

regulations in 1991 to reduce VOC emissions from coating and ink manufactures. As a requirement of the 1990 CAA Amendments, the EPA published new Maximum Achievable Control Technology (MACT) standards for miscellaneous coating manufacturing that were much more stringent than the existing PSCAA regulations (National Emission Standards for Hazardous Air Pollutants (NESHAP): Miscellaneous Coating Manufacturing, December 11, 2003, 68 FR 69164, MACT Subpart HHHHH). In 2005, the PSCAA Board repealed Regulation II, Section 3.11, and is implementing and enforcing the more stringent MACT Subpart HHHHH NESHAP under a delegation agreement with the EPA. A copy of PSCAA's NESHAP delegation agreement with EPA is included in the docket. The EPA and PSCAA have concurrent enforcement authority for MACT Subpart HHHHH. The EPA is therefore proposing to approve Ecology's August 2, 2006 request to remove Regulation II, Section 3.11 "Coatings and Ink Manufacturing" from the SIP.

### III. Summary of Action

The EPA is proposing to approve, and incorporate by reference into the SIP, revisions to the PSCAA regulations found in Regulation I, Section 12.03 "Continuous Emission Monitoring Systems" adopted September 23, 2004; Regulation II, Section 1.05 "Special Definitions" adopted July 24, 2003; and Regulation II, Section 3.04 "Motor Vehicle and Mobile Equipment Coating Operations" adopted July 24, 2003, because they are consistent with CAA requirements. The EPA is proposing to remove from the Washington SIP Regulation II, Section 3.11 "Coatings and Ink Manufacturing," because these emission sources are covered by more stringent federal standards. Lastly, the EPA is proposing to take no action on revisions to PSCAA Regulation I, Article 13 "Solid Fuel Burning Device Standards"; Regulation I Section 3.11 "Civil Penalties"; Regulation I Section 3.25 "Federal Regulation Reference Date"; and Regulation II Section 2.07 "Gasoline Dispensing Facilities" contained in Ecology's February 4, 2005 and August 2, 2006 submittals because these regulations were subsequently revised by PSCAA.

### IV. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989*, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on

non-trust lands within the 1873 Survey Area and EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated June 6, 2013. The EPA did not receive a request for consultation.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Dated: July 2, 2013.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 2013-17007 Filed 7-15-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2013-0413; FRL-9834-1]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards

**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 Pennsylvania pursuant to the Clean Air Act (CAA). Whenever new or revised national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The Commonwealth of Pennsylvania made a submittal addressing the infrastructure requirements for the 2008 lead NAAQS. This action proposes approval of portions of the submittal. This action is being taken under the CAA.

**DATES:** Written comments must be received on or before August 15, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2013-0413 by one of the following methods:

A. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

B. Email: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. Mail: EPA-R03-OAR-2013-0413, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions*: Direct your comments to Docket ID No. EPA-R03-OAR-2013-0413. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket*: All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. 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 either

electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Ruth Knapp, (215) 814-2191, or by email at [knapp.ruth@epa.gov](mailto:knapp.ruth@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 24, 2012, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2008 lead NAAQS.

### I. Background

On October 15, 2008, EPA substantially strengthened the primary and secondary lead NAAQS (hereafter the "2008 lead NAAQS"), revising the level of the primary (health-based) standard from 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 0.15  $\mu\text{g}/\text{m}^3$ , measured as total suspended particles (TSP) and not to be exceeded with an averaging time of a rolling 3-month period. EPA also revised the secondary (welfare-based) standard to be identical to the primary standard, as well as the associated ambient air monitoring requirements. See 40 CFR 50.16.

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS or within such shorter period as EPA may prescribe. The contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affect the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(1) provides the procedural and timing requirements for SIPs and section 110(a)(2) requires states to address basic SIP elements such as requirements for

monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. More specifically, section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS.

For the 2008 lead NAAQS, states typically have met many of the basic program elements required in CAA section 110(a)(2) through earlier SIP submissions in connection with previous lead NAAQS. Nevertheless, pursuant to CAA section 110(a)(1), states have to review and revise, as appropriate, their existing lead NAAQS SIPs to ensure that the SIPs are adequate to address the 2008 lead NAAQS. To assist states in meeting this statutory requirement, EPA issued a guidance on October 14, 2011, entitled, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (hereafter the "2011 Lead Infrastructure Guidance"), which lists the basic elements that states should include in their SIPs for the 2008 lead NAAQS.

