

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2003. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 3, 2002.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

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 *et seq.*

#### Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(301) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(a) \* \* \*

(301) Amended regulation for the following APCD was submitted on

March 5, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4354, adopted September 14, 1994 and amended February 21, 2002.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[NH-049-7174a; A-1-FRL-7418-5]

#### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; One-hour Ozone Attainment Demonstration for the New Hampshire Portion of the Boston-Lawrence-Worcester, MA-NH Ozone Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This action approves New Hampshire's one-hour ozone attainment demonstration for the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area, submitted by the New Hampshire Department of Environmental Services on June 30, 1998. This action is based on the requirements of the Clean Air Act (CAA) as amended in 1990, related to one-hour ozone attainment demonstrations. EPA is establishing an attainment date of November 15, 2007 for the entire multi-state nonattainment area, and is approving the attainment-level motor vehicle emissions budgets submitted by New Hampshire for the New Hampshire portion of the nonattainment area. A notice of proposed rulemaking was published on this action on October 21, 2002. EPA received no comments on that proposal.

**EFFECTIVE DATE:** This rule will become effective on January 6, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA; and at the Air Resources Division, Department of Environmental Services, 6 Hazen

Drive, P.O. Box 95, Concord, NH 03302-0095. Please telephone in advance before visiting.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, (617) 918-1664.

**SUPPLEMENTARY INFORMATION:** This supplementary information section is organized as follows:

- I. What New Hampshire SIP Revision is the Topic of This Action?
- II. What Previous Action Has Been Taken on This SIP Revision?
- III. What Motor Vehicle Emissions Budgets (MVEBs) Are We Approving?
- IV. EPA Action
- V. Administrative Requirements

#### I. What New Hampshire SIP Revision Is the Topic of This Action?

A one-hour ozone attainment demonstration SIP was submitted on June 30, 1998 by the New Hampshire Department of Environmental Protection for the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. The SIP revision was subject to public notice and comment by the state and a hearing was held in June 1998.

#### II. What Previous Action Has Been Taken on This SIP Revision?

EPA published a Notice of Proposed Rulemaking (NPR) for the New Hampshire attainment demonstration SIP on October 21, 2002 (67 FR 64582). In that action, EPA proposed to approve the ozone attainment demonstration and attainment-level motor vehicle emissions budgets submitted by the state. The rationale for EPA's action is discussed in full in the proposal, and readers are referred to the proposal for further information. EPA received no comments on the proposal.

EPA proposed approval of the Massachusetts ozone attainment demonstration for this nonattainment area on October 15, 2002 (67 FR 63586), and proposed an attainment date of November 15, 2007 for the entire nonattainment area including the New Hampshire portion. Final action on the Massachusetts ozone attainment demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area can be found in a document published elsewhere in this issue of the **Federal Register**.

#### III. What Motor Vehicle Emissions Budgets (MVEBs) Are We Approving?

On June 30, 1998, New Hampshire submitted its ozone attainment demonstration to EPA which establishes attainment-level motor vehicle emissions budgets for both VOC and NO<sub>x</sub>. The VOC and NO<sub>x</sub> budgets

established by the New Hampshire ozone attainment demonstration were formally determined adequate by EPA on August 19, 1998. The motor vehicle emissions budgets established by this plan that we are approving today are 10.72 tons per day for VOC and 21.37 tons per day for NO<sub>x</sub> for the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. Because EPA is establishing an attainment date of November 15, 2007 for the entire nonattainment area, New Hampshire will be required to use 2007 as a milestone year in future transportation conformity determinations.

**IV. EPA Action**

EPA is approving the ground-level one-hour ozone attainment demonstration SIP for the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. EPA is approving the attainment date for this area as November 15, 2007. EPA also approves the attainment-level volatile organic compound and nitrogen oxide motor vehicle emissions budgets for the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area for use in transportation conformity.

**V. 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. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). 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 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 “Protection of Children from Environmental Health Risks and Safety Risks” (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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2003. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 26, 2002.

