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***State of Maryland  
Lead (Pb) Infrastructure  
State Implementation Plan***

***SIP Number 12-09  
December 12, 2012***

**Prepared for:  
U.S. Environmental Protection Agency**

**Prepared by:  
Maryland Department of the Environment**



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### MARYLAND CERTIFICATION

#### CLEAN AIR ACT SECTION 110(A) (2)

## Background

A State Implementation Plan (SIP) is a plan for each state that identifies how that state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and other types of submittals designed to satisfy requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved on May 31, 1972. SIPs may be revised by the state with EPA approval. The federally enforceable SIP for the State of Maryland is compiled under 40 CFR Part 52 Subpart V.

Section 110(a) of the federal Clean Air Act requires that each SIP provide for the implementation, maintenance, and enforcement of the NAAQS. This section also requires that within three years of the promulgation of a NAAQS, a state must adopt and submit such a plan to EPA. These "infrastructure SIPs" provide assurances of state resources and authorities, and where necessary establish the basic state programs, to implement, maintain, and enforce new or revised standards. This document summarizes where the §110(a) (2) requirements for the 2008 revised lead NAAQS are addressed in Maryland's current SIP or pending SIP revisions.

*This certification addresses Maryland's obligations under §§110(a)(2) of the Clean Air Act for the following National Ambient Air Quality Standards:*

**Lead:** A revised NAAQS for lead was promulgated by EPA on October 15, 2008. This rule establishes a primary ambient air quality standard of  $0.15 \mu\text{g}/\text{m}^3$  on a rolling three-month average basis and a secondary standard equal to the primary standard.

The basic infrastructure requirements of §§110(a)(2) are listed on the following pages.

## Required SIP Information

States should, in consultation with EPA Regional Offices, refer to applicable EPA regulations governing SIP submittals per 40 CFR Part 51. These regulations include, but are not limited to:

- Subpart I – Review of New Sources and Modifications
- Subpart J – Ambient Air Quality Surveillance
- Subpart K – Source Surveillance
- Subpart L – Legal Authority
- Subpart M – Intergovernmental Consultation
- Subpart O – Miscellaneous Plan Content Requirements
- Subpart P – Protection of Visibility (*Not applicable for Pb*)
- Subpart Q – Reports

Specifically, each State should include documentation demonstrating a correlation between each infrastructure element and an equivalent State statutory or regulatory authority in the existing or submitted SIP. A complete submittal, at minimum, is a letter from an appropriate State official (*e.g.*, Governor or designee) certifying compliance with each element which has gone through state notice and hearing procedures. Furthermore, the State should provide a specific description of how compliance with each element is achieved.

For many infrastructure SIP elements, a SIP submittal should refer to and include citations to relevant state regulations. See, *e.g.*, EPA guidance below regarding elements (F), (H), (J), and (M). For EPA's general criteria for SIP submittals, refer to 40 CFR Part 51, Appendix V; "Criteria for Determining the Completeness of Plan Submissions. SIP submittal should include a copy of the actual regulation that the state is submitting for approval and incorporation by reference into its SIP.

If a state believes that its existing approved infrastructure SIP is adequate, then the state's SIP submission may be a certification that the existing SIP contains provisions addressing all requirements of the section 110(a)(2) infrastructure elements as applicable for the 2008 Pb NAAQS. Such certification (*e.g.*, in the form of a letter to EPA from the Governor or her/his designee) should cite the applicable provisions in the existing SIP and provide a specific description of how compliance with each element is achieved.

Two elements identified in section 110(a)(2) are not governed by the 3-year submission deadline of section 110(a)(1). The elements pertain to part D, in title I of the CAA, which addresses plan requirements for nonattainment areas. Therefore, the following section 110(a)(2) elements are considered by EPA to be outside the scope of infrastructure SIP actions: (1) section 110(a)(2)(C) to the extent it refers to permit programs (known as "nonattainment new source review") under part D; and (2) section 110(a)(2)(I) in its entirety. EPA does not expect infrastructure SIP submittals to include regulations or emission limits developed specifically for attaining the relevant standard. Those submittals are due at the time the nonattainment area planning elements are due (18 months following designation).

Except as described above, subsections (A) through (M) of section 110(a)(2) set forth the infrastructure elements that a SIP should address, in order to be approved by EPA. The elements are presented below in context of the 2008 Pb NAAQS. The infrastructure SIP submission should include a list or table referencing all Pb emission reduction measures adopted and relied on by the state to meet other CAA requirements, such as maintenance of the 2008 NAAQS.

EPA would not expect infrastructure SIP submission to identify nonattainment emission controls. Emissions limitations and other control measures to attain the 2008 NAAQS in areas designated nonattainment for the 2008 Pb NAAQS are due on a different schedule from the section 110 infrastructure elements and will be reviewed and acted upon through a separate process. However, the infrastructure SIP submission should include a list or table referencing all Pb emission reduction measures adopted and relied on by the state to meet other CAA requirements, such as maintenance of the 2008 NAAQS.

