List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0386 to read as follows:

§ 165.T09–0386 Safety Zone; BASS Master Fireworks Display, Saint Lawrence River, Ogden Island, Waddington, NY.

(a) *Location.* This zone will encompass all waters of the Saint Lawrence River, Ogden Island, Waddington, NY within a 560-foot radius of position 44°52′16.58″ N. and 075°12′18.08″ W. (NAD 83).

(b) *Enforcement period.* This regulation is effective on July 22, 2017 from 8:45 p.m. until 10:15 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 10, 2017.

J.S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2017–14844 Filed 7–13–17; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 233

Inspection Service Authority; Technical Correction

AGENCY: Postal Service™.

ACTION: Final rule; technical correction.

SUMMARY: The U.S. Postal Service® is making a technical correction to ensure that its regulations governing the use of mail covers are consistent with current mail classification terminology, by changing the product name ''Standard Mail®'' to ''USPS Marketing Mail™'' wherever necessary.

DATES: This rule is effective July 14, 2017.

ADDRESSES: Questions or comments on this action are welcome. Mail or deliver written comments to David Forde, Acting Assistant Postal Inspector in Charge, Office of Counsel, U.S. Postal Inspection Service, 475 L'Enfant Plaza SW., Room 3136, Washington, DC 20260–3100.

FOR FURTHER INFORMATION CONTACT: David Forde, Acting Assistant Postal Inspector in Charge, Office of Counsel, U.S. Postal Inspection Service, 202–268–7402, *DC Forde@uspis.gov.*

SUPPLEMENTARY INFORMATION: On December 21, 2016, the Postal Service™ published a final rule replacing the product name ''Standard Mail'' with the new name ''USPS Marketing Mail'' throughout subchapter 240 of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM). *See,* 81 FR 93606, 93613–93615. This rebranding is intended to enhance the public's perception of this service, and improve its position in the marketplace. Consistent with these objectives, we are amending our regulations as necessary to reflect that the product name ''Standard Mail'' has been changed to ''USPS Marketing Mail.''

List of Subjects in 39 CFR Part 233

Administrative practice and procedure, Crime, Law enforcement, Penalties, Privacy.

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 233 as follows:

PART 233—[AMENDED]

■ 1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 102, 202, 204, 401, 402, 403, 404, 406, 410, 411, 1003, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 983, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Sec. 662, Pub. L. 104–208, 110 Stat. 3009–378.

§ 233.3 [Amended]

■ 2. In § 233.3(c)(4), remove the words ''Standard Mail,'' and add in their place the words ''USPS Marketing Mail.''

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–14763 Filed 7–13–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2016–0559; FRL–9964–87–Region 2]

Approval of Air Quality Implementation Plans; Puerto Rico; Attainment Demonstration for the Arecibo Area for the 2008 Lead National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a State Implementation Plan (SIP) revision dated August 30, 2016, submitted by the Commonwealth of Puerto Rico to the EPA. The purpose of this SIP revision is to provide for attainment of the 2008 Lead National Ambient Air Quality Standard in the Arecibo Lead Nonattainment Area. The Arecibo Nonattainment Area is comprised of a portion of Arecibo Municipality in Puerto Rico with a 4 kilometer radius surrounding The Battery Recycling Company, Inc. This SIP revision includes a base year emissions inventory, a modeling demonstration showing attainment of the Lead National Ambient Air Quality Standard, contingency measures and a narrative on control measures that includes reasonably available control measures/reasonably available control technology, and reasonable further progress.

DATES: This rule is effective on August 14, 2017. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 14, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2016–0559. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* 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 electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mazeeda Khan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, (212) 637–3715, or by email at *khan.mazeeda@epa.gov.*

SUPPLEMENTARY INFORMATION:

The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

Table of Contents

I. What is the background information?

On November 12, 2008 (73 FR 66964), the Environmental Protection Agency (EPA) revised the Lead National Ambient Air Quality Standard (NAAQS), lowering the level from 1.5 micrograms per cubic meter (μg/m^3) to 0.15 μg/m^3 calculated over a three-month rolling average. The EPA established the 2008 Lead NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

