

policies, procedures, or practices with the Federal agency when the Federal agency's review discloses that the contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4). The Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

(l) \* \* \*

[Complete according to instructions at § 401.5(b)]

■ 9. In § 401.16:

■ a. Remove the word "may" from paragraphs (a), (b), and (c), and add in its place the word "shall"; and

■ b. Add paragraph (d).

The addition reads as follows:

#### § 401.16 Electronic filing.

\* \* \* \* \*

(d) Other written notices required in this clause may be electronically delivered to the agency or the contractor through an electronic database used for reporting subject inventions, patents, and utilization reports to the funding agency.

■ 11. Revise § 401.17 to read as follows:

#### § 401.17 Submissions and inquiries.

All submissions or inquiries should be directed to the Chief Counsel for NIST, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1052, Gaithersburg, Maryland 20899-1052; telephone: (301) 975-2803; email: [nistcounsel@nist.gov](mailto:nistcounsel@nist.gov). Information about and procedures for electronic filing under this Part are available at the Interagency Edison Web site and service center, <http://www.iedison.gov>, telephone (301) 435-1986.

### PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

■ 12. The authority citation for 37 CFR part 404 continues to read as follows:

**Authority:** 35 U.S.C. 207-209, DDO 30-2A.

■ 13. Revise § 404.8 to read as follows:

#### § 404.8 Application for a license.

(a) An application for a license should be addressed to the Federal agency having custody of the invention and shall normally include:

(1) Identification of the invention for which the license is desired including the patent application serial number or patent number, title, and date, if known;

(2) Identification of the type of license for which the application is submitted;

(3) Name and address of the person, company, or organization applying for the license and the citizenship or place of incorporation of the applicant;

(4) Name, address, and telephone number of the representative of the applicant to whom correspondence should be sent;

(5) Nature and type of applicant's business, identifying products or services which the applicant has successfully commercialized, and approximate number of applicant's employees;

(6) Source of information concerning the availability of a license on the invention;

(7) A statement indicating whether the applicant is a small business firm as defined in § 404.3(c)

(8) A detailed description of applicant's plan for development or marketing of the invention, or both, which should include:

(i) A statement of the time, nature and amount of anticipated investment of capital and other resources which applicant believes will be required to bring the invention to practical application;

(ii) A statement as to applicant's capability and intention to fulfill the plan, including information regarding manufacturing, marketing, financial, and technical resources;

(iii) A statement of the fields of use for which applicant intends to practice the invention; and

(iv) A statement of the geographic areas in which applicant intends to manufacture any products embodying the invention and geographic areas where applicant intends to use or sell the invention, or both;

(9) Identification of licenses previously granted to applicant under federally owned inventions;

(10) A statement containing applicant's best knowledge of the extent to which the invention is being practiced by private industry or Government, or both, or is otherwise available commercially; and

(11) Any other information which applicant believes will support a determination to grant the license to applicant.

(b) An executed CRADA which provides for the use for research and development purposes by the CRADA collaborator under that CRADA of a Federally-owned invention in the Federal laboratory's custody (pursuant to 35 U.S.C. 209 and 15 U.S.C. 3710a(b)(1)), and which addresses the information in paragraph (a) of this section, may be treated by the Federal

laboratory as an application for a license.

**Kent Rochford,**

*Associate Director for Laboratory Programs.*

[FR Doc. 2016-25325 Filed 11-4-16; 8:45 am]

BILLING CODE 3510-13-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R02-OAR-2016-0559; FRL-9954-97-Region 2]

#### Approval of Air Quality Implementation Plans; Puerto Rico; Attainment Demonstration for the Arecibo Lead Nonattainment Area

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency is proposing to approve a State Implementation Plan dated August 30, 2016, submitted by the Commonwealth of Puerto Rico to the EPA, for the purpose of providing for attainment of the 2008 Lead National Ambient Air Quality Standards 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. Puerto Rico 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. The PREQB rescinded the January 30, 2015 submittal and replaced it with the August 30, 2016 lead SIP submittal for the Arecibo area.

