by adding paragraph (d)(4)(vii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(d) * * *

(4) * * *

(vii) Semduramicin as in § 558.555 of this chapter.

Dated: August 24, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–22997 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–19–01–5892a; A–1–FRL–6421–8]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Massachusetts. This revision establishes reasonably available control technology (RACT) emission limits for certain industrial categories. The intended effect of this action is to fully approve the majority of the Commonwealth's SIP revision submitted on November 13, 1992 and February 17, 1993. The EPA is granting approval to the generic RACT rule in Title 310 Code of Massachusetts Regulations (CMR) section 7.18(17) only in the Springfield, Massachusetts ozone nonattainment area (Berkshire, Franklin, Hampden and Hampshire counties). EPA will address 310 CMR 7.18(17) as it applies to the Boston, Massachusetts ozone nonattainment area in a future action. This action is being taken under section 110 of the Clean Air Act (Act). 42 U.S.C. 7410.

DATES: This rule will become effective November 2, 1999 without further notice, unless EPA receives relevant adverse comments on the parallel notice of proposed rulemaking by October 4, 1999. If EPA receives such comment, then it will publish a document in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, 1 Congress Street, 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 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: Jeanne Cosgrove, (617) 918–1669.

SUPPLEMENTARY INFORMATION: On November 13, 1992 and February 17, 1993, the Massachusetts Department of Environmental Protection (DEP) submitted a revision to its SIP. The revision consisted of changes and additions made to Massachusetts' volatile organic compound (VOC) rules pursuant to the requirements of section 182(b)(2) of the Act, 42 U.S.C. 7511a(b)(2). Changes were made to the following regulations: 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonably available control technology; and 310 CMR 7.24(3), Distribution of motor vehicle fuel. Additionally, the following new rules were added to Massachusetts' Code: 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; and 310 CMR 7.18(27), Coating mixing tanks.

I. Background

Under the pre-amended Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions. EPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. EPA determined that the area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. Under section 172(a)(1), ozone nonattainment areas were generally required to attain the ozone standard by December 31, 1982. Those areas that submitted an attainment demonstration projecting attainment by that date were required to adopt RACT for sources covered by the Group I and II CTGs. Those areas that sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987 were required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources.

Under the pre-amended Act, Massachusetts was designated as nonattainment for ozone and sought an extension of the attainment date under section 172(a)(2) to December 31, 1987. Therefore, the Commonwealth was required to adopt RACT for all CTG sources and for all major (i.e., 100 ton per year or more of VOC emissions) non-CTG sources. However, the Commonwealth of Massachusetts did not attain the ozone standard by the approved attainment date. On May 25, 1988, EPA notified the Governor of Massachusetts that portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that pre-enactment ozone nonattainment areas that retained their designation of nonattainment and were classified as marginal or above fix their deficient RACT rules for ozone by May 15, 1991. The entire Commonwealth of Massachusetts retained its designation of nonattainment and was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991). The Commonwealth submitted revisions to meet the RACT fix-up requirement and EPA has approved those revisions to the Massachusetts SIP on October 8, 1992, January 11, 1993 and June 30, 1993 (57 FR 46313, 58 FR 3492 and 58 FR 34908.)

Section 182(b)(2) of the amended Act requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the Clean Air Act Amendments of 1990; (2) RACT for

sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. This RACT requirement applies to nonattainment areas that previously were exempt from certain RACT requirements to ''catch up'' to those nonattainment areas that became subject to those requirements during an earlier period. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those for previously designated nonattainment areas. Subsequent to the 1990 Clean Air Act, all of Massachusetts was classified as serious nonattainment for ozone. 56 FR 56694 (Nov. 6, 1991).

Since Massachusetts was previously required to adopt RACT for all the CTG and major non-CTG sources, the Commonwealth did not need to adopt any specific additional RACT rules. However, the Commonwealth did submit a rule for the surface coating of flat wood paneling. Massachusetts had previously submitted a negative declaration for this rule, stating that there were no wood paneling sources in Massachusetts. The Commonwealth is now adopting a wood paneling regulation because the state has identified such sources. Additionally, under section 182 of the Act, the major source definition for serious nonattainment areas was lowered to include sources that have a potential to emit greater than 50 tons per year of VOC. Therefore, the Commonwealth needed to lower the applicability cutoff of its non-CTG and/or relevant CTG-based regulations to include newly classified major sources in these categories.