To meet section 110(a)(2)(C) requirements for this NAAQS, the SIP submitted should:

- Reference relevant state and federal regulations that provide for enforcement of Pb emission limits and control measures.
- Identify the various state regulations that govern permitting of new and modified stationary sources (minor and major) of Pb in the state.
- Revise its PSD program regulations to address any applicable EPA amendments to Pb PSD rules within 3 years from the date of such amendments.

Section 110(a)(2)(D)(i) provides for SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state. (The preceding requirements, from subsection (2)(D)(i)(I), respectively refer to what may be called prongs 1 and 2.) Further, this section directs SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality, or from interfering with measures required to protect visibility (*i.e.*, measures to address regional haze) in any state. (The preceding requirements, from subsection (2)(D)(i)(II), respectively refer to what may be called prongs 3 and 4.)

The physical properties of Pb prevent Pb emissions from experiencing the same travel or formation phenomena as PM<sub>2.5</sub> or ozone. More specifically, there is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. Accordingly, while it may be possible for a source in a state to emit Pb in a location and in quantities that may contribute significantly to nonattainment in, or interfere with maintenance by, any other state, EPA anticipates that this would be a rare situation, *e.g.*, where large sources are in close proximity to state boundaries.

Under section 110(a)(2)(D)(i)(II), the PSD sub-element (prong 3) may be met by the state's confirmation in a SIP submission that new major sources and major modifications in the state are

subject to PSD and (if the state contains a nonattainment area for the relevant pollutant) Nonattainment New Source Review (NNSR) programs that implement the 2008 Pb NAAQS<sup>1</sup>.

Since all areas are currently subject to the regional haze program which addresses visibility-impairing pollutants, at this time EPA would not expect infrastructure SIP submissions for the Pb NAAQS to address prong 4.

In accordance with EPA's regulations at subpart O, the SIP submittal should include copies of rules and regulations that show that the state has adopted the emission limitations and other measures necessary for attainment and maintenance of the 2008 Pb NAAQS. The SIP should assure that the state has adequate authority under its rules and regulations to carry out the state's SIP obligations with respect to the 2008 Pb NAAQS and to revise the SIP as necessary.

The SIP should assure that the state has adequate funding and personnel to implement the Pb NAAQS. See EPA's regulations at 40 CFR Part 51, subpart M ("Intergovernmental Consultation") and subpart O ("Miscellaneous Plan Content Requirements"). In accordance with EPA's regulations at subpart O, the SIP should describe resources for carrying out the SIP. Resources to be described include: (1) those available to the state (and local agencies, where appropriate) as of the date of SIP submittal; (2) those considered necessary during the 5 years following SIP submittal; and projections regarding acquisition of the described resources.

The SIP should provide for periodic reporting of emissions inventory data by the state to the Administrator (through the appropriate Regional Office).

The SIP should also contain a plan determined adequate by the state to implement the authority to constrain sources of Pb emissions, as necessary, in an emergency situation. As part of the infrastructure SIP submittal, the plan should comply with regulations at 40 CFR 51.150 through 51.153 as applicable.

The SIP should provide citations to the state regulatory provisions requiring the state to 1) revise its section 110 plan from time to time as may be necessary to take into account revisions of such primary or secondary NAAQS or the availability of improved or more expeditious methods of attaining such standards; and 2) revise its section 110 plan in the event the Administrator finds the plan to be substantially inadequate to attain the NAAQS. See 40 CFR 51.104, "Revisions".

The SIP should reference the state rules that provide a process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any federal land manager having authority over federal land to which the plan applies, consistent with the requirements of CAA § 121.

The SIP should provide citations to regulations requiring the state to regularly notify the public of: instances or areas in which any primary NAAQS was exceeded; the associated health

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<sup>1</sup> Memorandum issued by William T. Harnett, Director, OAQPS/AQPD, "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)," dated September 25, 2009.

hazards; and ways in which the public can participate in regulatory and other efforts to improve air quality. See 40 CFR 51.285, “Public notification”.

Thus, EPA concludes there are no new applicable visibility protection obligations under section 110(a)(2)(J) as a result of the 2008 Pb NAAQS.

The SIP should demonstrate that the state has the authority and technical capability to conduct air quality modeling in order to assess the effect on ambient air quality of relevant pollutant emissions; and that the state can provide relevant data as part of the permitting and NAAQS implementation processes. The SIP should also provide that, upon request, the state will submit current and future data relating to such air quality modeling to the Administrator. EPA anticipates that the predominant type of air quality modeling to be conducted with respect to implementing the Pb NAAQS will be source-oriented dispersion modeling with models such as AERMOD.