**DATES:** Comments must be received on or before December 7, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-R02-OAR-2016-0559 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not

consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**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](mailto:khan.mazeeda@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. What action is the EPA proposing?**

The Environmental Protection Agency (EPA) is proposing to approve Puerto Rico's State Implementation Plan (SIP) dated August 30, 2016, as submitted by the Puerto Rico Environmental Quality Board (PREQB) to the EPA, for the purpose of demonstrating attainment of the 2008 Lead National Ambient Air Quality Standards (NAAQS) in the Arecibo Lead nonattainment area (Arecibo Area or Area). The Arecibo Area is comprised of a portion of Arecibo Municipality in Puerto Rico with a 4 kilometer radius surrounding The Battery Recycling Company, Inc. (TBRCI). Puerto Rico's lead attainment plan for the Arecibo Area includes a base year emissions inventory, a modeling demonstration of lead attainment, contingency measures and narrative on control measures that included reasonably available control measures (RACM)/reasonably available control technology (RACT), and reasonable further progress (RFP).

The EPA proposes to determine that Puerto Rico's attainment plan for the 2008 Lead NAAQS for the Arecibo Area

meets the applicable requirements of the Clean Air Act (CAA). The EPA is proposing to approve Puerto Rico's attainment plan for the Arecibo Area. The EPA's analysis for this proposed action is discussed in Section IV of this proposed rulemaking.

**II. What is the background information for this proposal?**

On November 12, 2008 (73 FR 66964), the EPA revised the Lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 0.15  $\mu\text{g}/\text{m}^3$  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 CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On November 22, 2010 (75 FR 71033), the EPA promulgated initial air quality designations for the 2008 Lead NAAQS, 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), designations for the 2008 Lead NAAQS for all remaining areas were completed, which became effective on December 31, 2011, based on air quality monitoring data for calendar years 2008–2010. Effective December 31, 2011, the Arecibo Area was designated as nonattainment for the 2008 Lead NAAQS, based on air quality monitoring data from April 2010 to June 2010 using a three-month rolling average design value. This designation triggered a requirement for Puerto Rico to submit a 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.

The 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. Accordingly, the EPA is proposing to act on the August 30, 2016 submittal. Today's proposal

represents EPA's only action on Puerto Rico lead SIP. The revised SIP submittal included the base year emissions inventory and the attainment demonstration. 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 included reasonably available control measures (RACM)/reasonably available control technology (RACT), and reasonable further progress (RFP) for the Arecibo Area.

**III. What is included in Puerto Rico's proposed SIP submittal?**

In accordance with CAA section 172(c) and 40 Code of Federal Regulations (CFR) 51.117, Puerto Rico's attainment plan for the Arecibo Area includes: (1) An emissions inventory for the plan's base year (2011); and (2) an attainment demonstration. The attainment demonstration includes: Technical analyses that locate, identify and quantify sources of emissions contributing to violations of the 2008 Lead NAAQS; a modeling analysis of an emissions control strategy for the TBRCI facility that attains the level of the Lead NAAQS by the attainment year (2016); and, contingency measures required under CAA section 172(c)(9).

**IV. What is the EPA's analysis of Puerto Rico's Attainment Plan submittal?**

CAA section 172(c)(4) and the Lead SIP regulations found at 40 CFR 51.117 require States to employ atmospheric dispersion modeling for the demonstration of attainment of the Lead NAAQS for areas in the vicinity of point sources listed in 40 CFR 51.117(a)(1), as expeditiously as practicable. Section 302(d) of the CAA includes the Commonwealth of Puerto Rico in the definition of the term "State." The demonstration must also meet the requirements of 40 CFR 51.112 and 40 CFR part 51, appendix W, and include inventory data, modeling results, and emissions reduction analyses on which the State has based its projected attainment. All these requirements comprise the "attainment plan" that is required for lead nonattainment areas. In the case of the Arecibo Area, the EPA is proposing to approve the August 30, 2016 attainment plan submitted by Puerto Rico. The EPA's analysis is provided below.

*a. Pollutants Addressed*

Puerto Rico's lead attainment plan evaluates lead emissions in the Arecibo Area within the portion of Arecibo

Municipality designated nonattainment for the 2008 Lead NAAQS. There are no precursors to consider for the lead attainment plan.