Following promulgation of a new or revised NAAQS, the EPA is required by the Clean Air Act (CAA) to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in CAA section 107(d)(1). On November 22, 2010 (75 FR 71033), the EPA promulgated initial air quality designations for the 2008 Lead NAAQS (first round of designations), which became effective on December 31, 2010, based on air quality monitoring data for calendar years 2007–2009, where there was sufficient data to support a nonattainment designation. On November 22, 2011 (76 FR 72097), the EPA promulgated its second round of designations for the 2008 Lead NAAQS, which became effective on December 31, 2011, based on air quality monitoring data for calendar years 2008–2010. The Arecibo Area was designated as nonattainment for the 2008 Lead NAAQS in the second round of designations, based on air quality monitoring data that exceeded the 2008 Lead NAAQS. This designation triggered a requirement for Puerto Rico to submit a State Implementation Plan (SIP) revision by June 30, 2013, with a plan for how the Area would attain the 2008 Lead NAAQS, as expeditiously as practicable, but no later than December 31, 2016. *See* 42 U.S.C. 7514(a), 7514a(a).

The Puerto Rico Environmental Quality Board (PREQB) initially submitted a lead SIP revision for the Arecibo Area on January 30, 2015. The EPA proposed to disapprove the January 30, 2015 submittal on February 29, 2016 (81 FR 10159). One comment was received from the Chairman of the PREQB, Weldin Ortiz Franco. The PREQB rescinded the January 30, 2015 submittal and replaced it with the August 30, 2016 lead SIP submittal for the Arecibo Area. The August 30, 2016 SIP submittal included the base year emissions inventory and the attainment demonstration. The EPA proposed to approve this submittal on November 7, 2016. (81 FR 78097). The EPA's analysis of the submitted attainment plan includes a review of the pollutant addressed, emissions inventory requirements, modeling demonstration of lead attainment, contingency measures and narrative on control measures that includes reasonably available control measures (RACM)/reasonably available control technology (RACT), and reasonable further progress (RFP) for the Arecibo Area. Today's rule represents the EPA's final action on Puerto Rico lead SIP attainment plan.

II. What comments did the EPA receive on the proposal and what are the EPA's responses?

The public comment period for the November 7, 2016 proposed approval of the PREQB lead SIP revision closed on December 7, 2016. We received comments from Mr. Jesus Garcia Oyola and Mr. Wilfredo Velez Hernandez, Earthjustice, and Madres De Negro De Arecibo, Inc. In general, all three commenters stated that the EPA should disapprove Puerto Rico's proposed August 30, 2016 SIP revision.

A summary of the comments and the EPA's responses are provided below. Comments from Jesus Garcia Oyola and Wilfredo Velez Hernandez are referred to as ''Garcia/Velez'', comments from Earthjustice are referred to as ''Earthjustice'' and comments from Madres De Negro De Arecibo, Inc. are referred to as ''Madres De Negro.'' These responses address ''significant comments, criticisms, and new data'' submitted during the comment period, pursuant to CAA section 307(d)(6)(B), 42 U.S.C. 7607(d)(6)(B). The EPA is not addressing those comments that do not relate to the underlying purpose of the November 17, 2016 proposed SIP approval of the attainment demonstration for the Arecibo Area, such as comments related to the Clean Water Act and Resource Conservation and Recovery Act.

1. *Comment:* In general, there were several comments that the Spanish and English versions of the lead SIP revision available for public comment by the PREQB were not identical (such as sections addressing the emissions inventory), and that the documents were too technical.

EPA Response: The EPA has reviewed, evaluated, and proposed action on the August 30, 2016 lead SIP revision submitted by PREQB to the EPA. The August 30, 2016 SIP submittal (lead SIP submittal or lead SIP revision), which is in English, is the official submittal. The PREQB followed the process set forth in CAA sections 110 and 172 and 40 CFR part 51, appendix V in preparing and submitting the lead SIP revision. Consistent with the relevant requirements, the official August 30, 2016 SIP submittal included the sources within the boundaries of the lead modeling domain (sources in Arecibo and its bordering municipalities, see pages 34–36 and pages 62–64 of the SIP submittal). Emissions from sources outside of the modeling domain were not included in the attainment demonstration modeling because their effect, if any, on the area within the lead modeling domain would be negligible. *See* Responses to Comments #4 and #5.

2. *Comment:* Garcia/Velez stated that the 2011 emissions inventory contains allowable emissions of lead but should contain actual emissions of lead, in accordance with 42 U.S.C. 7502(c)(3) which requires ''a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant.''

EPA Response: The lead SIP submittal provided the 2011 actual emissions and, for those sources where actual emissions could not be calculated due to lack of activity data, provided allowable emissions. The PREQB's use of allowable emissions for the 2011 calendar year, instead of actual emissions, is a more conservative approach which may result in the plan requiring additional controls to reach attainment in the future. As stated in

Table 8.1 in 40 CFR part 51, appendix W (Guideline on Air Quality Models), this methodology is acceptable in attainment demonstrations instead of including a zero value due to lack of actual activity data.

