

postage affixed. These charges have not been increased for the past 20 years, and are updated to reflect the current hourly cost for processing the refunds. This proposed rule also splits the discussion of refunds for unused metered postage and refunds for PC Postage indicia into separate sections.

DATES: Comments must be received on or before November 14, 2002.

ADDRESSES: Written comments should be mailed or delivered to Manager, Mail Preparation and Standards, Postal Service, 1735 N. Lynn St., Arlington, VA 22209-6038. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Library, Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260-1540.

FOR FURTHER INFORMATION CONTACT: Patricia Bennett (703) 292-3639 or Sam Koroma (703) 292-3990.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service has provisions in place to process refunds for unused metered postage, as well as for postage affixed to returned business reply mail (BRM) pieces. To cover the costs of the Postal Service labor used to process such requests for refunds, the Postal Service reduces the amount of the refund by an administrative charge. The current charges reflect old labor costs, which have not been updated for more than 20 years. The proposed amendments would update the charges to better reflect current hourly labor costs (including benefits).

For metered postage refunds, the current charge is calculated as 10 percent of the face value of the indicia, if that value is \$250 or less. If the face value of the indicia is more than \$250, the current charge is \$10 per hour, with a minimum charge of \$25. The proposed amendment would charge 10 percent for values up to \$350. For values above \$350, the charge is \$35 per hour, with a minimum of \$35. Thus, there would be no change in the charge for indicia values up to \$250, an increase from \$25 to 10 percent of the face value for values between \$250 and \$350, and an increase in the minimum charge from \$25 to \$35 for greater indicia values. When more than one hour of processing time is needed, the increase will vary depending on the time required.

For BRM pieces with affixed postage, the current administrative charge is \$15 per hour. The proposed amendment would increase that charge to \$35 per hour, reflecting current labor costs for processing the refund request.

While the amended charges would increase customer costs for obtaining a refund, the increases are needed so that the Postal Service can cover the costs of providing the refund.

The separate treatment of unused metered indicia printed by PC Postage products reflects the different refund procedures for this type of postage.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 533 (b), (c) regarding proposed rulemaking by 39 U.S.C. 410(a)), the Postal Service invites public comment of the following proposed revisions to the *Domestic Mail Manual*, incorporated by reference in the *Code of Federal Regulations*. See 39 CR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201 3219, 3403-3406, 3621, 3626, 5001.

2. Amend the *Domestic Mail Manual* (DMM) as set forth below:

Domestic Mail Manual (DMM)

* * * * *

P Postage and Payment Methods

* * * * *

P000 Basic Information

P010 General Standards

* * * * *

P014 Refunds and Exchanges

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2.0 POSTAGE AND FEES REFUNDS

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[Revise title and text to read as follows:]

2.5 Refunds for Metered Postage, Except for PC Postage Indicia

A refund for complete, legible, and valid unused indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2. The request is submitted as follows:

a. Only the meter licensee may request the refund.

b. The licensee must submit the refund request within 60 days from the dates shown in the indicia.

c. The licensee must submit the request, along with the items bearing the unused postage, to the licensing post office. The request is processed by the Postal Service.

d. Charges for processing a refund request are as follows:

(1) If the total face value of the indicia is \$350 or less, the Postal Service charges 10% of the face value.

(2) If the total face value is more than \$350, the Postal Service charges \$35 per hour, or fraction thereof, for the actual hours to process the refund, with a minimum charge of \$35.

[Renumber current 2.6 through 2.11 as new 2.7 through 2.12, respectively.]

[Add new 2.6 to read as follows:]

2.6 Refunds for PC Postage

A refund for complete, legible, and valid unused PC Postage indicia printed on unmailed envelopes, wrappers, or labels is made under 3.2. The request is submitted as follows:

a. Only the PC Postage licensee may request the refund.

b. The licensee must submit the refund request within 30 days from the dates shown in the indicia.

c. The licensee must submit the request, along with the items bearing the unused postage, to the system provider. The request is processed by the provider, not the Postal Service. The provider may charge for processing refund requests.

d. The provider may charge for processing refund requests.