*b. Emissions Inventory Requirements*

*i. 2011 Base Year Inventory*

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current inventories of actual emissions from all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008, Lead Standard rulemaking, the EPA finalized the emissions inventory requirements. The current regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following emissions inventory requirements:

- The SIP inventory must be approved by the EPA as a SIP element and is subject to public hearing requirements; and,
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year (tons/yr).

For the base year inventory of actual emissions, the EPA generally recommends using either the year 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.<sup>1</sup> For Lead SIPs, CAA section 172(c)(3) requires that all sources of lead emissions in the nonattainment area be submitted with the base-year inventory.

Puerto Rico selected calendar year 2011 as the base year. This inventory included Arecibo, Barceloneta, Ciales, Florida, Hatillo and Utuado municipalities. Several facilities located in these municipalities that may be a source of lead emissions were considered in the inventory. These facilities are: TBRCI, PREPA Cambalache, Safetech Corporation, Antonio Nery Juarbe (ANJ) Airport, Eaton, Abbvie Ltd., Pfizer Pharmaceuticals LLC, and Merck Sharp & Dohme. TBRCI was a secondary lead smelter facility, dedicated to recycling lead-acid batteries and had potential lead emissions over 0.5 tons/yr. PREPA

Cambalache is an electric power facility. Safetech Corporation is a nearby source dedicated to the collection, temporary storage and disposal by incineration of commercial and industrial non-hazardous solid waste. The ANJ Airport is a general aviation airport located near TBRCI. Eaton is dedicated to power and transformer manufacturing and Abbvie Ltd. (formerly Abbott Laboratories), Merck Sharp and Dohme and Pfizer are pharmaceuticals processes. Energy Answers and Sunbeam Synergy, two new facilities that are permitted but are not under construction yet, were also included in the 2016 emissions inventory. For the 2011 emissions inventory, actual emissions were used for facilities with actual reported emissions and/or activity data. For facilities with no reported 2011 emissions data, the facility maximum capacity or permit limits were used to calculate 2011 emissions in order to include all possible emissions as part of the attainment demonstration analysis. The ANJ Airport lead emissions are from the EPA Emissions Inventory System/National Emissions Inventory (EIS/NEI) System.

According to this inventory, the only source of lead emissions of 0.5 of tons/yr, or more, in 2011 is TBRCI which emitted 1.21 tons of lead per year. All other facilities were well below the 0.5 tons/yr limit as identified in Table 1. TBRCI was dedicated to the recycling of lead batteries for the production of lead of different specifications. It produced point source emissions from one furnace and five kettle burners and fugitive emissions from material transport and handling.

The 2011 preliminary air quality modeling studies, emissions inventory and ambient air monitoring data indicate that TBRCI fugitive emissions are the major contributor to the high lead concentration in Arecibo and, therefore, are the focus of the Arecibo attainment plan, as discussed in Section IV. In order to comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Lead Smelting (40 CFR part 63, subpart X) also known as the Maximum Available Control Technology (MACT) standard, TBRCI was required to implement control measures to lower the potential fugitive lead emissions in the main process building and in the handling operations. The PREQB Governing Board determined TBRCI was unable to comply with this regulation,<sup>2</sup> and, accordingly, the PREQB withdrew

both the construction and operating permits for the facility.

The design value used for designating the area as nonattainment was based on monitoring data from 2010. For the purposes of calculating the nonattainment area emissions inventory, lead emissions data were taken from the PREQB's 2011 Emissions Inventory for the area. The EPA has determined that the 2011 base year emissions inventory estimates submitted are in compliance with CAA section 172(c)(3), are conservative and were developed in accordance with the EPA guidance. Details of the inventory are provided in the August 30, 2016 submittal. Table 1 identifies the base year emissions inventory for 2011.

*ii. 2016 Attainment/Projection Inventory*

While the PREQB has two source oriented monitors in Arecibo, there is no monitor in the area to provide background concentration. To address the lead background concentrations in the attainment modeling study, the EPA recommends a multi-source American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) be run using the background lead emissions from nearby facilities, projected to 2016. The municipalities analyzed for background lead emissions were Barceloneta, Ciales, Florida, Hatillo, and Utuado. Of these municipalities, Barceloneta is the only municipality in addition to Arecibo, which has reported lead emissions.

