7652(a), on tobacco products and cigarette paper and tubes of Puerto Rican manufacture which are to be shipped to the United States, the shipper shall file, or cause to be filed, with the Chief, Puerto Rico Operations, a tax return, ATF Form 5000.25, in duplicate, with full remittance of tax which will become due on such tobacco products and cigarette papers and tubes.* * *

Signed: October 16, 2000.

Bradley A. Buckles,

Director.

Approved: October 25, 2000.

John P. Simpson,

Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 00–29409 Filed 11–15–00; 8:45 am]

BILLING CODE 4810–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–081–7211a; A–1–FRL–6897–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We are converting our limited approval under the Clean Air Act of the Commonwealth of Massachusetts State Implementation Plan (SIP) revision for an enhanced vehicle inspection and maintenance program to a full approval. In our limited approval, we said Massachusetts needed to submit revisions to its SIP to address four sections of EPA's enhanced I/M regulation for full approval. We have determined that on October 20, 2000 Massachusetts submitted revisions that meet all of the conditions for full approval. Additionally, we are also approving an interim level of emission reduction credit for the inspection and maintenance program that can be utilized by Massachusetts in attainment planning. The intent of this action is to convert our limited approval of Massachusetts' enhanced vehicle I/M program SIP to a full approval and to approve an interim level of emission reduction credit for attainment planning purposes.

DATES: This direct final rule is effective on January 16, 2001 without further notice, unless EPA receives relevant adverse comment by December 18, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning , Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 918–1049.

SUPPLEMENTARY INFORMATION:

This Supplementary Information section is organized as follows:

I. What action is EPA taking today?
II. What Massachusetts SIP revision is the topic of this action?
III. What were the requirements for full approval of the Massachusetts inspection and maintenance program?
IV. How did Massachusetts fulfill these requirements for full approval?
V. What action did EPA take to defer sanctions in Massachusetts?
VI. What credit may Massachusetts assume in the interim until the correlation study is complete?
VII. EPA Action
VIII. Administrative Requirements

I. What Action Is EPA Taking Today?

In this action, we are converting our limited approval of Massachusetts' enhanced motor vehicle inspection and maintenance (I/M) SIP to a full approval.

We are also approving Massachusetts to use ASM credits for future planning purposes until the correlation study to compare IM240 with the Massachusetts 31 second test (MA31 test) is completed. Note: The full approval of the Massachusetts I/M program is based on the ability of the program to achieve the low-enhanced performance standard, and EPA has already determined that the program meets the low-enhanced standard in its limited approval of the program.

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

This notice deals with a revision to the State of Massachusetts' Clean Air Act SIP submitted by Massachusetts on October 20, 2000 for certain program elements necessary to complete the I/M program. Today we are acting only upon this October 20, 1999 submittal to determine that Massachusetts submitted revisions meeting all of the conditions necessary to convert the limited approval of the enhanced I/M plan to a full approval. In so doing we are not reopening our final rulemaking granting limited approval of the Massachusetts enhanced I/M SIP submitted on May 14, 1999 and approved at 40 CFR 52.1120(c)(122).

III. What Were the Requirements for Full Approval of the Massachusetts Inspection and Maintenance Program?

Approval of Massachusetts' I/M program SIP required submission of information to meet the requirements of the following sections of EPA's I/M regulations: Network type and program evaluation—40 CFR 51.353; Quality control—40 CFR 51.359; Quality assurance—40 CFR 51.363; and On-road testing—40 CFR 51.371.

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

On October 20, 2000, Massachusetts submitted revisions to its enhanced I/M SIP to EPA in order to meet the conditions for full approval. The following is a description of the measures which Massachusetts has submitted to meet each of the deficient areas described in the limited approval approved at 40 CFR 52.1120(c)(122).