The SIP should provide citations to the regulations providing for collection of permitting fees under the state’s EPA-approved Title V permit program- see 40 CFR 70.9 (“Fee determination and certification”), 40 CFR Part 70, Appendix A, “Approval Status of State and Local Operating Permits Programs”.

The SIP should identify the organizations that will participate in developing, implementing, and enforcing the SIP. Further, the SIP should identify the responsibilities of such organizations and include related agreements among the organizations. See 40 CFR 51.240, “General plan requirements”.

The SIP should provide a citation to the state regulations that provide notice and opportunity for public hearing in accordance with EPA regulations at 40 CFR Part 51, subpart F (“Procedural Requirements”). Prior to submitting a SIP revision or a compliance schedule, a state must provide notice, provide the opportunity to submit written comments, and allow the public the opportunity to request a public hearing- see 40 CFR 51.102, “Public hearings”.

## Certification

**Maryland’s State Implementation Plan meets all of the required elements of §§110(a)(2)A—M, as indicated below.**

*Emission limits and other control measures: § 110(a)(2)(A) of the Clean Air Act requires SIPs to include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance.*

*Maryland’s enforceable emission limitations and other control measures under the Code of Maryland Regulation (COMAR) which have been approved as part of Maryland’s SIP under 40 CFR 52.1070(c).*

COMAR Chapter	Chapter Name	Pb	Remarks
26.11.01	General Administrative Provisions <sup>2</sup>		Administrative provisions
26.11.02	Permits, Approvals, and Registration <sup>3</sup>	.11A(1)(d), .12A(3)	Administrative provisions
26.11.04	Ambient Air Quality Standards	.09	.02 & .03 Administrative provisions
26.11.06	General Emissions Standards, Prohibitions, and Restrictions <sup>4</sup>		Administrative provisions: .01, .10, .12, .14
26.11.17	Requirements for Major New Sources and Modifications		

*Source-specific provisions are listed in 40 CFR 52.1070 (d).*

*The approved plans are listed in 40 CFR 52.1070(e).*

***Ambient air quality monitoring/data system: § 110(a)(2)(B) of the Clean Air Act requires SIPs to include provisions for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the EPA Administrator.***

- Maryland's authority to monitor ambient air quality is found under §§2-103(b)(2) and 2-301 (a)(1), Environment Article, Annotated Code of Maryland; and COMAR 26.11.04.03 (specifying methods of measuring ambient air quality levels shall be those specified in 40 C.F.R. Parts 50, 53 and 58).
- Maryland operates and maintains a network of ambient air monitors throughout the State. All ambient air monitors in the Maryland network that are used to determine compliance with the NAAQS have been designated by EPA as either Reference or Equivalent monitors. All ambient air monitors in the Maryland network are subjected to the Quality Assurance requirements of 40 CFR Part 58,

<sup>2</sup> Maryland is currently revising COMAR 26.11.01.10 and .11 and will submit these revisions as soon as adopted and effective.

<sup>3</sup> Maryland's permit fee requirements under COMAR 26.11.02 Regulations .16-.19 are not part of Maryland's SIP.

<sup>4</sup> Regulation .04 Carbon Monoxide in Areas III and IV is approved for Maryland's CO maintenance plan.

Regulation .07 Fluorides - not part of Maryland's SIP but approved as part of Maryland's 111(d) plan.

Appendix A. In addition, all samplers are located at sites that have met the minimum siting requirements of Part 58, Appendix E.

- On October 15, 2008 EPA substantially strengthened the national ambient air quality standards (NAAQS) for lead (see 73 FR 66934). EPA revised the level of the primary (health-based) standard from 1.5  $\mu\text{g}/\text{m}^3$  to 0.15  $\mu\text{g}/\text{m}^3$ , measured as total suspended particles (TSP, but PM10 will be allowed at NCore sites) and revised the secondary (welfare-based) standard to be identical in all respects to the primary standard. On December 30, 2009, EPA proposed revisions to the lead monitoring requirements pertaining to where State and local monitoring agencies would be required to conduct lead monitoring. The final rule became effective on January 26, 2011 (*see Table 1 and recent updates to MDE lead monitoring both on page 17*)
- In Maryland, no specific statutory authority is necessary to authorize data analysis or the submission of such data to EPA. Federal grant requirements establish the obligation to provide data to EPA.
- In order to keep EPA informed of changes to the sampling network, MDE provides EPA Region III with prior notification of any planned changes to the network. As needed, details of these changes and anticipated approvals of the changes are communicated to EPA. Pursuant to 40 C.F.R. Part 58, Subpart B, Section 58.10, MDE sends the EPA Regional Administrator an Annual Monitoring Network Plan for approval that details any modifications to the network. This plan also provides a description of each modification, the reason for each modification, and any other information relevant to the modifications. Section 58.10 also requires MDE (beginning July 1, 2010) to perform and submit to the EPA Regional Administrator an assessment of the Maryland ambient air monitoring network every five years to determine, at a minimum, if the network meets the monitoring objectives defined in 40 C.F.R., Part 58, Appendix D, whether new sites are needed, whether existing sites are no longer needed and can be terminated, and whether new technologies are appropriate for incorporation into the network.
- Maryland has and will continue to submit data to EPA's Air Quality System (AQS). MDE collects and reports to EPA all ambient air quality data for SO<sub>2</sub>, CO, O<sub>3</sub>, NO<sub>2</sub>, PM10, and PM<sub>2.5</sub>. The reports comply with the federal requirements of 40 CFR 58.35. As necessary, the submitted data is reviewed, edited, validated, and entered into the EPA air quality system (AQS) for updating pursuant to prescribed AQS procedures. The EPA AQS receives each report within 90 days after the end of the quarterly reporting period.
- MDE analyzes such air quality data to determine attainment status or progress.