In accordance with the Lead Guidance<sup>3</sup> for the Attainment/Projection Inventory, the maximum allowable emissions should be included for the attainment year inventory, which includes only those sources within the modeling domain. The EPA modeling guidance, 40 CFR part 51 Appendix W provides advice on which sources need to be included explicitly (*i.e.*, as point sources) in the modeling and provides for including the impacts of smaller and diffuse sources through the use of background concentrations and other less specific techniques given the relatively lower significance of such sources to the SIP demonstration.

For Puerto Rico, allowable lead emissions projected to 2016 with controls or permit limits were used in the attainment modeling study. For existing facilities, allowable emissions with controls or permit limits were used to develop the inventory. Energy

<sup>1</sup> See the EPA document titled "Addendum to the 2008 Lead NAAQS Implementation Questions and Answers" dated August 10, 2012 located at <https://www.epa.gov/lead-air-pollution/lead-state-implementation-plan-sip-checklist-guide> and <https://www.epa.gov/lead-air-pollution/lead-pb-national-ambient-air-quality-standards-naaqs-implementation-guidance>.

<sup>2</sup> Puerto Rico SIP revision, Appendix G: Translation of Resolution R-15-6.

<sup>3</sup> Lead Guideline Document, USEPA, EPA-452/R-93-009, April 1993, <https://www.epa.gov/lead-air-pollution/lead-pb-national-ambient-air-quality-standards-naaqs-implementation-guidance>.

Answers and Sunbeam Synergy are permitted sources that are not under construction yet.<sup>4</sup> These sources did not exist in 2011 but were scheduled to start operation in 2016. Their potential allowable lead emissions with controls or permit limits were used for the 2016

projection inventory. The ANJ Airport lead emissions are from the EPA EIS/NEI System and were projected to 2016 using the methodology recommended by the EPA Office of Transportation and Air Quality (OTAQ). Details of the inventory are provided in the SIP

submittal. The inventory was developed in accordance with CAA Section 172(c)(3) and the EPA Lead Guidance. Table 1 identifies the 2016 attainment/projection year emissions inventory for 2016.

TABLE 1—ARECIBO LEAD SIP, EMISSION SOURCES IN THE BASELINE EMISSIONS INVENTORY 2011 AND 2016 ATTAINMENT/PROJECTION YEAR EMISSIONS INVENTORY

Industry	Municipality	2011 Lead emissions (In tons/year)	2016 Lead attainment/ projection year emissions inventory (In tons/year)
PREPA Cambalache .....	Arecibo .....	0.11 .....	0.28
Energy Answers .....	Arecibo .....	DID NOT EXIST IN 2011 .....	0.3059
TBRCI .....	Arecibo .....	1.21 .....	0.01
Safetech Corporation .....	Arecibo .....	0.009 .....	0.009
Eaton .....	Arecibo .....	0.000062 .....	0.00075
ANJ Airport .....	Arecibo .....	0.00364 .....	0.037
Abbott (Now Abbvie Ltd.) .....	Barceloneta .....	0.0088 .....	0.0161
Pfizer Pharmaceuticals LLC .....	Barceloneta .....	0.001 .....	0.0035
Merck Sharp & Dohme+ .....	Barceloneta .....	0.00037 .....	0.018
Sunbeam Synergy .....	Barceloneta .....	DID NOT EXIST IN 2011 .....	0.11
Total .....	.....	1.343 .....	0.79025

### c. Attainment Plan Modeling

The Puerto Rico modeling analysis was prepared using the EPA's preferred dispersion modeling system, AERMOD, consisting of the AERMOD model and two data input preprocessors AERMET and AERMAP, consistent with the EPA's Modeling Guidance at 40 CFR part 51 Appendix W and 40 CFR part 51.117. More detailed information on the AERMOD Modeling system and other modeling tools and documents can be found on the EPA Technology Transfer Network Support Center for Regulatory Atmospheric Modeling (SCRAM) (<http://www.the EPA.gov/ttn/scram/>) and in Puerto Rico's submittal for this proposed action (EPA-R02-OAR-2016-0559) on the [www.regulations.gov](http://www.regulations.gov) Web site. A brief description of the modeling used to support the Commonwealth of Puerto Rico's attainment demonstration is provided below.