1. *Network type and program evaluation—40 CFR 51.353*—As part of its October 20, 2000 submittal, Massachusetts submitted a document entitled ''Program Evaluation Plans For the Enhanced Inspection and Maintenance Program,'' dated October 2000. The Program Evaluation Plans contained a final ''MA31-to-IM240 Correlation Study.'' The protocol for the correlation study was developed with EPA input and is acceptable to establish final emission reduction credit for the Massachusetts I/M program. A task assignment has been signed by Massachusetts to gather data to conduct the study described in the protocol. A copy of that task assignment was included in the October 20, 2000 submittal.

The Program Evaluation Plans, dated October 2000, also contained a ''Phase 2 Program Evaluation Plan for the Massachusetts I&M Program.'' The

phase 2 program evaluation will begin after the MA31-to-IM240 correlation study is complete. The phase 2 program will evaluate the Massachusetts I/M program using a modified method of the EPA/Sierra Research Method. On January 9, 1998 (63 FR 1362), EPA finalized revisions to its program evaluation requirements allowing this methodology to be utilized. This section of the SIP now meets the requirements of EPA's I/M rule.

2. *Quality control—40 CFR 51.359*—As part of its October 20, 2000 submittal, Massachusetts submitted a document entitled ''Quality Assurance and Quality Control Plan For the Massachusetts Enhanced Emissions and Safety Inspection Program,'' dated October 16, 2000. This plan contains the needed quality control procedures. This section of the SIP now meets the requirements of EPA's I/M rule.

3. Quality assurance—40 CFR 51.363—As part of its October 20, 2000 submittal, Massachusetts submitted a document entitled ''Quality Assurance and Quality Control Plan For the Massachusetts Enhanced Emissions and Safety Inspection Program,'' dated October 16, 2000. This plan contains the needed quality assurance measures and provisions. This section of the SIP now meets the requirements of EPA's I/M rule.

4. *On-road testing—40 CFR 51.371*—In the October 20, 2000 submittal letter, Massachusetts has committed to conducting on-road testing with remote sensing and has shown that resources are available to do the testing. Data will be analyzed and a report submitted to EPA. This section of the SIP now meets the requirements of EPA's I/M rule.

V. What Action Did EPA Take To Defer Sanctions in Massachusetts?

Due to the disapproval of an earlier I/M SIP submitted by the Commonwealth of Massachusetts, the Clean Air Act's offset sanction was applicable in Massachusetts beginning May 15, 1999 and the Clean Air Act's highway sanction was applicable beginning November 15, 1999. On November 30, 1999 (64 FR 66775), EPA published an interim final rule in the **Federal Register** which deferred the application of those sanctions beginning on December 15, 1999. Our interim final rule was based on a finding that Massachusetts had more likely than not implemented an approvable enhanced I/M program that was to take effect on December 15, 1999. In that action EPA said that the implementation of sanctions will be deferred until EPA takes final action on the I/M SIP.

Today EPA is taking final, full approval of Massachusetts' submitted enhanced I/M program SIP revision. Accordingly, all sanctions and FIP clocks related to approval of Massachusetts' I/M program are terminated upon the effective date of today's action.

VI. What Credit May Massachusetts Assume in the Interim Until the Correlation Study Is Complete?

In EPA's supplementary proposed rule on the Massachusetts I/M SIP published on November 30, 1999 (64 FR 66829), EPA stated that there was no data available at the time to assign the exact emission reduction credit for the combination of test type and equipment that the Commonwealth was implementing (*i.e.*, a 31 second transient test utilizing the BAR 31 trace and NYTEST equipment). We did state that, even if one makes extremely conservative assumptions about the efficacy of the Massachusetts test, EPA's mobile modeling shows that the I/M program demonstrates compliance with EPA's performance standard for a low enhanced program. We also acknowledged that Massachusetts will conduct necessary comparison testing to determine the appropriate emission reduction for SIP credit using the combination of the BAR 31 transient trace with NYTEST equipment and stated that this would be important for purposes of approving the ozone attainment demonstration for the one-hour ozone standard submitted by the Commonwealth on July 27, 1998.

