

paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
  - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - Does not interfere with Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) because EPA lacks the discretionary authority to address environmental justice in this rulemaking.
- In addition, these rules do not have Tribal implications as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 26, 2011. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 15, 2011.

**Jared Blumenfeld**,

*Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

- 1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart F—California

- 2. Section 52.220 is amended by adding paragraphs (c)(366)(i)(B)(3), (377)(i)(A)(4), (378)(i)(A)(2) and (381)(i)(D) to read as follows:

#### § 52.220 Identification of plan.

- \* \* \* \* \*
- (c) \* \* \*
- (366) \* \* \*
- (i) \* \* \*
- (B) \* \* \*
- (3) Rule 1162, "Polyester Resin Operations," amended on July 8, 2005.
- \* \* \* \* \*
- (377) \* \* \*
- (i) \* \* \*
- (A) \* \* \*
- (4) Rule 465, "Polyester Resin Operations," amended on September 25, 2008.
- \* \* \* \* \*
- (378) \* \* \*
- (i) \* \* \*
- (A) \* \* \*
- (2) Rule 1132, "Further Control of VOC Emissions From High-Emitting Spray Booth Facilities," amended on May 5, 2006.
- \* \* \* \* \*
- (381) \* \* \*
- (i) \* \* \*
- (D) Northern Sierra Air Quality Management District
- (1) Rule 215, "Phase II Vapor Recovery System Requirements," amended on February 22, 2010.
- \* \* \* \* \*

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**BILLING CODE 6560-50-P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Chapter I

[WC Docket No. 07-245, GN Docket No. 09-51; Report No. 2931]

#### A National Broadband Plan for Our Future; Petition for Reconsideration

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** In this document, Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding concerning a

national broadband plan for our future and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

**DATES:** Oppositions to Petitions must be filed by August 10, 2011. Replies to an opposition must be filed August 22, 2011.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Prime, Wireline Competition Bureau, 202-418-2403.

**SUPPLEMENTARY INFORMATION:** This is a summary of Commission's document, Report No. 2931, released June 20, 2011. The full text of this document is available for viewing and copying in Room CY-B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

*Subject:* In the Matter of Implementation of Section 224 of the Act (WC Docket No. 07-245); A National Broadband Plan for our Future (GN Docket No. 09-51).

*Number of Petitions Filed:* 2.

**Marlene H. Dortch,**  
Secretary, Federal Communications Commission.

[FR Doc. 2011-18090 Filed 7-25-11; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 107

[Docket Nos. PHMSA-2009-0410 (HM-233B)]

RIN 2137-AE73

#### Hazardous Materials Transportation: Revisions of Special Permits Procedures; Response to Appeals; Corrections

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Correcting Amendments.

**SUMMARY:** On January 5, 2011, PHMSA published a final rule under Docket Number PHMSA-2009-0410 (HM-233B) that amended the Hazardous Materials Regulations to revise the

application procedures for special permits. Specifically, the revisions required an applicant to provide additional information about its operation to enable the agency to better evaluate the applicant's ability to demonstrate an equivalent level of safety and the safety impact of operations that would be authorized in the special permit. In response to appeals submitted by entities affected by the January 5 final rule, this final rule amends requirements and provides additional clarification to the January 5 final rule.

**DATES:** *Effective Date:* The effective date of these amendments is July 26, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steven Andrews or Mr. T. Glenn Foster, Standards and Rulemaking Division, (202) 366-8553, Pipeline and Hazardous Materials Administration (PHMSA), U.S. Department of Transportation, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH-12, Washington, DC 20590-0001 or Mr. Ryan Paquet, Approvals and Permits Division, (202) 366-4511, PHMSA, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH-30, Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### List of Topics

- I. Supplementary Background
- II. Appeals to the Final Rule
  - A. Council on Safe Transportation of Hazardous Articles, Inc.
  - B. Institute of Makers of Explosives
  - C. Lawrence Bierlein
- III. Corrections and Amendments
- IV. Regulatory Analyses and Notices
  - A. Statutory/Legal Authority for Rulemaking
  - B. Executive Order 12866, 13356 and DOT Regulatory Policies and Procedures
  - C. Executive Order 13132
  - D. Executive Order 13175
  - E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies
  - F. Unfunded Mandates Reform Act of 1995
  - G. Paperwork Reduction Act
  - H. Regulation Identifier Number (RIN)
  - I. Privacy Act

##### I. Supplementary Background

On January 5, 2011, PHMSA issued a final rule under Docket Number PHMSA-2009-0410 (HM-233B) (76 FR 454) amending the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) by amending the Hazardous Materials Regulations to revise the application procedures for special permits. Specifically, the revisions required an applicant to provide additional information about its operation to enable the agency to better evaluate the applicant's ability to

demonstrate an equivalent level of safety and the safety impact of operations that would be authorized in the special permit. In addition, the January 5 final rule made revisions to the procedures for applying for a special permit. Changes made to these procedures include, but are not limited, requiring applicants to provide: All known locations where a special permit is used; the name of the company Chief Executive Officer (CEO) or president; a Dun and Bradstreet Data Universal Numbering System (DUNS) identifier; an estimated quantity of the hazardous material planned for transportation; an estimate of the number of operations expected to be conducted; a statement outlining the reason(s) the hazardous material is being transported by air if other modes are available; and substantiation that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought.

##### II. Appeals to the Final Rule

The following organizations and one individual submitted appeals to the January 5 final rule, in accordance with 49 CFR part 107: The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA); The Institute for Makers of Explosives (IME); and Lawrence Bierlein on behalf of the Association of Hazmat Shippers. The appellants based their appeals on several aspects of the January 5 final rule, most notably objecting to the requirements that applicants provide: A list of all known locations where a special permit will be used; a DUNS number; the name of the CEO or President of the company; and the quantity of hazardous materials to be shipped.

The appeals and issues of the appellants are discussed in detail below.

##### A. Council on Safe Transportation of Hazardous Articles, Inc.

In its appeal, COSTHA states that it recognizes the importance of requiring applications for a special permit to include relevant and usable information in the special permit application. In support of its appeal, COSTHA requests that PHMSA re-evaluate several of the changes made to the special permits and procedures application process. These changes include requirements to: List all known locations where a special permit will be used; provide estimates of the number of operations expected to be conducted under a special permit; list the name of the CEO or president of the company; and provide a DUNS identifier.