#### i. Modeling Approach

The following is an overview of the air quality modeling approach used to

demonstrate compliance with the 2008 Lead NAAQS, in Puerto Rico's SIP submittal.

To develop the appropriate meteorological data for the area for use in the attainment demonstration, the PREQB used AERMOD pre-processors, AERMET and AERMAP to process site specific meteorological data collected at PREPA Cambalache. Data from San Juan Airport was also used to supplement the PREPA data in those instances where meteorological data may have been missing.

The PREQB used the EPA LEADPOST processor to calculate the lead three-month rolling average. To determine the lead background concentration that would be representative of the Arecibo area, the PREQB conducted a multi-source modelling analysis with projected or controlled emissions to 2016 of the facilities in the six municipalities (Arecibo, Barceloneta, Ciales, Florida, Hatillo and Utuado), including the Arecibo Airport. This approach was used because the PREQB does not have an Arecibo lead air

quality monitor that is not affected by the emissions from TBRCI facility that would be representative of the Arecibo area.

The PREQB developed the 2011 base year and the 2016 control strategy emissions inventories for input in the air quality model to perform current and control dispersion modeling. The emissions inventory was used in the multi-source modeling scenario (see modeling protocol in SIP submittal Appendix C and Appendix C-1).

#### ii. Modeling Results

The Lead NAAQS compliance results of the AERMOD modeling are summarized in Table 2 below. As can be seen in Table 2, the maximum three-month rolling average predicted impact with the meteorological data (2006–2010) is less than the 2008 Lead NAAQS of 0.15 µg/m<sup>3</sup> for the AERMOD modeling runs. Output from the LEADPOST processor which details all of the concentrations can be found in the August 30, 2016 submittal.

TABLE 2—SUMMARY RESULTS OF MODELING FOR 2016 ATTAINMENT DEADLINE

Pollutant	Avg. time	Maximum monthly predicted impact (µg/m <sup>3</sup> )	Maximum 3-high avg. predicted impact (µg/m <sup>3</sup> )	NAAQS (µg/m <sup>3</sup> )	Impact greater than NAAQS
Lead .....	3-month rolling .....	0.11318	0.09352	0.15	No

<sup>4</sup> Puerto Rico SIP, Appendix B: 2016 Emissions Projection Year Inventory, Arecibo Lead SIP.

The post control scenario used in the model is heavily influenced by the operating status of TBRCI. Based on the post control scenario of TBRCI not operating, the model predicts an impact of 0.09352  $\mu\text{g}/\text{m}^3$ . This data indicates significant reductions in air quality impacts with the non-operation closure of the TBRCI facility resulting in attainment of the lead NAAQS. The EPA has reviewed the modeling that Puerto Rico submitted to support the attainment demonstration for the Arecibo Area and has determined that this modeling is consistent with CAA requirements, 40 CFR part 51, Appendix W, and the EPA Lead Guidance for lead attainment demonstration modeling.

#### d. RACM/RACT Requirements

CAA section 172(c)(1) requires that each attainment plan provide for the implementation of all RACM for stationary sources as expeditiously as practicable for attainment of the NAAQS. The EPA interprets RACM, including RACT, under CAA section 172, as measures that a State determines to be both reasonably available and to contribute to attainment as expeditiously as practicable in the nonattainment area. A comprehensive discussion of the RACM/RACT requirement for lead attainment plans can be found in the EPA guidance (footnote 3).