In addition, CAA section 184 (b)(1)(B) requires all states in the Ozone Transport Region (OTR) to impose RACT on all sources covered by a CTG. Under section 184(b)(2), OTR states must regulate all sources with potential VOC emissions of 50 tons per year or more as though they were in a moderate ozone attainment area. All of Massachusetts is part of the OTR. Therefore, RACT remains a requirement statewide in Massachusetts even after EPA's recent revocation of the one-hour ozone standard in Eastern Massachusetts.

VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following section is EPA's evaluation and final action for the following Massachusetts regulations: 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonably available control technology (as it applies to the Springfield ozone nonattainment area only); 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel.

II. EPA Evaluation and Final Action

The Commonwealth has submitted negative declarations for the CTG categories listed below. Through the negative declarations, Massachusetts is asserting that it has no sources within its area that would be subject to a rule for that source category.

- Petroleum refinery vacuum producing systems, waste water separators & process unit turnarounds (Petroleum refinery processes).
- Fugitive VOC emissions from petroleum refining (Leaks from petroleum refinery equipment).
- Pharmaceutical manufacture (manufacture of synthesized pharmaceutical products).
- Rubber tire manufacture (Manufacture of pneumatic rubber tires).
- Large petroleum dry cleaners.
- Manufacture of high density polyethylene, polypropylene, and polystyrene resins (Manufacture of high-density polyethylene, polypropylene and polystyrene resins).
- Natural gas/gasoline processing plants (Equipment Leaks from natural gas/gasoline processing plants).
- SOCMI air oxidation processes (Air oxidation processes in synthetic organic chemical manufacturing industry).

EPA is approving these negative declarations as meeting the section 182(b)(2) and section 184(b) RACT requirements for the source categories listed. However, if evidence is submitted during the comment period that there are existing sources within the area that, for purposes of meeting the RACT requirements, would be subject to one or more of these rules, if developed, EPA will withdraw final approval action on the negative declarations.

Massachusetts also submitted revisions to its VOC regulations. In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and part D of the Act and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this action. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for RACT for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) the proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** document,'' otherwise known as the ''Blue Book'' (notice of availability was published in the **Federal Register** on May 25, 1988 and in the existing CTGs); (3) the ''Model Volatile Organic Compound Rules for Reasonably Available Technology,'' (Model VOC RACT Rules) issued as a staff working draft in June 1992; (4) the document entitled, ''Draft Control Techniques Guidelines of Control of Volatile Organic Compound Emissions from Offset Lithographic Printing,'' September 1993; (5) the document entitled, ''Alternative Control Techniques Document: Offset Lithographic Printing,'' (EPA 453/R–94–054) June 1994; (6) the document entitled, ''Alternative Control Techniques Document: Surface Coating of Automobile/Transportation and Business Machine Plastic Parts,'' (EPA 453/R–94–017), February 1994; and (7) the document entitled, ''Draft Control Techniques Guidelines of Control of Volatile Organic Compound Emissions from Wood Furniture Coating Operations, October 1991.'' In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

The changes to Massachusetts's VOC regulations that were included in the

November 13, 1992 and February 17, 1993 submittals are summarized below, along with EPA's action with regard to each measure.

310 CMR 7.00, Definitions

Massachusetts has adopted 47 new and revised definitions which clarify some of the VOC regulations which EPA is acting upon in this proposed rulemaking. These definitions are approvable because they clarify existing and new rules in Massachusetts' VOC regulations.

310 CMR 7.03(13), Paint Spray Booths

The Commonwealth revised this regulation to include citations for the new VOC regulations added to 310 CMR 7.18. 310 CMR 7.03(13) currently regulates any new or modified paint spray booths. This revision is approvable.