3. *Comment:* Garcia/Velez stated that in 2011, Energy Answers and Sunbeam Synergy were not in operation, however, Energy Answers was included in the 2011 emissions inventory and Sunbeam Synergy was not.

EPA Response: The commenter is correct that on pages 18–19 of the lead SIP revision, the text stated that 2011 facility emissions for Energy Answers are included in the 2011 emissions inventory. However, although Energy Answers 2011 emissions are mentioned in the text on pages 18–19, the actual 2011 facility emissions numbers that are included in the air quality attainment demonstration do not include emissions from Energy Answers as it was not operating at that time. In fact, the facility has not been constructed yet. *See* the PREQB lead SIP submittal, page 32, Table A1, for 2011 emissions inventory numbers. The sources included in the air quality attainment demonstration were listed in the PREQB's 2011 emissions inventory at page 33, Table A1 of the submittal. These sources were included in Table 1 of the EPA's notice of proposed rulemaking, 81 FR at 78100. Although they are not included in the 2011 emissions inventory, as discussed in response #11 below, Energy Answers and Sunbeam Synergy are included in the 2016 projection inventory totals. *See* PREQB lead SIP submittal, page 57, Table B1.

4. *Comment:* Earthjustice stated that the EPA regulations mandate that ''emissions inventories such as this one use the '[m]aximum allowable emission limit or federally enforceable permit limit' to model concentrations. But the AEROMOD Model in the lead SIP revision uses inputs that are lower than permit limits or maximum allowable emissions'' for PREPA and Safetech facilities. Accordingly, Earthjustice stated that the PREQB must redo its model using maximum allowable emissions as required by the EPA regulations.

EPA Response: According to the EPA 2008 Lead NAAQS Implementation Questions and Answers Memorandum document dated July 8, 2011 (see page 7, answer to question 12), the emission rate input for attainment demonstrations should be based on maximum allowable or federally enforceable permit limits. The commenter is correct that the PREQB did not use the permit limits for PREPA and Safetech, which are 0.3 and 0.013 tons per year (tpy), respectively. However, in this particular instance, it is reasonable not to require the PREQB to remodel 2016 lead concentrations using maximum allowable emissions because doing so would not change the conclusion that the SIP submittal demonstrates attainment of the 2008 Lead NAAQS. The PREQB used 2016 emissions values for PREPA and Safetech of 0.28 and 0.009 tpy, respectively, resulting in a combined lead contribution for these two sources equal to 0.0178 percent of total cumulative lead contribution of 0.09352 $\mu g/m^3$. Furthermore, the modeled 3-month rolling average cumulative lead concentration from all sources, 0.09352 $\mu g/m^3$, is substantially below the 2008 Lead NAAQS of 0.15 $\mu g/m^3$. Given the minimal contribution of these two sources to the overall lead contribution for this area, if the emissions for these two sources were increased to the permit levels of 0.3 tpy and 0.013 tpy, respectively, the increase would not impact the attainment demonstration of the 2008 Lead NAAQS. Consequently, the PREQB actions were within reason.

5. *Comment:* Madres de Negro and Earthjustice commented on the substance and approval status of permitted facilities in Arecibo and other municipalities. Specifically, commenters stated that the 2016 projected emissions inventory in the lead SIP revision does not match the permits inventory for the PREPA and Safetech facilities. Commenters suggested that these inconsistencies in information require the EPA to disapprove the lead SIP revision.

EPA Response: See the Responses to Comments #3 and #4. These enforceable limits were established pursuant to the Regulation for the Control of the Atmospheric Pollution (RCAP) Rules 203 (Permit to Construct a Source rule) and 204 (Permit to Operate a Source rule). RCAP Rules 203 and 204 require air emissions sources to obtain permits prior to the construction or operation of the source and also require the source to demonstrate compliance with all applicable rules and regulations prior to obtaining a construction permit. The EPA agrees that, for PREPA and Safetech, the emissions inventory in the lead SIP revision is slightly different from that in the permits included as Exhibits 3 and 4 to Earthjustice letter. The 2011 emissions inventory included the The Battery Recycling Company, Inc. (TBRCI) facility and the facilities in surrounding municipalities listed in the EPA's Emissions Inventory System (EIS)/National Emissions Inventory (NEI) database. TBRCI, a secondary lead smelter representing 85 percent of the 2011 emissions inventory, was the primary source of the high lead concentration, and the nonattainment area was established with this facility at its center. The other facilities contributed to lead concentrations representing a total of 13 percent of the 2011 emission inventory. As explained in the Responses to Comments #3 and #4, emissions from these sources contribute minimally to the cumulative lead concentration in the nonattainment area in the 2016 modeling, and slight differences between permitted and modeled emissions are unlikely to impact the attainment demonstration contained in the PREQB's SIP revision.