TBRCI was the only source of lead emissions of 0.5 tpy or more. TBRCI was the primary source of lead emissions in the Arecibo area contributing to monitored nonattainment. Therefore, the RACT/RACM requirements would focus primarily on TBRCI. However, on June 12, 2014, TBRCI notified the PREQB that it would “temporarily cease operations”. As discussed in Section IV.b.1 above, on August 19, 2015, the PREQB withdrew both the Construction Permit and Title V Operation Permit for TBRCI because the facility was unable to comply with Puerto Rico Rule 203(b)(1) and Puerto Rico Rule 604(b) as well as CAA Section 112 (See footnote 3). Since the PREQB withdrew TBRCI permits, TBRCI is no longer operating. Since TBRCI is no longer operating, there are no further RACT or RACM necessary for the area to attain the lead NAAQS as expeditiously as practicable or by the December 2016 attainment date. The EPA notes that TBRCI has no permits to operate as a secondary lead smelter facility. 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 Regulations for the Control of the Atmospheric Pollution (RCAP), the Puerto Rico Environmental Public Policy Act, Act 416–2004 as amended (PREPPA Act 416) and CAA Section 112 MACT requirements. These laws and regulations ensure that any new source of lead emissions, or any emission, will not interfere with attainment of the NAAQS.

With respect to fugitive emissions and for all emission sources, the Puerto Rico SIP already includes control measures located in RCAP Rule 404 (also referenced in the August 30, 2016 submittal).<sup>5</sup>

- *RCAP Rule 404*: Where no person shall cause or permit any materials to be handled, transported, or stored in a building, its appurtenances, or a road to be used, constructed altered, repaired, or demolished, without taking reasonable precautions to prevent particulate matter (including particulate matter containing lead) from becoming airborne including but not limited to:

- *Rule 404(A)(1)*: The use, as much as possible, of water or suitable chemicals for chemical stabilization and the control of dust in the demolition of a building or structures, construction operations, quarrying operations, the grading of roads, or the clearing of land;

- *Rule 404(A)(4)*: The covering, at all times when in motion, of open bodied trucks transporting materials likely to give rise to airborne dusts;

- *Rule 404(A)(3)*: The installation and use of hoods, fans, and fabric filters to enclose and vent dusty materials to control harmless fugitive emissions. Adequate containment methods shall also be employed during sandblasting or other similar operations;

- *Rule 404(A)(6)*: The paving of road ways and their maintenance in a clean condition;

- *Rule 404(B)*: Where no person shall cause or permit the discharge of visible emissions of fugitive dust beyond the boundary line of the property on which the emissions originate;

- *Rule 404(C)*: Where air pollutant escape from a building or equipment and cause a nuisance or violate any regulations, the Board may order that the building or equipment in which processing, handling, and storage are done, be tightly closed and/or ventilated so that all emissions from the building or equipment are controlled to remove or destroy such air pollutants before being discharged to the open air; and,

- *Rule 404(E)*: Where any new or modified source, the construction of which causes or may cause fugitive emissions, shall apply for a permit as required in Rule 203.

#### e. RFP Requirements

Section 172(c)(2) of the CAA requires that an attainment plan includes a demonstration that shows reasonable further progress to meeting air quality standards. The term “reasonable further progress” is defined in CAA section 171 to mean “such annual incremental reductions in the emissions of the relevant air pollutant as are required . . . for purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.” In accordance with CAA section 172(c)(1), the RFP requires implementation of all RACM/RACT as “expeditiously as practicable.”

Historically, for some pollutants, RFP has been met by showing annual incremental emission reductions generally sufficient to maintain linear progress toward attainment by the applicable attainment date. As stated in the final Lead Rule (73 FR 67039), the EPA concluded that it was appropriate that RFP requirements be satisfied by the strict adherence to an ambitious compliance schedule, which is expected to periodically yield significant emission reductions. For lead nonattainment areas, RFP is to be achieved by implementing an emission reduction compliance schedule for stationary sources outlined in the SIP. The stationary source of concern in the Arecibo area is TBRCI. As discussed in Section V.d, TBRCI is no longer operating. Therefore the EPA proposes to find that RFP has been achieved in the Arecibo area because the emission reduction compliance schedule for the one stationary source in question, TBRCI, has been achieved by no longer operating.

#### f. Contingency Measures

Section 172(c)(9) of CAA requires that SIPs include specific contingency measures to be undertaken if the area fails to make reasonable further progress or to attain the 2008 lead NAAQS by the attainment date which is December 31, 2016, for Arecibo, Puerto Rico.