310 CMR 7.18(2), Compliance with Emission Limitations

Section (f) was added to this regulation to include an exemption for noncompliant coatings used in amounts less than 55 gallons in the aggregate for any consecutive 12 month period. The change is consistent with EPA's August 10, 1990 policy memorandum from G.T. Helms, Chief of the Ozone/Carbon Monoxide Programs Branch of the Office of Air Quality Planning and Standards, entitled, ''Exemption of Low-Use Coatings.'' Section 193 of the Clean Air Act (i.e., the General Savings Clause), requires that any regulation in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any nonattainment area may only be modified if the modification insures equivalent or greater reductions of the same pollutant. Although the proposed addition of 310 CMR 7.18(2)(f) represents a small relaxation of existing control requirements, the requirements of section 193 are met by the reductions resulting from other changes being approved in this notice.

The Commonwealth has added another section to 310 CMR 7.18(2) to allow daily weighted averaging, provided the source meets conditions outlined in the subsection. This addition is consistent given with the guidance given in section XX.3082 of EPA's Model Rule and is approvable.

310 CMR 7.18(7), Automobile Surface Coating

The Commonwealth corrected a typographical mistake in its automobile surface rule. This change does not affect the rule and is approvable.

310 CMR 7.18(8), Solvent Metal Degreasing

The Commonwealth has revised it's free board ratio from 0.70 to 0.75. This revision is approval and consistent with EPA's Model Rule.

310 CMR 7.18(11), Surface Coating of Miscellaneous Metal Parts and Products

The Commonwealth corrected a typographical error in section 310 CMR 7.18(11)(a). This change does not affect the rule and is approvable.

310 CMR 7.18(12), Graphic Arts

This regulation was amended to define RACT for graphic arts sources with potential emissions from all printing operations of 50 tons or more per year, which were not previously subject to the rule. While this change is consistent with the requirements of section 182 of the Act, the Commonwealth has removed the compliance date for sources previously subject to the rule. The Commonwealth included a section 301 CMR 7.18(12)(e) allowing enforcement action to be taken on a facility that was not previously in compliance. EPA interprets 310 CMR 7.18(12)(e) to require sources who meet a size cutoff of 100 tons per year to meet the compliance dates that were in effect from January 1, 1983 until January 1, 1994. For example, Massachusetts' graphic arts rule that was adopted on August 17, 1990 had a compliance date for 100 ton sources of December 31, 1982, unless granted an approval by the MA DEP to December 31, 1985. Therefore, sources who met the 100 tons per year cutoff had to meet the compliance date of December 31, 1982 unless the MA DEP granted an extension until December 31, 1985. This revision is approvable.

310 CMR 7.18(17), Reasonably Available Control Technology

This regulation was amended to define RACT for any facility that has the potential to emit, before add-on control, equal to or greater than 25 tons per year. Section 182(b)(2) of the CAA requires that a SIP revision be submitted by November 15, 1992 including ''provisions to require the implementation of RACT. * * *'' In addition, the necessary SIP revision is required to ''provide for the implementation of the required measures as expeditiously as practicable but no later then May 31, 1995.'' This regulation describes a process by which RACT can be defined but does not specifically define RACT for each source applicable to the regulation. To receive full approval, Massachusetts will need to define explicitly, and have approved by EPA, RACT for all of the sources that are subject to 310 CMR 7.18(17). Because there are sources in the eastern Massachusetts ozone nonattainment area for which RACT plans have not yet been approved by EPA, EPA will address 310 CMR 7.18(17) in the Boston Massachusetts ozone nonattainment area in a separate **Federal Register** action, along with the case-specific RACT determinations. Since there are no outstanding RACT determinations in the Springfield ozone nonattainment area, EPA is approving 310 CMR 7.18(17) as it applies to the Springfield Massachusetts nonattainment area (i.e., Berkshire, Franklin, Hampden and Hampshire counties).

310 CMR 7.18(20), Emission Control Plans for Implementation of Reasonably Available Control Technology

This regulation outlines the process by which a facility must comply with the requirements of RACT under 310 CMR 7.18. This section says that a source must submit an emission control plan to the Commonwealth for review and approval. Furthermore, this section lists what the required elements are in the emission control plan.