6. *Comment:* Several comments were made that the emissions included in the lead SIP revision were not inclusive of all TBRCI operations (including lead emissions to water and hazardous waste) and did not include all emissions of lead in the areas as far away as Camuy and Manati municipalities, including the airports.

EPA Response: The EPA disagrees that the emissions to water and hazardous waste as well as emissions from non-bordering municipalities should be included. PREQB's SIP emissions inventory included air lead emission sources consistent with the EPA guidance *2008 Lead NAAQS Implementation Questions and Answers.*[1] Consistent with the Lead Guidance, any ambient air lead emissions recorded in the EPA EIS/NEI database for Arecibo and its bordering municipalities were included in this lead SIP revision. Emissions from Antonio Nery Juarbe Airport, which is located within the Arecibo Area, were also included. For additional facility emissions calculated and included in the inventory, *see* Responses to Comments #1–#4.

7. *Comment:* Madres de Negro states that the PREQB announced its intention to issue Energy Answers a construction permit in October 2014, and that authorizing construction of a new lead-emitting facility in a nonattainment area without a SIP violates 40 CFR 52.24.

EPA Response: The EPA disagrees that the timing of Energy Answers construction permit is relevant to the current rulemaking, which constitutes the EPA's action on the PREQB's attainment demonstration for the Arecibo lead nonattainment area. The PREQB has an approved nonattainment new source review program (NNSR) that includes lead and that meets the

[1] Memorandum from Scott L. Mathias, Interim Director, Air Quality Policy Division, to Regional Air Division Directors Regions I–X, dated July 8, 2011 (Lead Guidance).

statutory requirements. Proposed facilities must, at the time of permit application, meet the requirements of the PREQB RCAP 203, the PREQB's NNSR program and any applicable federal requirements. As stated above, however, the permitting of new sources under this program is independent of considerations relevant to determining whether the PREQB has submitted an approvable attainment plan. Regardless, the 2016 modeling included in the Arecibo attainment demonstration shows that the new planned sources, including the Energy Answers facility, will not cause or contribute to lead concentrations in excess of the 2008 Lead NAAQS.

8. *Comment:* Earthjustice stated that the lead SIP revision does not include emissions limitations for any facility within or near the nonattainment area but rather sets forth general provisions of the PREQB regulations. Specifically, the commenter asserts that ''[t]hese vague prohibitions on general pollution'' do not comply with the CAA's requirement of particularized emission limits and control technologies applied to the emitting facilities within the nonattainment area.

EPA Response: The EPA disagrees that the attainment SIP does not provide for the statutorily required permanent and enforceable emissions limitations as may be necessary to provide for attainment. The lead SIP revision is a plan to control ambient air lead emissions from the primary sources (or, in this case, source) of emissions. The PREQB's attainment modeling took into account all ambient air lead emissions recorded in the EPA EIS/NEI database in Arecibo and its bordering municipalities, in addition to emissions from the primary source. The modeling also conservatively incorporated other planned facilities that emit lead to ensure that the area will attain the standard. The PREQB's modeling demonstration determined that TBRCI was the primary source of ambient air lead emissions contributing to nonattainment in the Arecibo Area and was thereby, the only source required to implement control technologies. On August 19, 2015, the PREQB rescinded the TBRCI operating and construction permits. Because TBRCI is no longer permitted to emit lead at the ambient air levels that contributed to nonattainment (or indeed at any level whatsoever), the permit rescission provides the permanent and enforceable emission reductions necessary to bring the Arecibo Area into attainment with the 2008 Lead NAAQS. As stated in both the lead SIP revision submitted by the PREQB and the EPA's proposed approval, should TBRCI or any other entity decide to start up business as a secondary lead smelter facility in the Arecibo Area, the company will need to obtain the appropriate permits to operate in accordance with all applicable laws and regulations of the Commonwealth of Puerto Rico and the EPA, including the Commonwealth of Puerto Rico RCAP, the Puerto Rico Environmental Public Policy Act, Act 416–2004 as amended (PREPPA Act 416) and CAA Section 112 requirements. These relevant laws and programs are intended, among other things, to ensure that emissions from new sources do not interfere with the attainment of the 2008 Lead NAAQS.