* * * * *

2.12 Business Reply Mail

[Revise new 2.12 by replacing "\$15" with "\$35" to read as follows:]

* * * A charge of \$35 per hour, or fraction thereof, is assessed for the workhours used to process the refund.* * *

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02-26161 Filed 10-11-02; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA087-7215; A-1-FRL-7393-9]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Low Emission Vehicle Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the Commonwealth of Massachusetts on August 9, 2002 and August 26, 2002 which amends the Massachusetts Low Emission Vehicle (LEV) Program that is currently contained in the federally approved SIP. The regulations adopted by Massachusetts now include the California LEV II light-duty motor vehicle emission standards effective in model year 2004, the California LEV I medium-duty standards effective in model year 2003, and the smog index label specification effective model year 2002. In addition, revisions have been made to the zero emission vehicle (ZEV) requirements of the Massachusetts program in an attempt to keep these requirements consistent with California's. Massachusetts has adopted these revisions to reduce emissions of volatile organic compounds (VOC) and nitrogen oxides (NO_x) in accordance with the requirements of the Clean Air Act (CAA). In addition, they have worked to ensure that their program is identical to California's, as required by section 177 of the CAA. EPA is proposing to approve the necessary emission reductions associated with Massachusetts' LEV requirements into the Massachusetts SIP because EPA has found that the requirements and the associated emission reductions are necessary for Massachusetts to achieve the national ambient air quality standard (NAAQS) for ozone. The intended effect of this action is to propose approval of Massachusetts LEV program's emission reductions. This action is being taken under section 110 of the Clean Air Act.

DATES: Written comments must be received on or before November 14, 2002.

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 Massachusetts' submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA and the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, (617) 918-1045.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- I. Description of the SIP Revision and EPA's Action
 - A. What is the Background for this Action?
 - B. What is the California LEV Program?
 - C. What are the relevant EPA and CAA requirements?
 - D. What is the History of the Massachusetts Low Emission Vehicle Program?
 - E. What about the zero emission vehicle requirements?
- II. Proposed Action
- III. What Are the Administrative Requirements?

I. Description of the SIP Revision and EPA's Action

A. What Is the Background for This Action?

Under the Clean Air Act Amendments of 1990, all of Massachusetts was divided into two separate serious ozone nonattainment areas: the Eastern Massachusetts area and the Western Massachusetts area. The ozone attainment deadline for these areas was initially November 15, 1999.

To bring these areas into attainment, the Commonwealth has adopted and implemented a broad range of ozone control measures including stage II vapor recovery, numerous stationary and area source VOC and NO_x controls, a vehicle inspection and maintenance (I/M) program, and the federal reformulated gasoline program. In addition, the Commonwealth has required that all model year 1995 and newer light duty vehicles newly sold in the Commonwealth meet California LEV emission standards. Massachusetts air pollution control regulations apply statewide.

EPA issued a direct final rule to approve the Massachusetts LEV program effective as of January 31, 1992 in the **Federal Register** on February 1, 1995 (60 FR 6027). Since that time, California has modified its LEV program. As California modified its program, Massachusetts was obligated to make similar changes to its program. Section 177 of the CAA provides that states may adopt California vehicle standards provided that the standards are identical to California's. As such, as California makes modifications to its program, states that have adopted California standards are compelled to make similar changes. The current version of the Massachusetts program is intended to be identical to the current California program.

B. What Is the California LEV Program?

The California Air Resources Board (ARB or Board) adopted California's

second generation low emission vehicle regulations (LEV II) following a November 1998 hearing. These regulations are a continuation of the low emission vehicle (LEV I) regulations originally adopted in 1990 which were effective through the 2003 model year. The LEV II regulations increase the scope of the LEV I regulations by lowering the emission standards for all light- and medium-duty vehicles (including sport utility vehicles) beginning with the 2004 model year. There are several tiers of increasingly stringent LEV II emission standards to which a manufacturer may certify: low-emission vehicle (LEV); ultra-low-emission vehicle (ULEV); super-ultra low-emission vehicle (SULEV); partial zero-emission vehicle (PZEV); and zero-emission vehicle (ZEV). In addition to very stringent emission standards, the LEV II regulations provide flexibility to manufacturers by allowing them to choose the standards to which each vehicle is certified provided the overall fleet meets the specified phase-in requirements according to a fleet average hydrocarbon requirement that is progressively lower with each model year. The LEV II fleet average requirements commence in 2004 and apply through 2010 and beyond. In addition to the LEV II requirements, minimum percentages of passenger cars and the lightest light-duty trucks marketed in California by a large or intermediate volume manufacturer must be ZEVs. The program includes a "smog index" label for each vehicle sold, the intent of which is to inform consumers about the amount of pollution coming from that vehicle relative to other vehicles.