310 CMR 7.18(21), Surface Coating of Plastic Parts

This section is added to regulate facilities with plastic parts coating line(s) which in total have the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC and requires compliance by January 1, 1994. A source can apply for a non-renewable one year extension of the compliance deadline. This regulation requires sources who do not have control devices to meet the following as applied emission limits:

Emission Source	Emission limitations (lbs VOC/gal solids);
Business Machines/Miscellaneous Plastic Parts:	
Color Coating	3.4

Emission Source	Emission limitations (lbs VOC/gal solids);
Color/texture Coating	3.4
EMI/RFI	8.8
Automotive Interior Parts Coating:	
Colorcoat	5.7
Primer	6.7
Automotive Exterior Flexible Parts Coating:	
Colorcoat	9.3
Clearcoat	6.7
Primer	11.9
Automotive Exterior Rigid (non-flexible) Parts Coating:	
Colorcoat	9.3
Clearcoat	6.7
Primer	6.7

Additionally, the Commonwealth has included the following as applied emission limits for sources which have add-on control devices:

Emission source	Emission limitations (lbs VOC/gal solids)
Business Machines/Miscellaneous Plastic Parts:	
Color Coating	1.7
Color/texture Coating	1.7
Primer Coating	1.4
EMI/RFI	1.9
Automotive Interior Parts Coating:	
Colorcoat	3.6
Primer	1.7
Automotive Exterior Flexible Parts Coating:	
Colorcoat	2.8
Clearcoat	2.4
Primer	4.8
Automotive Exterior Rigid (non-flexible) Parts Coating	
Colorcoat	2.8
Clearcoat	2.4
Primer	3.6

This regulation is approvable because it is consistent with EPA guidance and it meets the requirements of the Act.

310 CMR 7.18(22), Leather Surface Coating

The Commonwealth has regulated any leather surface coating line(s) which in total have the potential to emit before add-on control, equal to or greater than 50 tons per year of VOC. Compliance is required by January 1, 1994, unless granted an extension. No leather coater may use a coating which has an emission limit greater than 27.4 lbs VOC per gallon solids as applied. This regulation is approvable.

310 CMR 7.18(23), Wood Products Surface Coating

This addition to Massachusetts' rules require facilities with wood products surface coating line(s) with the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC to meet the following emission limitations:

Emission Source	Emission Limitation (lbs VOC/gal solids)
Semitransparent stain	89.4
Wash coat	35.6
Opaque stain	13.0
Sealer	23.4
Pigmented coat	15.6
Clear topcoat	23.4

A source must comply by January 1, 1994 unless granted a nonrenewable one year extension. This regulation is approvable and meets EPA's guidance that was available at the time the rule was adopted.

310 CMR 7.18(24), Flat Wood Paneling Surface Coating

This regulation requires any flat wood paneling surface coating line(s) which

emits, before add-on control equal to or greater than 15 pounds per day of VOC to comply with the following emission limitations by January 1, 1994:

Emission Source	Emission Limitation (lbs of VOC per 1000 square feet coated)
Printed hardwood panels and thin particleboard panels	6.0
Natural finish hardwood plywood panels	12.0
Class II finish on hardboard panels	10.0

This regulation is approvable and meets the requirements in EPA's Model Rule.

310 CMR 7.18(25), Offset Lithographic Printing

The Commonwealth has adopted a regulation which regulates a facility with offset lithographic presses, which in total have the potential to emit, before add-on control, equal to or greater than 50 tons per year of VOC. A source subject to this regulation must comply by January 1, 1994 unless granted a one year extension to January 1, 1995. The requirements for each type of printing press is listed in Massachusetts' rule and the TSD prepared for this action. This regulation is approvable.

310 CMR 7.18(26), Textile Finishing

This new regulation applies to any person who owns, leases, operates or controls a textile finishing facility with potential emissions of 50 tons per year before add-on control. Sources are required to comply with the rule by January 1, 1994 unless given a non-renewable 1 year extension by the Commonwealth. A rotary screen or roller printing press cannot use a print paste formulation with an emission limit equal to or greater than 0.5 pounds of VOC per pound of solids as applied. Additionally, any finishing formulations cannot contain more than 0.5 pounds of VOC per pound of solids, as applied. This regulation is approvable because it is consistent with EPA guidance and it meets the requirements of the Act.