### II. Summary of SIP Revision

On September 24, 2012, PADEP provided a submittal to satisfy the requirements of section 110(a)(2) of the CAA for the 2008 lead NAAQS. This submittal addresses the following infrastructure elements, which EPA is proposing to approve: CAA section 110(a)(2)(A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M), or portions thereof. EPA is taking separate action on the portion of (E)(ii) as it relates to CAA section 128 (State Boards). Pennsylvania did not submit element (I) which pertains to the nonattainment requirements of part D, Title I of the CAA, since this element is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1), and will be addressed in a separate process.

In accordance with the decision of the U.S. Court of Appeals for the DC Circuit, the EPA at this time is not treating the 110(a)(2)(D)(i)(I) SIP submission from the Commonwealth of Pennsylvania as a required SIP submission. See *EME Homer City Generation, LP v. EPA*, 696 F.3d 7 (DC Cir. 2012), *reh'g denied* 2013 U.S. App. LEXIS 1623 (Jan. 24, 2013). However, even if the submission is not considered to be "required," the EPA must act on the 110(a)(2)(D)(i)(I) SIP submission from Pennsylvania because section 110(k)(2) of the CAA requires the EPA to act on all SIP submissions. Unless the *EME Homer City* decision is

reversed or otherwise modified by the Supreme Court, states are not required to submit 110(a)(2)(D)(i)(I) SIPs until the EPA has quantified their obligations under that section. In this action, EPA is proposing to act on the Commonwealth of Pennsylvania's 110(a)(2)(D)(i)(I) submission.

### III. Proposed Action

EPA is proposing to approve the following section 110(a)(2) elements of Pennsylvania's SIP revision: (A), (B), (C), (D)(i)(I), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M), or portions thereof. EPA will take separate action on section 110(a)(2)(E)(ii). Pennsylvania's SIP revision provides the basic program elements specified in CAA section 110(a)(2) necessary to implement, maintain, and enforce the 2008 lead NAAQS. This SIP revision was submitted on September 24, 2012. This action does not include section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, Title I of the CAA, since this element is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1), and will be addressed in a separate process. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- 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 CAA; 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, this proposed rule, which satisfies certain infrastructure requirements of section 110(a)(2) of the CAA for the 2008 lead NAAQS for the Commonwealth of Pennsylvania, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

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

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

Dated: July 2, 2013.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2013-17020 Filed 7-15-13; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### 49 CFR Chapter X

[Docket No. EP 719]

#### Small Entity Size Standards Under the Regulatory Flexibility Act

**AGENCY:** Surface Transportation Board (Board or STB), DOT.

**ACTION:** Notice of proposed size standards for purposes of the Regulatory

Flexibility Act (RFA) and request for public comment.

**SUMMARY:** The Board is proposing to define "small business" for the purpose of RFA analyses as including only those rail carriers with revenues that would bring them within the definition of a Class III rail carrier.

**DATES:** Comments are due by August 15, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Amy Ziehm at (202) 245-0391.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** The RFA requires agencies to consider the impact of their regulatory proposals on small entities. The RFA defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>1</sup> 5 U.S.C. 601(6). Generally, a small business is a business concern that is independently owned and operated, and is not dominant in its field of operation. 5 U.S.C. 601(3); 15 U.S.C. 632. The Small Business Administration (SBA) has developed size standards to carry out the purposes of the Small Business Act. An agency may establish other definitions for "small business" that are appropriate to the agency's activities after consultation with the SBA's Office of Advocacy and opportunity for public comment. 5 U.S.C. 601(3).

Pursuant to its statutory authority, the SBA promulgated regulations that clarify the term "small business" by industry, using number of employees or annual income as criteria. Under these regulations, line-haul railroads with 1,500 or fewer employees and short line railroads with 500 or fewer employees constitute small entities. 13 CFR 121.201 (industry subsector 482). The Board proposes to establish a size standard for purposes of RFA analysis for rail carriers subject to our jurisdiction based on annual operating revenues rather than number of employees.

The Board was created by the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (1995), on January 1, 1996, to assume some functions of the Interstate Commerce Commission (ICC), which was terminated by that same Act.

<sup>1</sup> The RFA defines "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field . . .," and "small governmental jurisdiction" as meaning "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand. . . ." 5 U.S.C. 601(4) & (5).