The EPA and the PREQB also considered fugitive emissions from the piles of lead slag and other materials stored on the facility property. It is noteworthy that the TBRCI site has been proposed for the Superfund National Priorities List [2] and that the EPA has been conducting activities on TBRCI property since September 2015. Additionally, RCAP Rule 404, which requires any person to take reasonable precautions to prevent fugitive emissions from becoming airborne has already been adopted, is approved into the Puerto Rico's SIP.[3] The requirements of RCAP Rule 404 are, therefore, enforceable measures for controlling fugitive emissions from the TBRCI site.

9. *Comment:* Earthjustice stated that the Energy Answers and PREPA Cambalache Plant are the highest 2016 emitters and should be the subject of more stringent emissons limitations and control measures in the Arecibo SIP Revision.

EPA Response: The EPA disagrees. *See* Response to Comment #8. The PREQB's modeling indicates that the shutdown of TBRCI, coupled with the backstop of the fugitive emissions provisions in RCAP Rule 404, are sufficient for the Arecibo Area to achieve attainment of the 2008 Lead NAAQS.

10. *Comment:* Garcia/Velez stated that the PREQB should not have included facilities that are not operational in the 2016 projected emission inventory.

EPA Response: A projected emissions inventory is the basis for determining whether the area will attain and maintain the lead standard based on permitted allowances. As discussed in Response to Comment #3, the proposed sources Energy Answers and Sunbeam were added to the projected emissions inventory for 2016. This is a conservative approach for modeling the air quality in the Arecibo Area. By including the Energy Answers and Sunbeam Synergy facilities as part of the 2016 projected inventory for the attainment demonstration, the PREQB's lead SIP revision is demonstrating that future growth in lead emissions from these sources will not cause or contribute to a violation of the 2008 Lead NAAQS. The Arecibo ambient air lead attainment demonstration SIP is not required to address specific proposed facilities. Rather, consistent with RCAP Rule 203, pre-construction requirements, those proposed facilities are required to conduct a demonstration of compliance with all applicable rules and regulations at the time of permit application. In addition, proposed facilities will be required to comply with PREQB's approved NNSR program. The Arecibo attainment demonstration model demonstrates that the planned facilities will not cause an exceedance in the 2008 Lead NAAQS.

11. *Comment:* Several commenters questioned whether, if TBRCI is the cause of the ambient air lead problem in the area and its 2016 potential emissions of lead are 0.33538 tpy, then Energy Answers with slightly higher emissions may also be a problem.

EPA response: The 2016 projected emissions inventory for TBRCI in the January 30, 2015 lead SIP submittal was 0.33538 tpy. This number represented stack emissions from TBRCI. However, now that TBRCI's permits have been pulled and the facility has shut down, stack emissions from this facility are zero, as reflected in the more recent August 30, 2016 SIP revision. The lead SIP attainment demonstration in the 2015 submission assumed continued operation at TBRCI which includes fugitive emissions and materials handling and transport from TBRCI. When TBRCI was modeled in the previous submission, the modeling indicated that these low elevation fugitive emissions and materials handling and transport were the major contributor to overall emissions because they are subject to less dispersion, even exceeding the magnitude of the stack emissions. As modeled in the 2015 submission, TBRCI's cumulative emissions resulted in the Arecibo Area exceeding the 2008 Lead NAAQS of 0.15 $\mu g/m^3$. However, with the cessation of operations at TBRCI, the PREQB's updated modeling shows the area coming into attainment.

Regardless, while the emissions inventory number associated with the

[2] National Priorities List Proposed Site, The Battery Recycling Company, *https://semspub.epa.gov/work/02/363680.pdf,* 81 FR 62428 (September 9, 2016).

[3] 62 FR 3213 (January 22, 1997), 40 CFR 52.2723.

Energy Answers proposed incinerator may be similar to TBRCI's combined stack and fugitive/materials handling and transport emissions, the model in the Puerto Rico's SIP shows that the proposed incinerator's maximum air quality impact for lead is close to Energy Answer's fence-line and results in a lead concentration for the Arecibo Area that is 200 times less than the level of the 2008 Lead NAAQS. The model also shows that the proposed incinerator's impact in the Arecibo Area is 3000 times less than the 2008 Lead NAAQS and would have a negligible contribution to the lead emissions in the area. This information is included in Energy Answer's PSD permit application as well as EPA's Response to Comment document regarding its permit.

