

this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information. Accordingly, the FHWA solicits comments on this issue.

#### Paperwork Reduction Act

The FHWA has analyzed this proposed rule under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.) and has determined preliminarily that this proposal does not contain collection of information requirements for the purposes of the PRA.

#### National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), and has determined that this action would not have any effect on the quality of the environment and meets the criteria for the categorical exclusion at 23 CFR 771.117(c)(20).

#### Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

#### Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that might disproportionately affect children.

#### Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more

Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. The proposed rulemaking addresses obligations of Federal funds to States for Federal-aid highway projects and would not impose any direct compliance requirements on Indian tribal governments. Therefore, a tribal summary impact statement is not required.

#### Executive Order 13211 (Energy Effects)

The FHWA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this rule is not a significant energy action because the rule is not a significant regulatory action under Executive Order 12866, and the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

#### Executive Order 12898 (Environmental Justice)

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

#### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects in 23 CFR Part 636

Construction, Construction manager, General contractor, Grant programs, Transportation, Highways, and Roads.

Issued on: July 16, 2013.

**Victor M. Mendez,**  
*Administrator.*

In consideration of the foregoing, the FHWA proposes to revise title 23, Code of Federal Regulations, part 636 as follows:

## PART 636—DESIGN-BUILD CONTRACTING

■ 1. The authority citation for part 636 is revised to read as follows:

**Authority:** Sec. 1503 of Pub. L. 109–59, 119 Stat. 1144; Sec. 1307 of Pub. L. 105–178, 112 Stat. 107; 23 U.S.C. 101, 109, 112, 113, 114, 115, 119, 128, and 315; 49 CFR 1.85(b).

■ 2. Amend § 636.209 by revising paragraph (b) to read as follows:

### § 636.209 What items must be included in a phase-two solicitation?

\* \* \* \* \*

(b)(1) At your discretion, you may allow proposers to submit alternative technical concepts (ATCs) in their proposals if:

(i) The alternative concepts do not conflict with criteria agreed upon in the environmental decision making process, and

(ii) The RFP document clearly describes the contracting agency's requirements for ATC:

- (A) Content,
- (B) Submission,
- (C) Review,

(D) Confidential meetings procedures (if used), and

(E) Evaluation in the proposal review process.

(2) The confidentiality of ATCs will be maintained, except to the extent disclosure is necessary to maintain compliance with Federal or State permitting or other legal requirements necessary for the delivery of the project.

[FR Doc. 2013–18514 Filed 7–31–13; 8:45 am]

BILLING CODE 4910–22–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket EPA–R10–OAR–2013–0548; FRL–9842–1]

### Approval and Promulgation of Implementation Plans; Idaho: State Board Requirements

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of Idaho for parallel processing on July 16, 2013, for purposes of meeting the state board requirements of the Clean Air Act (CAA). The EPA is also proposing to approve the submittal as meeting the corresponding state board infrastructure requirements of the CAA for the 1997 ozone National Ambient Air Quality

Standards (NAAQS). If the final SIP revision submitted by the State to the EPA is consistent with the July 16, 2013, submittal, the State's SIP will, upon final approval, contain the required provisions regarding board composition and disclosure of potential conflicts of interest.

**DATES:** Comments must be received on or before September 3, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2013-0548, by any of the following methods:

A. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

B. *Email: R10-Public Comments@epa.gov*.

C. *Mail*: Kristin Hall, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

D. *Hand Delivery*: EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Kristin Hall, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-OAR-2013-0548. The 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*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the 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 the EPA without going through *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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which 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* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall at (206) 553-6357, *hall.kristin@epa.gov*, or by using the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we", "us", or "our" are used, it is intended to refer to the EPA.

## Table of Contents

- I. Background
- II. The State's Submittal
- III. The EPA's Evaluation
  - A. Evaluation of Board Composition Requirements
  - B. Evaluation of Disclosure Requirements
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

### I. Background

CAA section 128, titled "State Boards," requires each SIP "to contain requirements that (1) any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this chapter, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed." 42 U.S.C. 7428.

On July 18, 1997, the EPA issued a revised NAAQS for ozone.<sup>1</sup> This action triggered a requirement for states to submit an infrastructure SIP to address the applicable requirements of CAA section 110(a)(2) within three years of issuance of the new or revised NAAQS. CAA section 110(a)(2) includes a list of specific elements that each such plan

<sup>1</sup> The eight-hour averaging period replaced the previous one-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (62 FR 38856).

submittal must meet, including section 110(a)(2)(E)(ii), which requires compliance with the state board requirements of CAA section 128.