Subsequent to the adoption of the LEV II program, the U.S. EPA adopted its own substantially more stringent emission standards known as the Tier 2 regulations. In December 2000, the Board modified the LEV II program to take advantage of some elements of the recently adopted federal Tier 2 program to ensure that only the cleanest vehicle models will continue to be sold in California.

C. What Are the Relevant EPA and CAA Requirements?

Section 209(a) of the CAA prohibits states from adopting or enforcing standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. However, section 209(b) of the CAA allows the State of California to adopt its own motor vehicle emissions standards if a waiver is granted by the U.S. Environmental Protection Agency (EPA.) EPA must approve a waiver

unless it finds that California's determination that its standards will be "in the aggregate, at least as protective of public health and welfare as such Federal standards" to be arbitrary and capricious, California "does not need such State standards to meet compelling and extraordinary conditions," or California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act.

Section 177 of the Clean Air Act authorizes other states to adopt and enforce California motor vehicle emission standards relating to the control of emissions if the standards are identical to California's for which a waiver has been granted and California and the state adopt such standards at least two years prior to the commencement of the model year to which the standards will apply.

D. What Is the History of the Massachusetts Low Emission Vehicle Program?

In 1990, the Massachusetts Legislature enacted Chapter 410 of the Acts of 1990, which is codified at M.G.L. c. 111, Section 142K. This law mandates that the Massachusetts Department of Environmental Protection (DEP) adopt and implement California motor vehicle emission standards unless, after a public hearing, the DEP establishes, based on substantial evidence, that said emission standards and a compliance program similar to the State of California's will not achieve, in the aggregate, greater motor vehicle pollution reductions than the federal standards and compliance program for any such model year.

In 1992, the DEP adopted the California LEV program by promulgating 310 CMR 7.40, the Low Emission Vehicle Program regulation. The DEP submitted the Massachusetts LEV Program to the EPA as part of the Massachusetts SIP as one of a number of air pollution strategies and programs designed to meet the milestones of the Clean Air Act Amendments of 1990 and to attain and maintain the NAAQS for ozone. The implementation of the LEV Program has resulted in emission reductions from Massachusetts vehicles.

In 1995, the Massachusetts regulation was amended to adopt the non-methane organic gas (NMOG) fleetwide emission average and clarify certain sections of the regulation. In 1999, the regulation was further amended to adopt the next generation of California emission standards known as "LEV II" effective in model year 2004, the LEV I medium-duty standards effective in model year 2003, and also the smog index effective beginning with model year 2002.

The 1992 version of the LEV program previously approved by EPA included ZEV requirements consistent with the requirements in the California program at that time. Since that time, California has made a number of changes to the ZEV requirements, and, subsequently, Massachusetts had made a number of revisions to the ZEV requirements in attempts to keep its program identical to California's. In light of the numerous changes regarding the ZEV requirement in Massachusetts, in its August 26, 2002 submittal to EPA, Massachusetts requested that we not take action on 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12). 310 CMR 7.40(2)(a)5, which establishes ZEV requirements for model year 2003 and beyond is the only portion of the Massachusetts ZEV program for which they have requested EPA approval. For the reasons articulated below, EPA is not taking action on section 310 CMR 7.40(2)(a)5 at this time. However, EPA is proposing to approve all other sections of the rule except for those specifically noted in the Commonwealth's August 26, 2002 submittal letter and section 310 CMR 7.40(2)(a)5.