310 CMR 7.18(27), Coating Mixing Tanks

This new section regulates sources who lease, operate or control a coating mixing tank which emits before add-on control, 15 pounds of VOC per day. Most of this regulation requires ''good housekeeping'' measures for portable and stationary coating mixing tanks. Any source which has emissions from coating mixing tanks in excess of 50 tons per year must submit a plan to the Commonwealth and have it approved. The plans required by the coating mixing tank regulation are not necessary in order to enforce the basic RACT housekeeping that EPA is approving. Those requirements are already specified in the rule. This regulation is approvable.

310 CMR 7.24(3), Distribution of Motor Vehicle Fuel

The Commonwealth had revised this regulation to include a minor wording change in the applicability of the rule. Stationary tanks with the capacity equal to or greater than 2000 gallons are required to have any vapors displaced through submerged fill to be processed through a vapor balance system. The former regulation required stationary tanks greater than 2000 gallons to have their emission processed. The Commonwealth has also amended recordkeeping and testing provisions. This revision is approvable.

Transfer Efficiency Test Methods

In each of the new surface coating regulations EPA is approving today, there is a provision that addresses transfer efficiency. A typical example is found in the plastic parts surface coating regulation, 310 CMR 7.18(21)(g), which reads in part: ''Demonstrations of compliance may include considerations of transfer efficiency provided that the baseline transfer efficiency is equal to or greater than 65%, and the transfer efficiency test method is detailed in the emission control plan approved by the Department.'' See also 310 CMR 7.18 (22)(f) (leather surface coating), (23)(g) (wood products surface coating), (24)(g) (flatwood paneling surface coating). This provision is designed to ensure that any transfer efficiency test method is clearly stated in an emission control plan, but it is not designed to delegate approval of that test method to DEP. Each of these rules includes a provision specifically requiring both DEP and EPA approval of any new test methods, such as 310 CMR 7.18(21)(I), which reads in part: ''Testing shall be conducted in accordance with EPA Method 24 and/or Method 25 as described in CFR Title 40 part 60, or by *other methods approved by the Department and EPA*.'' (Emphasis added; see also 310 CMR 7.18(22)(h), (23)(i), (24)(i).) Any test method used to demonstrate improved transfer efficiency will have to be approved by both DEP and EPA, because there is currently no approved method in 40 CFR part 60. EPA is basing its approval of these provisions on its understanding that it is DEP's intent to submit transfer efficiency test methods to EPA for approval.

III. Final Action:

EPA is fully approving the VOC RACT regulations submitted by the Commonwealth on February 17, 1993 as revisions to the Commonwealth's SIP, with the exception of 310 CMR 7.18(17). For this regulation, EPA is approving it only as it applies to the Springfield, Massachusetts ozone nonattainment area (i.e., Berkshire, Franklin, Hampden and Hampshire counties).

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as a proposal to approve the SIP revision should relevant adverse comments be filed. This action will be effective November 2, 1999 without further notice unless, by October 4, 1999, relevant adverse comments are received.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective November 2, 1999 and no further action will be taken on the proposed rule.

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.

IV. 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 Order 12875

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 enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

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 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

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 FINAL 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. 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 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 promulgated 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.

G. Submission to Congress and the Comptroller General

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. 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 November 2, 1999. 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).) 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

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

Dated: June 24, 1999.

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)(117) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(117) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on February 17, 1993.

(i) Incorporation by reference.

(A) Letter from the Massachusetts Department of Environmental Protection dated February 17, 1993 submitting a revision to the Massachusetts State Implementation Plan.

(B) Regulations 310 CMR 7.00, Definitions; 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; 310 CMR 7.18(17), Reasonable available control technology (as it applies to the Springfield ozone nonattainment area only); 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel all effective on February 12, 1993.