On March 27, 2008, EPA issued a finding that the State of Idaho had failed to make a complete submittal to satisfy the requirements of CAA section 110(a)(2) for the 1997 ozone NAAQS (73 FR 16205). On September 15, 2008, the State of Idaho made a SIP submittal to the EPA for purposes of meeting the requirements of CAA section 110(a)(2) for the 1997 ozone NAAQS. On April 11, 2012, we proposed to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(A), (B), (C), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) for the 1997 ozone NAAQS (77 FR 21702). In the notice, we stated that Idaho's SIP submission did not address all of the requirements of CAA section 110(a)(2)(E)(ii), which requires that infrastructure SIPs meet the requirements of CAA section 128, and that we would address the requirements of CAA section 110(a)(2)(E)(ii) in a separate action (77 FR at 21710). On July 17, 2012, we took final action to approve the Idaho SIP as meeting the requirements of CAA section 110(a)(2)(A), (B), (C), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) for the 1997 ozone NAAQS (77 FR 41916).

### II. The State's Submittal

On July 16, 2013, the State submitted a SIP revision<sup>2</sup> for purposes of meeting the state board requirements of CAA section 128 and the corresponding state board infrastructure SIP requirements for the 1997 ozone NAAQS. Specifically, the State submitted Executive Order 2013-06, dated June 26, 2013, and Idaho Code §§ 59-701 through 705, Ethics in Government Act, and requested parallel processing on the submittal. Under the parallel processing procedure, a State submits a SIP revision to the EPA before final adoption by the State. The EPA reviews this proposed State action and prepares a notice of proposed rulemaking. The EPA publishes its notice of proposed rulemaking in the **Federal Register** and solicits public comment in approximately the same time frame during which the State is completing its rulemaking action. For Idaho's SIP submittal, the State provided a schedule for finalizing the SIP revision, including public review and submittal of the final SIP package to the EPA. If changes are made to the SIP revision after this proposal, such changes will be

<sup>2</sup> The letter accompanying the submittal was dated July 9, 2012.

described in the EPA's final rulemaking action and, if such changes are significant, the EPA may re-propose the action and provide an additional public comment period.

In this action, we are proposing to approve the July 16, 2013, submittal as meeting the requirements of CAA section 128 and CAA section 110(a)(2)(E)(ii) for the 1997 ozone NAAQS, if the final SIP revision submitted by the State to the EPA is consistent with the July 16, 2013, submittal. The EPA's proposed determination that Idaho's SIP, as amended, meets the CAA section 128 requirements for purposes of CAA section 110(a)(2)(E)(ii) with respect to the 1997 ozone NAAQS is also applicable to CAA section 110(a)(2)(E)(ii) requirements for other infrastructure SIP submittals for Idaho. Our evaluation of the State's submittal is presented below.

### III. The EPA's Evaluation

#### A. Evaluation of Board Composition Requirements

Idaho Code § 39-107, Board—Composition—Officers—Compensation—Powers—Subpoena—Depositions—Review, was originally approved into the Idaho SIP on July 28, 1982 (47 FR 32530), and subsequently approved on January 16, 2003 (68 FR 2217). Idaho Code § 39-107(1)(a) establishes compositional requirements of the Idaho Board of Environmental Quality (Board), namely, that it consist of seven members who shall be appointed by the governor and further that:

Each member of the board shall be a citizen of the United States, a resident of the state of Idaho, and a qualified elector, and shall be appointed to assure appropriate geographic representation of the state of Idaho. No more than four (4) members of the board shall be from any one (1) political party. Two (2) members of the board shall be chosen with due regard to their knowledge of and interest in solid waste; two (2) members shall be chosen for their knowledge of and interest in air quality; two (2) members shall be chosen for their knowledge of and interest in water quality; and one (1) member shall be chosen with due regard for his knowledge of and interest in air, water and solid waste issues.

To meet the requirements of CAA section 128(a)(1), Idaho has submitted Executive Order 2013-06, dated June 26, 2013, which orders that "the appointment of members to the Idaho board of environmental quality shall be made in conformance with the requirements of Idaho Code section 39-107(1)(a), and section 128 of the Clean Air Act." The EPA believes that Executive Order 2013-06 meets the

requirements of CAA section 128(a)(1). Thus, if the final SIP revision submitted by Idaho is consistent with the July 16, 2013, submittal, the EPA proposes to find that Idaho's SIP revision meets the requirements of that CAA section 128(a)(1) and the corresponding board infrastructure requirements of CAA section 110(a)(2)(E)(ii) for the 1997 ozone NAAQS.