Upon determination by the EPA that the area has failed to achieve or maintain RFP, or attain the lead NAAQS by the statutory attainment date, these contingency measures will take effect without further action by the State or the Administrator. The amount of reductions yielded by implementation of contingency measures should be quantified and, for a five-year plan, the

<sup>5</sup> 62 FR 3213 (Jan. 22, 1997) (approval of RCAP 404 into SIP); 40 CFR 52.2723.

measures should reduce emissions by 20 percent of the total amount needed for attainment. Under certain circumstances, this amount may be derived by reference to reductions in ambient air concentrations (2008 lead NAAQS Implementation Q&A, July 8, 2011, EPA).

The PREQB asserts that a comprehensive evaluation of all known lead emissions sources has already been accomplished and that RACT (or greater) levels of controls have been addressed, as discussed in the control measures section of the August 30, 2016 submittal. Contingency measures are intended to address any lead emissions that would cause any future exceedances of the lead NAAQS. The PREPPA Act 416, Title II, Section 9(A)(7) provides PREQB with the authority to order persons causing or contributing to a condition which harms the environment and natural resources or which poses an imminent danger for the public health and safety, to immediately diminish or discontinue their actions. Also, PREPPA Act 416, Title II, Section 9(A)(8) provides the authority to issue orders to do or forbear or to cease and desist so as to take the preventive or control measures that, in its judgment, are necessary to achieve the purposes of this Act and the regulations promulgated thereunder.

As discussed above, RCAP Rule 404, which is approved into the SIP, contains specific provisions to control fugitive emissions at any facility in Puerto Rico are intended to satisfy the CAA 172(c)(9) contingency measure requirements.

In addition to the contingency measures in the Lead SIP, the PREQB included actions it will take to better characterize the source of any exceedance:

- If during any three-month rolling period, if two samples at the same monitor in the Arecibo Nonattainment Area are reported to exceed  $0.15 \mu\text{g}/\text{m}^3$ , along with the activities above, the PREQB will increase the sampling frequency at that monitor to once every three days;

- In addition, if during any three-month rolling period, if three samples at the same monitor in the Arecibo Nonattainment Area are reported to exceed  $0.15 \mu\text{g}/\text{m}^3$ , along with the activities above, the PREQB will conduct daily sampling at that monitor for a period of 30 days.

The EPA has determined that the PREQB's SIP addresses the requirement for contingency measures pursuant to CAA 172(c)(9) and therefore EPA proposes to approve these contingency measures.

#### *g. Attainment Date*

Puerto Rico provided a modeling demonstration to attain the level of the 2008 Lead NAAQS for the Arecibo Area by no later than five years after the Area was designated nonattainment. The modeling indicates that the Arecibo Area will have attaining data for the 2008 Lead NAAQS by December 31, 2016. On June 12, 2014, TBRCI notified the PREQB that it would "temporarily cease operations". As discussed in Section IV.b.1 above, on August 19, 2015, the PREQB withdrew both the Construction Permit and the Title V Operating Permit for TBRCI because the facility was unable to comply with subject regulations of Puerto Rico RCAP Rules 203(b)(1) and 604(b) as well as the CAA Section 112 (see footnote 3). The EPA notes that since September 2015, the data from the source oriented Arecibo air monitoring site has been below the three-month rolling average for the Lead NAAQS. In addition, the modeling demonstrates compliance with the Lead NAAQS. Consequently, the EPA proposes that the PREQB has provided an attainment demonstration SIP that shows how the Arecibo area will meet the Lead NAAQS.

#### **V. What are the EPA's conclusions?**

The EPA is proposing to approve into the SIP Puerto Rico's lead attainment plan for the Arecibo Area. Specifically, the EPA is proposing to approve Puerto Rico's August 30, 2016 submittal, which includes the attainment demonstration, base year emissions inventory, modelling, and contingency measures and addresses RACM/RACT and the RFP plan. Permits for the lead smelter, TBRCI, documented as the source of high lead emissions, have been withdrawn and it is not operating at this time. Accordingly, RACM, RACT and RFP analyses have been met. The requirement for RACM/RACT and RFP plan is 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 data from the source oriented Arecibo air monitoring site has been below the three-month rolling average for the Lead NAAQS.

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 proposing to

approve into the SIP the Lead attainment plan for Arecibo, Puerto Rico.