On December 16, 1999 (64 FR 70319), EPA proposed approval of the Massachusetts attainment demonstration for the Springfield (Western Massachusetts) ozone nonattainment area. EPA stated that unless Massachusetts submitted a demonstration which would substantiate the level of credit claimed for their I/M program, EPA would disapprove the attainment demonstration. *Id.* at 70329–30. In the meantime, while Massachusetts has pursued such a test program and has in fact signed a work order to execute this program, additional information has become available which allows the Agency to exercise engineering judgement in estimating the credit level of the MA31 test program. The MA 31 test program combines use of the NYTEST equipment used in New York with the BAR 31 test cycle used in Oregon.

The additional information EPA has received is a test program which resulted in an evaluation of the difference in effectiveness between EPA's IM240 equipment and NYTEST equipment which is utilized by Massachusetts. This test program quantified the effectiveness of NYTEST and granted it 95% of the IM240 hydrocarbon (HC) reduction credit and 99% of the IM240 reduction credit for both carbon monoxide (CO) and nitrogen oxides (NO_X).

In November 25, 1996, EPA had quantified the BAR31 cycle currently run in Oregon (OR31) as receiving 90% of the IM240 HC credit and 95% of the IM240 CO and NO_X credit. Although the OR31 uses the same cycle as the MA31 test, the OR31 employs IM240 equipment, which is more accurate than the BAR97 equipment specified in the MA31 test. Therefore, the credit afforded the MA31 at this time has been slightly reduced to reflect this equipment discrepancy. The NYTEST equipment analysis taken in concert with the earlier information defining the relationship between OR31 and IM240 cycles results in the Agency agreeing, based on our best engineering judgment, that the level of credit Massachusetts needs to support their attainment demonstration for their currently operating I/M program is acceptable. Massachusetts needs a level of credit equivalent to ASM2 at final cut points. The level of credit granted the MA31 as compared to the IM240 is 85% for HC, 87% for CO and 85% for NO_X.

At this time, EPA believes Massachusetts will continue work on two related but distinct efforts. The first is to obtain and analyze MA31/IM240 correlation data, and the second is that Massachusetts will also perform a program evaluation to quantify the emissions benefits achieved by the program. EPA will review the correlation data as well as the program evaluation data, and take notice and comment as appropriate on whether the data bears out our current determination with regard to the level of credit granted to the program. If it does not, we will take appropriate action to correct any SIP shortfall.

VII. EPA Action

EPA is converting its limited approval of Massachusetts' enhanced I/M program to a full approval. Accordingly, all sanctions and FIP clocks related to approval of Massachusetts' I/M program are terminated upon the effective date of today's action. An extensive discussion of Massachusetts' enhanced I/M program and our rationale for our limited approval action was provided in the previous final rule for the Massachusetts enhanced I/M program approved at 40 CFR 52.1120(c)(122).

Additionally, we are also approving an interim level of emission reduction credit for the inspection and maintenance program that can be utilized by Massachusetts in attainment planning.

The EPA is publishing this action 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, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective January 16, 2001 without further notice unless the Agency receives relevant adverse comments by December 18, 2000.

If the EPA receives such comments, then EPA will publish a notice 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. Any 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 on January 16, 2001 and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 27, 2000.

Mindy S. Lubber,

Regional Administrator, EPA—New England.

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

PART 52—[AMENDED]

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

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

Subpart W—Massachusetts

2. Section 52.1159 is added to read as follows:

§ 52.1159 Enhanced Motor Vehicle Inspection and Maintenance.

(a) Revisions submitted by the Massachusetts Department of Environmental Protection on October 20, 2000, to the motor vehicle inspection and maintenance program are approved:

(1) Letter from the Massachusetts Department of Environmental Protection dated October 20, 2000 submitting a revision to the Massachusetts State Implementation Plan.

(2) Document entitled ''Quality Assurance and Quality Control Plan For the Massachusetts Enhanced Emissions and Safety Inspection Program,'' dated October 16, 2000.

(3) Document entitled ''Program Evaluation Plans For the Enhanced Inspection and Maintenance Program,'' dated October 2000, and supporting contracts.

[FR Doc. 00–29220 Filed 11–15–00; 8:45 am]

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