The EPA notes, however, that as provided in Idaho Code § 67-802, executive orders in Idaho cease to be effective four calendar years from the date of issuance unless an earlier termination date is specified in the order or unless the order is renewed by subsequent executive order. Because Executive Order 2013-06 does not specify an earlier termination date, it will expire on June 26, 2017, unless it is renewed by subsequent executive order. The EPA therefore notes that if Executive Order 2013-06 is not renewed, or if it is not replaced with legislation or some other legal authority meeting the requirements of CAA section 128(a)(1) and submitted to and approved by EPA as a SIP revision, Idaho's SIP will no longer meet the requirements of CAA section 128(a)(1). At that time, the EPA will consider appropriate action.

#### B. Evaluation of Disclosure Requirements

The July 16, 2013, submittal also includes the Idaho statutes governing disclosure of conflicts of interest for public officials, specifically, Idaho Code §§ 59-701 through 59-705, Ethics in Government. Idaho Code § 59-704 is the heart of these disclosure provisions and establishes required action in the case of conflicts of interest. That section provides that "A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as provided in this section." Under Idaho Code § 59-703(10), "public official" is defined to include "any person holding public office of a governmental entity by virtue of formal appointment as required by law" and "any person holding public office of a governmental entity by virtue of employment, or a person employed by a governmental entity on a consultative basis." Thus, the disclosure requirements in Idaho Code § 59-704 apply to Board members and the Director of the Idaho Department of Environmental Quality (IDEQ). In conjunction with the definition of "official action" in Idaho Code § 59-703(1), the EPA believes that Idaho Code § 59-704 requires the disclosure of

conflicts of interest by a member of the Board or the Director of the IDEQ in their approvals of permits and enforcement orders and is thus consistent with the requirements of CAA section 128(a)(2). Therefore, if the final SIP revision submitted by Idaho is consistent with the July 16, 2013, submittal, the EPA proposes to approve Idaho's final SIP revision as meeting the requirements of CAA section 128(a)(2) and the corresponding board infrastructure requirements of CAA section 110(a)(2)(E)(ii) for the 1997 ozone NAAQS.

### IV. Proposed Action

Pursuant to CAA sections 110 and 128, if the final SIP revision submitted by Idaho to address the requirements of CAA section 128 is consistent with Idaho's July 16, 2013, submittal, the EPA is proposing to approve Idaho's SIP revision as meeting the requirements of CAA sections 128 and also the requirements of CAA section 110(a)(2)(E)(ii) for the 1997 ozone NAAQS. This approval, once finalized, would also serve as a determination that Idaho meets the CAA section 128 requirements for purposes of CAA section 110(a)(2)(E)(ii) for other infrastructure SIP submittals for Idaho.

### V. 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, the 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 the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and
- does not provide the 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 the SIP is not approved to apply in Indian country located in the state, and the 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, Ozone, and Reporting and recordkeeping requirements.

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

Dated: July 25, 2013.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

[FR Doc. 2013-18538 Filed 7-31-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2011-0659; FRL-9840-6]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Second Ten-Year Carbon Monoxide Maintenance Plan for Colorado Springs

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado. On March 31, 2010, the Governor of Colorado's designee

submitted to EPA a Clean Air Act (CAA) section 175A(b) second 10-year maintenance plan for the Colorado Springs area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This limited maintenance plan (LMP) addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

**DATES:** Written comments must be received on or before September 3, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2011-0659, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Email:* [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street Denver, Colorado 80202-1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules and Regulations section of this **Federal Register** for detailed instruction on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Adam Clark, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-7104, [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of this **Federal Register**, EPA is approving Colorado's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule.

EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. 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. See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: July 16, 2013.

**Judith Wong,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2013-18436 Filed 7-31-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2008-0446; A-1-FRL-9842-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Regulations Limiting Emissions of Volatile Organic Compounds and Nitrogen Oxides

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These are revisions to existing air pollution control requirements for stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>). This action is being taken under the Clean Air Act.

**DATES:** Written comments must be received on or before September 3, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2008-0446 by one of the following methods:

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

2. *Email:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax:* (617) 918-0047.

4. *Mail:* "Docket Identification Number EPA-R01-OAR-2008-0446," Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5