#### **VI. 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 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 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 proposed rulemaking action 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, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: October 27, 2016.

**Judith Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2016-26729 Filed 11-4-16; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-2016-0087]

RIN 2127-AK92

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 393

[Docket No. FMCSA-2014-0083]

RIN 2126-AB63

### Federal Motor Vehicle Safety Standards; Federal Motor Carrier Safety Regulations; Parts and Accessories Necessary for Safe Operation; Speed Limiting Devices

**AGENCY:** National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation.

**ACTION:** Extension of comment period.

**SUMMARY:** NHTSA and FMCSA have received requests to extend the comment period for their proposal that would require vehicles with a gross vehicle weight rating of more than 11,793.4 kilograms (26,000 pounds) to be equipped with a speed limiting device and that such device be maintained for the service life of the vehicle. In the proposal, NHTSA and FMCSA established a deadline for the submission of written comments of November 7, 2016. The Agencies have also received a letter opposing any extension of the comment period. To ensure that all interested parties have a sufficient amount of time to fully develop their comments, the Agencies are extending the deadline for the

submission of written comments on the proposal, including comments on the Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis and Draft Environmental Assessment accompanying the proposal, by 30 days.

**DATES:** Written comments must be received by December 7, 2016.

**ADDRESSES:** You may submit comments, identified by one or both of the docket numbers in the heading of this document, by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- **Hand Delivery or Courier:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

- **Fax:** (202) 493-2251.

**Instructions:** For detailed instructions on submitting comments and additional information on the rulemaking process, see the discussion under the Public Participation heading of the September 7, 2016 notice of proposed rulemaking (81 FR 61942). Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

**NHTSA:** For technical issues, you may contact Mr. Wayne McKenzie, Office of Crash Avoidance Standards, Telephone: (202) 366-4000. Facsimile: (202) 366-7002. For legal issues, you may contact Mr. David Jasinski, Office of Chief Counsel, Telephone (202) 366-2992. Facsimile: (202) 366-3820. You may send mail to these officials at: The National Highway Traffic Safety Administration, Attention: NVS-010, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FMCSA:** For technical issues, you may contact Mr. Michael Huntley, Vehicle and Roadside Operations, Telephone

(202) 366-5370. Facsimile: (202) 366-8842. For legal issues, you may contact Mr. Charles Medalen, Office of Chief Counsel, Telephone (202) 366-1354. Facsimile: (202) 366-3602. You may send mail to these officials at: The Federal Motor Carrier Safety Administration, Attention: MC-PSV, 1200 New Jersey Avenue SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** On September 7, 2016, NHTSA and FMCSA published a notice of proposed rulemaking (NPRM) proposing regulations that would require vehicles with a gross vehicle weight rating of more than 11,793.4 kilograms (26,000 pounds) to be equipped with a speed limiting device initially set to a speed no greater than a speed to be specified in a final rule and would require motor carriers operating such vehicles in interstate commerce to maintain functional speed limiting devices set to a speed no greater than a speed to be specified in the final rule for the service life of the vehicle.

The American Trucking Associations (ATA) (with the support of the Commercial Vehicle Safety Alliance), the EMA Truck & Engine Manufacturers Association (EMA) and the Owner Operator Independent Drivers Association (OOIDA) have requested that NHTSA and FMCSA extend the public comment period beyond the November 7, 2016 date specified in the NPRM. The ATA and EMA requested a 30-day extension. In support of its request, ATA states that the proposal differs significantly from its initial petition for rulemaking in a number of areas, and additional time is needed to confer with its membership on these issues. EMA states that at least 30 additional days is needed to more thoroughly analyze the issues in order to develop detailed and complete comments.

The OOIDA requested a 60-day extension of the comment period. In support of its request, OOIDA states that it will take a considerable amount of time and resources to develop meaningful comments from its members, many of which are on the road and away from home upwards of 250 days a year.

NHTSA and FMCSA have also received a letter signed by a number of safety advocacy groups and individuals opposing any extension of the comment period. The letter states that in the 10 years since the petitions for rulemaking were initially filed, truck crashes and fatalities have increased at rates faster than overall crashes and fatalities, and that additional time for comment is not