**Robert W. Varney,**  
*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 EE—New Hampshire**

2. Section 52.1523 is amended by revising the table to read as follows:

**§ 52.1523 Attainment dates for national standards.**

\* \* \* \* \*

Air quality control region	SO <sub>2</sub>		PM <sub>10</sub>	NO <sub>2</sub>	CO	O <sub>3</sub>
	Primary	Secondary				
NH portion Andoscoggin Valley Interstate AQCR 107 .....	a	b	a	a	a	a
Central NH Intrastate AQCR 149 .....	a	b	a	a	a	a

Air quality control region	SO <sub>2</sub>		PM <sub>10</sub>	NO <sub>2</sub>	CO	O <sub>3</sub>
	Primary	Sec- ondary				
NH portion Merrimack Valley-Southern NH Interstate 121:						
Belknap County .....	a	b	a	a	a	a
Sullivan County .....	a	b	a	a	a	a
Cheshire County .....	a	b	a	a	a	d
Portsmouth-Dover-Rochester area (See 40 CFR 81.330) .....	a	b	a	a	a	e
NH portion Boston-Lawrence-Worcester area (See 40 CFR 81.330) .....	a	b	a	a	a	f
Manchester area (See 40 CFR 81.330) .....	a	b	a	a	a	c

- a. Air quality levels presently below primary standards or area is unclassifiable.
- b. Air quality levels presently below secondary standards or area is unclassifiable.
- c. November 15, 1993.
- d. November 15, 1995.
- e. November 15, 1999.
- f. November 15, 2007.

3. Section 52.1534 of subpart EE is amended by adding paragraph (b) to read as follows:

**§ 52.1534 Control strategy: Ozone**

\* \* \* \* \*

(b) Approval—Revisions to the State Implementation Plan submitted by the New Hampshire Department of Environmental Protection on June 1, 1998. The revisions are for the purpose of satisfying the one-hour ozone attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act, for the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. The revision establishes a one-hour attainment date of November 15, 2007 for the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. This revision establishes motor vehicle emissions budgets of 10.72 tons per day of volatile organic compounds (VOC) and 21.37 tons per day of nitrogen oxides (NO<sub>x</sub>) to be used in transportation conformity in the New Hampshire portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MA069-7205a; A-1-FRL-7418-6]

**Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; One-hour Ozone Attainment Demonstration for the Massachusetts Portion of the Boston-Lawrence-Worcester, MA-NH Ozone Nonattainment Area**

**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 action approves Massachusetts' one-hour ozone attainment demonstration for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area, submitted by the Massachusetts Department of Environmental Protection on July 27, 1998, and supplemented on September 6, 2002. This action is based on the requirements of the Clean Air Act (CAA) as amended in 1990, related to one-hour ozone attainment demonstrations. EPA is establishing an attainment date of November 15, 2007, for the entire multi-state nonattainment area, and is approving the 2007 motor vehicle emissions budgets submitted by Massachusetts for the Massachusetts portion of the nonattainment area. EPA is also finding the 2003 motor vehicle emissions budgets submitted previously by Massachusetts inadequate. A notice of proposed rulemaking was published on this action on October 15, 2002. EPA received comments on that proposal. In this action, EPA responds to those comments.

**EFFECTIVE DATE:** This rule will become effective on January 6, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection by appointment weekdays from 9 a.m. to 4 p.m., at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th Floor, Boston, MA; and Division of Air Quality Control, Department of Environment Protection, One Winter Street, 8th Floor, Boston, MA 02108. Please telephone in advance before visiting.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, (617) 918-1664.

**SUPPLEMENTARY INFORMATION:** This supplementary information section is organized as follows:

- I. What Massachusetts SIP Revision Is the Topic of This Action?
- II. What Previous Action Has Been Taken on This SIP revision?
- III. What Motor Vehicle Emissions Budgets (MVEBs) Are We Approving?
- IV. What SIP Elements Did EPA Need To Take Action on Before Full Approval of the Attainment Demonstration Could Be Granted?
- V. What Comments Were Received on the Proposed Approvals and How Has EPA Responded to Those?
- VI. EPA Action
- VII. Administrative Requirements

**I. What Massachusetts SIP Revision Is the Topic of This Action?**

A one-hour ozone attainment demonstration SIP was submitted on July 27, 1998, by the Massachusetts Department of Environmental Protection for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. The SIP revision was subject to public notice and comment by the State and a hearing was held in June 1998. A supplement to the attainment demonstration SIP was submitted by the Massachusetts Department of Environmental Protection on September 6, 2002. The attainment demonstration supplement included a reasonably available control measures (RACM) analysis and 2007 motor vehicle emissions budgets for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH serious ozone nonattainment area. In the supplement, Massachusetts requested an attainment date for this area of November 15, 2007, and included a demonstration of how attainment will be reached by that date. The supplemental SIP revision was also