



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### [EPA-R01-OAR-2018-0771; FRL-9989-90-Region 1]

#### **Air Plan Approval; Massachusetts; Air Emissions Inventory, Emissions Statements, Source Registration, and Emergency Episode Planning Provisions**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. The revisions establish a 2011 base year emissions inventory, an emissions statement certification, revisions to an existing stationary source registration program, and requirements to be undertaken during air pollution emergencies. These SIP revisions were submitted to meet Clean Air Act requirements with respect to EPA's 1997 ozone, 2008 ozone, and 2010 SO<sub>2</sub> National Ambient Air Quality Standards. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2018-0771. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office

Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Environmental Engineer, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05-02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109-3912; (617) 918-1046; mcconnell.robert@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. The term “the Commonwealth” refers to Massachusetts.

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### **I. Background and Purpose**

On December 4, 2018, (83 FR 62532), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Massachusetts. The NPRM proposed approval of a 2011 base year emissions inventory, an emissions statement certification, revisions to an existing stationary source registration program, and requirements to be undertaken during air pollution emergencies. The 2011 emissions inventory and the emissions statement certification submittals were made to meet, in part, requirements for marginal nonattainment areas for the 2008 ozone national ambient air quality standard (NAAQS). The Commonwealth revised its stationary source registration program primarily to match the lead reporting threshold within 40 CFR part

51, subpart A. Massachusetts submitted its regulation governing procedures during air pollution emergencies to meet the infrastructure planning requirement found within section 110(a)(2)(G) of the Clean Air Act (CAA). Other specific requirements of the Commonwealth's SIP revisions and the rationale for our proposed action are explained in the NPRM and will not be restated here.

We did not receive any comments on our NPRM.

## **II. Final Action**

EPA is approving SIP revisions submitted by the Commonwealth of Massachusetts representing a 2011 base year emissions inventory, an emissions statement certification, and revisions to 310 CMR 7.12, Source Registration. We are also converting our previous conditional approval of 310 CMR 8.00, The Prevention and/or Abatement of Air Pollution Episodes and Air Pollution Incident Emergencies, to a full approval.

## **III. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of 310 CMR 7.12, Source Registration, and 310 CMR 8.00, The Prevention and/or Abatement of Air Pollution Episodes and Air Pollution Incident Emergencies, described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the

CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

#### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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 **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such 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, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 20, 2019.

Deborah A. Szaro  
Acting Regional Administrator,  
EPA Region 1.

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

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart W—Massachusetts**

2. In § 52.1120(c), amend the table by:

a. Revising the entry “310 CMR 7.12”;

b. Removing the fourth entry for “Regulations for Prevention And/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies” and the entry “310 CMR 8.02 and 8.03”; and

c. Adding an entry “310 CMR 8.00” before the entry “310 CMR 60.02”.

The revision and addition reads as follows:

**§ 52.1120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED MASSACHUSETTS REGULATIONS**

| State citation | Title/subject | State effective date | EPA approval date <sup>1</sup> | Explanations |
|----------------|---------------|----------------------|--------------------------------|--------------|
| **             | *             | *                    | *                              | **           |

|              |   |          |   |   |
|--------------|---|----------|---|---|
| 310 CMR 7.12 | U Source Registration   | 3/9/2018 | <b><u>[Insert date of publication in the Federal Register],</u></b><br><br><b><u>[Insert Federal Register citation]</u></b> | Revisions made to existing requirements and procedures for emissions reporting.   |
| **           | *   | *        | *   | **  |
| 310 CMR 8.00 | The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies | 4/1/1994 | <b><u>[Insert date of publication in the Federal Register],</u></b><br><br><b><u>[Insert Federal Register citation]</u></b> | Incorporates full version of 310 CMR 8.00 into the Massachusetts SIP, and converts conditional approval at §52.1119(a)(5) to full approval. |
| **           | *   | *        | *   | **  |

<sup>1</sup>To determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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3. Section 52.1125 is amended by adding paragraph (e) to read as follows:

**§ 52.1125 Emission inventories.**

\* \* \* \* \*

(e) The Commonwealth of Massachusetts submitted base year emission inventories representing emissions for calendar year 2011 for the Dukes county marginal 8-hour ozone nonattainment area on February 9, 2018, as a revision to the Massachusetts SIP. The 2011 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for this area. The inventory consists of emission estimates of volatile organic compounds and nitrogen oxides, and applies to point, area, non-road mobile, on-road mobile and biogenic sources. The inventories were submitted as revisions to the Massachusetts SIP in partial fulfillment of obligations for nonattainment areas under EPA's 2008 8-hour ozone standard.

4. Section 52.1129 is amended by adding paragraph (l) to read as follows:

§ 52.1129 Control strategy: Ozone.

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(l) On February 9, 2018, Massachusetts submitted a certification that its air emissions reporting requirements applicable to stationary sources meet the emission statement requirements of section 182(a)(3)(B) of the Clean Air Act. The certification was submitted as a SIP revision in partial fulfillment of obligations for nonattainment areas under EPA's 2008 8-hour ozone standard.

5. In § 52.1167, Table 52.1167 is amended by adding entries for state citations “310 CMR 7.12” and “310 CMR 8” in numerical order by state citation and date approved by EPA to read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

\* \* \* \* \*

**TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS**

[See NOTES at end of Table]

| State citation | Title/subject   | Date submitted by State | Date approved by EPA  | FEDERAL REGISTER CITATION                 | 52.1120(c) | Comments/unapproved sections  |
|----------------|---|-------------------------|---|---|------------|---|
| **             | *   | *                       | *   | *   | *          | **  |
| 310 CMR 7.12   | U Source Registration   | 5/10/2018               | <b>Insert date 30 days after date of publication in the <u>Federal Register</u></b> | [Insert <u>Federal Register</u> citation] |            | Revisions made to existing requirements and procedures for emissions reporting.   |
| *              | *   | *                       | *   | *   | *          | *   |
| 310 CMR 8      | The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies | 2/9/2018                | <b>Insert date 30 days after date of publication in the <u>Federal Register</u></b> | [Insert <u>Federal Register</u> citation] |            | Incorporates full version of 310 CMR 8.00 into the Massachusetts SIP, and converts conditional approval at §52.1119(a)(5) to full approval. |
| **             | *   | *                       | *   | *   | *          | *   |

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