12. *Comment:* Earthjustice stated that even with TBRCI shutdown, the PREQB estimates that the other lead-emitting facilities in the area, collectively, will emit 0.78 tons of lead, a significant amount that is still about 65 percent of the 1.21 tons of lead that TBRCI emitted in 2011, leading to nonattainment.

EPA Response: The EPA disagrees that emissions from other lead-emitting facilities will result in nonattainment in the Arecibo Area. The attainment demonstration is not simply based on a summing of air lead emission values from all sources in the area, as presented by the commenter. Rather, the EPA's Lead Guidance requires that an attainment demonstration include an emissions inventory, ambient air monitoring data, and the EPA-approved air quality modeling dispersion analysis, which also takes into consideration atmospheric conditions, dispersion, chemical transformation in the area under analysis, emissions, background concentration, stack heights and stack down wash and building wake. The modeled attainment demonstration accounted for the collective ambient air lead emissions from sources in Arecibo and in bordering municipalities, including the emissions cited by the commenter, and shows that those emissions will not result in lead levels above the 2008 Lead NAAQS in the nonattainment area. *See* PREQB SIP Plan Appendix C.

13. *Comment:* Earthjustice stated that the EPA cannot approve a SIP revision when the air monitoring data does not demonstrate that attainment can be achieved until the end of 2018.

EPA Response: The EPA disagrees with this comment. As stated in the Lead Guidance, ''[a]n attainment SIP may be approvable even if the state does not anticipate having 3 full years of clean data by the attainment date. *See EDF* v. *EPA,* 369 F.3d 193 (2d Cir. 2004); *Sierra Club* v. *EPA,* 356 F.3d 296 (D.C. Cir. 2004) amended 2004 WL 877850 (D.C. Cir. 2004).'' Lead Guidance, page 4, Question 9. The ambient air monitoring data show clean data starting in September 2015, following the withdrawal of TBRCI permits on August 19, 2015; the closure of TBRCI will facilitate the attainment of the 2008 lead NAAQS by 2018. The fact that the area is unable to attain until 2018 does not abrogate either the PREQB's statutory obligation to submit a SIP demonstrating how it will reach attainment of the NAAQS as expeditiously as possible, or the EPA's responsibility to act on such a SIP submission. The EPA's approval of the attainment plan is based on the finding that the area meets all applicable lead NAAQS attainment plan requirements under CAA sections 172, 191, and 192, 42 U.S.C. 7502, 7514, and 7514a.

14. *Comment:* Earthjustice commented that one of the two lead air monitoring sites referenced in the SIP, Victor Santoni Cordero site, was not operational from October 3, 2015, to May 6, 2016, and that at the other lead air monitoring site, Road #2, there are data gaps between December 13, 2014, and January 12, 2015, and between July 5, 2015, and September 3, 2015. Earthjustice asserted that the EPA should ensure that both air monitoring sites are fully operational before approving the Arecibo Lead SIP Revision. Earthjustice stated that the PREQB has never published the air monitoring data relative to ambient air lead in Arecibo.

EPA Response: The EPA disagrees with Earthjustice's characterization of the PREQB's air monitoring network in the Arecibo Area. In accordance with 40 CFR part 58, appendix D section 4.5, the state is required to have at a minimum one source-oriented air monitoring site located to measure the maximum lead concentration in ambient air resulting from each non-airport lead source which emits 0.50 or more tpy. In Arecibo, the PREQB operates two monitoring sites, which is more than the required number. The data from both of the monitors is used to determine compliance with the NAAQS. Any 3-month period can show a violation of the standard, while a 36-month period can show attainment of the standard. While it is optimal to collect all the data points, mechanical issues may occur, thereby making sampling difficult. If an issue arises, the PREQB and the EPA work as expeditiously as possible to address it. Even though the Victor Santoni Cordero site was not operational from October 3, 2015, to May 6, 2016, the closer monitoring site, Road #2 was operational at that time. Similarly, the PREQB advised the EPA that, due to a mechanical issue, samples were not collected from July 11, 2015 to August 28, 2015 (nine samples) at the Road #2 site. However, the Victor Cordero site continued to operate during that time with sampling data ranging from 0.002 $\mu g/m^3$ to 0.005 $\mu g/m^3$. Consistent with 40 CFR part 58, appendix D section 4.5, one air monitoring site was operational. This data gap may affect the timeframe (three years of monitored clean data) by which the area can show attainment of the standard; however, it does not affect the SIP process of approving a plan to attain the standard.

