-98; 99-273; FCC 99-227]

Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Provision of Directory Listing Information Under the Telecommunications Act of 1934

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on issues arising out of developments in, and the convergence of, directory publishing and directory assistance. The intended effect is to further Congress' goal of preventing unfair local exchange carrier (LEC) practices and encouraging the development of competition in directory assistance.

DATES: Comments are due on or before October 13, 1999. Reply comments are due on or before October 28, 1999. Written comments by the public on the proposed information collections are due on or before October 13, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before November 26, 1999.

ADDRESSES: 445 12th Street, S.W., Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Virginia Huth, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to huth_v@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Gregory Cooke, Senior Attorney, Common Carrier Bureau, Network Services Division, (202) 418-2351 or via the Internet at gcooke@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202-418-0484. For additional information concerning the information collections contained in this Notice contact Judy Boley at (202) 418-0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Notice adopted August 23, 1999, and released September 9, 1999. The Notice addresses issues arising out of developments in, and the convergence of directory publishing and directory assistance. The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at <http://www.fcc.gov/Bureaus/CommonCarrier/Orders/fcc99227.wp>, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis

In the Notice, the Commission addresses issues arising out of developments in, and the convergence of directory publishing and directory assistance. In particular, the Commission invites comment on issues relating to the development of Internet directories, including whether section 222(e) entitles directory publishers to obtain subscriber list information for use in those directories. The Commission also invites comment on whether and how it may extend nondiscriminatory access to listing information to directory assistance providers that are neither telephone exchange service providers or telephone toll service providers. Finally, the Commission invites comment on issues relating to the development of national directory assistance, including whether all LECs providing that service must provide nondiscriminatory access to nonlocal listings pursuant to section 251(b)(3).

Paperwork Reduction Act

The Notice contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due on or before October 13, 1999; OMB comments are due November 26, 1999. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060-0741

Title: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996—CC Docket No. 96-98.

Form No.: N/A.

Type of Review: Revised collection.