3. In § 52.1167 Table 52.1167 is amended by adding new entries in numerical order to existing state citations: ''310 CMR 7.00, Definitions; 310 CMR 7.18(2), Compliance with emission limitations; 310 CMR 7.18(7), Automobile surface coating; 310 CMR 7.18(8), Solvent Metal Degreasing; 310 CMR 7.18(11), Surface coating of miscellaneous metal parts and products; 310 CMR 7.18(12), Graphic arts; and 310 CMR 7.18(17), Reasonable available control technology; and by adding the following new state citations: 310 CMR 7.03(13), Paint spray booths; 310 CMR 7.18(20), Emission control plans for implementation of reasonably available control technology; 310 CMR 7.18(21), Surface coating of plastic parts; 310 CMR 7.18(22), Leather surface coating; 310 CMR 7.18(23), Wood products surface coating; 310 CMR 7.18(24), Flat wood paneling surface coating; 310 CMR 7.18(25), Offset lithographic printing; 310 CMR 7.18(26), Textile finishing; 310 CMR 7.18(27), Coating mixing tanks; and 310 CMR 7.24(3), Distribution of motor vehicle fuel.

§ 52.1167 EPA—approved Massachusetts State regulations

* * * * *

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS 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	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	
*	*	*	*	*	*	
310 CMR 7.03(13)	Paint spray booths	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds the following coating operations: plastic parts surface coating, leather surface coating, wood product surface coating, and flat wood paneling surface coating.

TABLE 52.1167—EPA—APPROVED MASSACHUSETTS 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 7.18(2) ...	Compliance with emission limitations.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds an exemption for coatings used in small amounts, and a section on daily weighted averaging.
*	*	*	*	*	*	
310 CMR 7.18(7) ...	Automobile surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Revises a limit for primer surface coating.
310 CMR 7.18(8) ...	Solvent Metal Degreasing.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds a typographical correction.
*	*	*	*	*	*	
310 CMR 7.18(11)	Surface coating of miscell-aneous metal parts and products.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Revises a reference.
310 CMR 7.18(12)	Graphic arts	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Amends applicability to 50 tons per year VOC.
310 CMR 7.18(17)	Reasonable available control technology.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds new VOC RACT requirements in the Springfield, Mass. ozone nonattainment area only.
*	*	*	*	*	*	
310 CMR 7.18(20)	Emission Control Plans for implementa-tion of reasonably available control technology.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds new VOC RACT requirements.
310 CMR 7.18(21)	Surface coating of plastic parts.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for plastic parts surface coating.
310 CMR 7.18(22)	Leather surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for leather surface coating.
310 CMR 7.18(23)	Wood products surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for wood product surface coating.
310 CMR 7.18(24)	Flat wood paneling surface coating.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for flat wood paneling surface coating.
310 CMR 7.18(25)	Offset lithographic printing.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for offset lithographic printing.
310 CMR 7.18(26)	Textile finishing	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for textile finishing.
310 CMR 7.18(27)	Coating mixing tanks.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Adds VOC RACT for coating mixing tanks.
*	*	*	*	*	*	
310 CMR 7.24(3) ...	Distribution of motor vehicle fuel.	February 17, 1993	9/3/1999	[Insert *FR* citation from published date].	c(117)	Amends distribution of motor fuel requirements, applicability, recordkeeping and testing requirements.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–221–158; FRL–6430–7]

Approval and Promulgation of Implementation Plans; California—Owens Valley Nonattainment Area; PM–10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a State Implementation Plan (SIP) submitted by the State of California for attaining the particulate matter (PM–10) national ambient air quality standards (NAAQS) in the Owens Valley Planning Area, along with the State's request for an extension to December 31, 2006 to attain the PM–10 NAAQS in the area. EPA is taking these final actions under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary standards, and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on October 4, 1999.

ADDRESSES: The rulemaking docket for this notice, may be inspected and copied at the following location during normal business hours. A reasonable fee may be charged for copying parts of the docket.

U.S. Environmental Protection Agency, Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP materials area also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, CA 95814; or

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

FOR FURTHER INFORMATION CONTACT: Larry A. Biland, U.S. Environmental Protection Agency, Region 9, Air Division (AIR–2), 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744-1227.