E. What About the Zero Emission Vehicle Requirements?

As discussed earlier in this document, States adopting the California LEV program must adopt a program which is identical to California's. The zero emission vehicle program has undergone several modifications through the years in California. And Massachusetts has made several changes to their ZEV program in attempts to ensure their program is consistent with California. In fact, the Commonwealth has made changes regarding ZEV requirements since the time they adopted the rule that is currently before EPA. Nevertheless, the Massachusetts LEV II program is designed to be a comprehensive program which will secure necessary emission reductions. Those emission reductions are a necessary part of the Massachusetts' attainment demonstration for the one-hour ozone NAAQS. For that reason, and since the emission reductions from the California program are controlled by the fleet average hydrocarbon curve and can be achieved without any specific ZEV sales mandates, we are proposing to approve all of the emissions reductions associated with the LEV II program and the Massachusetts rules adopted on December 24, 1999 without taking action on the ZEV portions of the program at this time. In the case of sections 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310

CMR 7.40(12), EPA was not requested to take action. For section 310 CMR 7.40(2)(a)5, which establishes ZEV requirements beginning in model year 2003, EPA is not taking any action at this time but intends to do so in the future as the manufacturers' requirements for ZEVs in California, and Massachusetts, become clarified. EPA does believe that the ZEV mandate, which remains part of the Commonwealth's program, may result in advanced technology vehicles being introduced.

II. Proposed Action

EPA is proposing to approve a SIP revision at the request of the Massachusetts DEP. This version of the rule was adopted on December 24, 1999. It was submitted to EPA for approval on August 9, 2002. That submittal was later clarified to exclude certain sections of the rule from consideration on August 26, 2002. In addition, for the reasons articulated above, at this time we are not taking action on section 310 CMR 7.40(2)(a)5 which includes ZEV requirements beginning in model year 2003. As such we are proposing to approve all of the December 24, 1999 version of 310 CMR 7.40, the "Low Emission Vehicle Program" except for 310 CMR 7.40(2)(a)5, 310 CMR 7.40(2)(a)6, 310 CMR 7.40(2)(c)3, 310 CMR 7.40(10), and 310 CMR 7.40(12). This proposed approval would justify all of the emission reductions of the current California LEV standards for light and medium duty vehicles. The regulations adopted by Massachusetts now include the California LEV II light-duty motor vehicle emission standards effective in model year 2004, the California LEV I medium-duty standards effective in model year 2003, and the smog index label specification effective model year 2002. EPA is proposing to approve Massachusetts' low emission vehicle program requirements into the SIP because EPA has found that the requirements are necessary for Massachusetts to achieve the NAAQS for ozone and to reduce emissions of VOC and NO_x from new vehicles in accordance with the requirements of the CAA.

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

III. What Are the 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 (Public Law 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.*)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 02–26173 Filed 10–11–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA069–7205b:FRL–7394–1]

Approval and Promulgation of Implementation Plans; MA; 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: Proposed rule.

SUMMARY: The EPA is proposing to fully approve the one-hour ozone attainment demonstration State Implementation Plan (SIP) 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.

DATES: Comments must be received on or before November 14, 2002.

ADDRESSES: Written comments (two copies if possible) should be sent to:

David B. Conroy at the EPA Region I (New England) Office, One Congress Street, Suite 1100–CAQ, Boston, Massachusetts 02114–2023.

Copies of the state submittal and EPA’s technical support document are available for public inspection during normal business hours (9 a.m. to 4 p.m.) at the following addresses: U.S. Environmental Protection Agency, Region 1 (New England), One Congress St., 11th Floor, Boston, Massachusetts, telephone (617) 918–1664, and at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, Massachusetts 02108. Please telephone in advance before visiting.

FOR FURTHER INFORMATION CONTACT:

Richard P. Burkhart, (617) 918–1664.

SUPPLEMENTARY INFORMATION: This notice provides an analysis of the one-hour ozone attainment demonstration SIP submitted by the Massachusetts Department of Environmental Protection (Massachusetts DEP) for the Massachusetts portion of the Boston-Lawrence-Worcester, MA–NH serious nonattainment area.

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I. Clean Air Act Requirements for Serious Ozone Nonattainment Areas

The Clean Air Act requires EPA to establish national ambient air quality standards (NAAQS or standards) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. CAA sections 108 and 109. In 1979, EPA promulgated the one-hour 0.12 parts per million (ppm) ground-level ozone standard. 44 FR 8202 (February 8, 1979). Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_x and VOC are referred to as precursors of ozone.