The data is published in AQS as required by 40 CFR part 58. The public can access this data by visiting *www.epa.gov/airdata.*

15. *Comment:* Earthjustice stated that the proposed SIP action overlooks air quality monitoring data that clearly show continued exceedances of the lead NAAQS (0.15 $\mu g/m^3$) even after the temporary shutdown of TBRCI and, therefore, the cessation of operations at TBRCI cannot serve as a basis for demonstrating attainment.

EPA Response: When TBRCI ceased lead smelter operations on June 2, 2014, the handling of the slag piles continued, causing the exceedances of the 2008 Lead NAAQS until July 2015. The air quality data measured after the PREQB rescinded TBRCI's permits (August 19, 2015) demonstrates that pulling the source's operating permit and terminating handling of slag piles, as opposed to just ceasing stack emissions, is an appropriate control measure that has a positive effect on the air quality. These slag piles, which generate the fugitive emissions, are part of a Superfund removal action. As identified in EPA's proposed approval, the existing SIP provision, Puerto Rico RCAP Rule 404, is in place as a control measure for fugitive emissions. RCAP Rule 404(E) provides that ''[a]ny new or modified source, the construction of which causes or may cause fugitive emissions, shall apply for a permit as required in Rule 203.'' All other control measures were discussed in the proposed approval. Also *see* Response to Comment #18.

Date	Activity	Air monitoring data
June 2010	NAAQS exceeded	0.201 μg/m³ 3 month rolling avg.
June 2014	TBRCI ceased operations	0.423 μg/m³ 3 month rolling avg.
July 2015	Last time NAAQS was exceeded	0.184 μg/m³ 3 month rolling avg.
September 2015	Individual sample dated September 3, 2015 showed a decrease; PREQB pulled TBRCI permits prior to this sample collection. EPA Superfund personnel on TBRCI property in September 2015.	0.004 μg/m³ individual sample.
November 2015	Values below NAAQS	0.022 μg/m³ 3 month rolling avg.
May 2016	Values below NAAQS	0.021 μg/m³ 3 month rolling avg.

16. *Comment:* Earthjustice stated that the contingency measures included in the lead SIP revision of increased monitoring, investigation, removal orders, air pollution alerts, etc., require 'further action by the State' and therefore do not satisfy the CAA.

EPA Response: As Earthjustice indicates, CAA section 172(c)(9) provides that ''contingency measures [are] to take effect in any such case without further action by the State or the Administrator.'' In *Greenbaum* v. *EPA,* 370 F.3d 527 (6th Cir. 2004), in upholding a redesignation determination by the EPA, the court agreed with the EPA's interpretation that ''without further action'' means without further rulemaking by the State or the EPA. The court stated, citing to the EPA's Calcagni memo,[4] ''With respect to triggers, the EPA correctly argues that monitored violations of the NAAQS can be possible triggers. Calcagni Memo at 12. The contingency measures may be triggered upon notification by the Ohio EPA or the United States EPA of a determination by either agency that a violation has occurred. With respect to schedules, the EPA correctly explains that the contingency measures were initially developed pursuant to [CAA] § 172(c)(9), which requires that the measures take effect without further action by the State or the EPA, which the EPA interprets to mean 'that no further rulemaking activities by the State or the EPA would be needed to implement the contingency measures.' State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498, 13512 (April 16, 1992). The Calcagni Memorandum also states that 'for the purposes of Section 175A, a State is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved.' Calcagni Memorandum at 12. Thus, no pre-determined schedule for adoption of the measures is necessary in each specific case.'' *Greenbaum,* 370 F.3d at 541.

The contingency measures in Puerto Rico's attainment plan can take effect without further rulemaking activities; thus, the EPA disagrees that the contingency measures included in the SIP revision do not satisfy the CAA.

17. *Comment:* Earthjustice stated that monitoring, by itself, does not satisfy the CAA's requirements for a control measure, and therefore cannot be a contingency measure.

EPA Response: The EPA disagrees that the PREQB intends for monitoring, by itself, to serve as a contingency measure. Monitoring is used as a trigger to activate contingency measures, not as a control measure and potential contingency measure itself. The substantive contingency measures the EPA is approving can be found in the PREQB SIP submittal at pages 24–27.