SUPPLEMENTARY INFORMATION:

I. Background

The 1998 PM–10 plan (1998 SIP) for the Owens Valley Planning Area [1] was adopted on November 16, 1998, by the Great Basin Unified Air Pollution Control District (GBUAPCD or the District), and submitted as a SIP revision by the California Air Resources Board (CARB) on December 10, 1998. EPA determined this submission to be complete on February 2, 1999.[2]

II. Summary of EPA Action

EPA is finalizing approval of the serious area SIP submitted by the State of California for the Owens Valley PM–10 nonattainment area. Specifically, EPA is approving the 1998 SIP with respect to the CAA requirements for public notice and involvement under section 110(a)(1); emissions inventories under section 172(c)(3); control measures under section 110(k)(3), as meeting the requirements of sections 110(a) and 189(b)(1)(B); Reasonable Further Progress (RFP) and rate-of-progress milestones under section 189(c); contingency measures under section 172(c)(9); and demonstration of attainment under section 189(b)(1)(A). EPA is also finalizing approval of the State's request for an extension of the attainment date from December 31, 2001, to December 31, 2006, under CAA section 188(e).

These actions were proposed on June 25, 1998 (64 FR 34173–34179). The reader is referred to that notice for additional detail on the affected area and the SIP submittal, as well as a summary of relevant CAA provisions and EPA interpretations of those provisions.

III. Response to Public Comments

EPA received only one comment, from Dorothy Alther of California Indian Legal Services, representing the Lone Pine and Timbisha Shoshone Indian Tribes and the Owens Valley Indian Water Commission. The commenter summarized the position of the Tribes as having some concerns regarding the 1998 SIP and its implementation, but being anxious to see work begin on the Dry Lake. The comments did not urge EPA disapproval of the 1998 SIP.

Ms. Alther stated that EPA erred in stating that required controls on 16.5 square miles in the first phase of implementation is discretionary. EPA agrees. The Los Angeles Department of Water and Power is mandated to place controls on 10 square miles of the Owens Lake bed. Implementation of controls on an additional 3.5 square miles in Phase 2 is required ''unless the District determines, on or before December 31, 2001, that the Owens Valley Planning Area (OVPA) will attain the PM–10 NAAQS by December 31, 2006 without implementation of further control measures.'' Implementation of controls on an additional 3 square miles in Phase 3 is required unless the District makes a similar determination by December 31, 2002. Board Order #981116–01, Paragraphs 2 and 3.

The commenter expressed concern regarding the lack of certainty regarding what measures will be implemented in the second increment of the 1998 SIP. EPA believes that the second increment (Phases 4–6) of the SIP control strategy includes an enforceable City obligation to implement controls on additional areas of the Owens Lake bed by particular dates sufficient to meet progress and attainment requirements as determined by the District. In view of the absence of information on large-scale fugitive dust control projects at a dry lake bed, EPA believes that it is reasonable to allow the City and District the discretion to identify more precisely the specific measures that will be most effective in achieving attainment, based on the practical experience gained in implementing the first increment of the control strategy. The commenter and other stakeholders will have an opportunity to review the specific strategies included in a SIP revision to be submitted on December 31, 2003. EPA will work with the District and City to ensure that the selected strategies in the second increment are adequate to achieve progress and attainment by 2006, and that any necessary SIP updates are prepared and adopted in a process that provides full opportunities for public involvement.

The commenter disagreed with EPA's discussion and proposed approval of the 5-year attainment date extension. The commenter did not explain why she believed that the SIP failed to qualify for an extension. EPA continues to believe that the area meets the CAA section 188(e) criteria for the extension. Despite an expeditious schedule for implementing all feasible and effective control measures, the 1998 SIP provides information showing that attainment by 2001 is impracticable. The State has complied with all implementation requirements and commitments pertaining to the area in the implementation plan. Finally, EPA continues to conclude that the 1998 SIP includes the most stringent measures

[1] For a description of the boundaries of the Owens Valley Planning Area, see 40 CFR 81.305.

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).