18. *Comment:* Earthjustice reviewed the EPA Air Quality Data and noted that exceedances of the lead NAAQS have been measured in Arecibo at least 26 times after the TBRCI shutdown, as recent as May 2016.

EPA Response: The data points Earthjustice referenced are not exceedances of the NAAQS. Compliance with the 2008 Lead NAAQS is assessed by averaging data points over a three month period, not on the basis of individual values. While the individual data points may be greater than 0.15 μg/m³, this does not mean there has been a violation of the NAAQS; once the relevant values averaged over three months, the data is still below the 2008 Lead NAAQS.

III. What action is EPA taking?

The EPA is approving into the SIP Puerto Rico's lead attainment plan for the Arecibo Area. Specifically, the EPA is taking final action to approve Puerto Rico's August 30, 2016 submittal, which includes the attainment demonstration, base year emissions inventory, modeling, and contingency measures, and addresses RACM/RACT and the RFP plan.[5] Permits for the lead smelter, TBRCI, which was documented as the source of high lead emissions contributing to nonattainment of the NAAQS, have been withdrawn and TBRCI is no longer operating. The requirements for RACM/RACT and the RFP plan are satisfied because the Commonwealth of Puerto Rico demonstrated that the Area will attain the 2008 Lead NAAQS as expeditiously as practicable, and could not implement any additional measures to attain the NAAQS any sooner.

The EPA notes that since September 2015, the month after the PREQB withdrew the construction and operating permits for TBRCI, the data from the source oriented Arecibo air monitoring site indicates the lead concentration in the ambient air has been below the three-month rolling average for the 2008 Lead NAAQS and the 2016 modeling indicates the area will attain the NAAQS. The SIP for the Arecibo Area adequately demonstrates a trajectory towards attainment; thus, the EPA is approving the attainment demonstration, emissions inventory, modeling, control measures, RACM/RACT and RFP.

The EPA's review of the materials submitted indicates that Puerto Rico has developed the Lead attainment plan in accordance with the requirements of the CAA, 40 CFR part 51, and the EPA's technical requirements for a Lead SIP. Therefore, the EPA is approving into the SIP the Lead attainment plan for Arecibo, Puerto Rico.

A detailed analysis of the EPA's review and rationale for approving the lead SIP submittal as addressing these CAA requirements may be found in the November 7, 2016 proposed rulemaking action (81 FR 78097) which is available on line at *www.regulations.gov,* Docket ID Number EPA–R02–OAR–2016–0560.

[4] The ''Calcagni Memorandum,'' referenced above, is a memorandum dated September 4, 1992, to EPA Regional Air Directors from John Calcagni, Director, EPA Air Quality Management Division, titled ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' The Calcagni Memorandum is available at *https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf.*

[5] *See* EPA's proposed approval of the Attainment Demonstration for the Arecibo Lead Nonattainment Area 81 FR 78097 (November 7, 2016).

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, 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 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 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.

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. The 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2017. 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 20, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

For the reasons set forth in the preamble, the Environmental Protection Agency amends part 52 of chapter I, title 40 of the Code of Federal Regulations 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 BBB—Puerto Rico

■ 2. Section 52.2720 is amended by adding paragraph (c)(40) to read as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) * * *

(40) Revisions to the State Implementation Plan submitted by the Puerto Rico Environmental Quality Board (EQB) on August 30, 2016 for the 2008 lead NAAQS.

(i) [Reserved]

(ii) Additional information—EPA approves Puerto Rico's Attainment Demonstration for the Arecibo Lead Nonattainment Area including the base year emissions inventory, modeling demonstration of lead attainment, contingency measures, reasonably available control measures/reasonably available control technology, and reasonable further progress.

■ 3. Add § 52.2727 to read as follows:

§ 52.2727 Control strategy and regulations: Lead.

EPA approves revisions to the Puerto Rico State Implementation Plan submitted on August 30, 2016, consisting of the base year emissions inventory, modeling demonstration of lead attainment, contingency measures, reasonably available control measures/ reasonably available control technology, and reasonable further progress for the Arecibo Lead Nonattainment Area. These revisions contain control measures that will bring Puerto Rico into attainment for the Lead NAAQS by the end of 2018.

[FR Doc. 2017–14730 Filed 7–13–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2016–0296; A–1–FRL–9964–81–Region 1]

Air Plan Approval; Maine; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine Department of Environmental Protection (Maine DEP). This SIP revision includes regulatory amendments that repeal