***Program for enforcement of control measures: § 110(a)(2)(C) requires SIPs to include a program providing for the enforcement of all SIP measures and the regulation of stationary sources that construct or modify.***

- Maryland's enforcement and penalty provisions are found under §§2-601—614, Environment Article, Annotated Code of Maryland.
- Maryland's permit program requirements are under COMAR 26.11.02 and COMAR 26.11.03.
- Maryland's Prevention of Significant Deterioration requirements are under COMAR 26.11.06.14.
- Maryland's nonattainment provisions for major new sources and modifications are under COMAR 26.11.17.
- Maryland's "Prevention of Significant Deterioration (PSD) source" means any new or modified source subject to the provisions of 40 CFR '52.21, 2000 edition, including as defined in COMAR 26.11.01.01B (37) (b): Any other source which emits or has the potential to emit 250 tons per year or more of any air pollutant regulated under the Federal Clean Air Act (42 U.S.C. '7401 et seq.)
- The SIP revision for PSD was submitted by MDE on June 22, 2011 (State Implementation Plan (SIP) Revision # 11-02) concerning implementation of the requirements of the Environmental Protection Agency's final Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule, which was published in the Federal Register on June 3, 2010 (75 FR 31514). This SIP Revision includes amendments to (1) Regulation .01 under COMAR 26.11.01 General Administrative Provisions; (2) Regulations .01 and .12 under COMAR 26.11.02 Permits, Approvals, and Registration; and (3) Regulation .14 under COMAR 26.11.06 General Emission Standards, Prohibitions, and Restrictions.

***Interstate transport: § 110(a)(2)(D) requires SIPs to prohibit any source or other type of emissions activity within the state from emitting air pollutants in amounts that contribute significantly to nonattainment or that interfere with maintaining the NAAQS in another state. This section also requires that SIPs prohibit any source or other type of emissions activity within the state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.***

***D (i) SIPs must prohibit any source or other type of emissions activity from emitting any air pollutant in amounts which will:***

- (I) *contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard*
- (II) *interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility.*

- Maryland Permitting requirements are under COMAR 26.11.02 and COMAR 26.11.03.
- Maryland has no Class I Areas
- Pb does not have a significant impact on visibility according to an EPA memo that concludes: "... it appears that the Pb-related visibility effects (in Class I and other areas) are insignificant in comparison to those associated with sulfate, nitrate, and carbon PM." <sup>5</sup>

The physical properties of lead (Pb) prevent Pb emissions from experiencing the same travel or formation phenomena as PM<sub>2.5</sub> or ozone. There is a sharp decrease in Pb concentrations, at least in the coarse fraction, as the distance from a Pb source increases. While it is possible for a source in a state to emit Pb in a location and in quantities that may contribute significantly to nonattainment or interfere with maintenance in another state, EPA believes this would be a rare situation, e.g., where large sources are in close proximity to state boundaries. Once deposited out of the air, Pb can subsequently be re-suspended into the ambient air and, because of the persistence of lead, Pb emissions contribute to media concentrations for some years into the future.

***(D) (ii) Insure compliance with the applicable requirements of §§ 126<sup>6</sup> and 115<sup>7</sup> (interstate and international pollution abatement)***

<sup>5</sup> 11/7/2011 Memorandum titled *The Estimated Contribution of Ambient Lead (Pb) to Class I Area Visibility Impairment*, from Mark Schmidt, OAR/OAQPS/AQAD

<sup>6</sup> §126 (a) Each plan shall (1) require each major proposed new or modified source (A) subject to Part C or (D) which may significantly contribute to pollution in excess of the NAAQS in any AQCR outside the State in which such source intends to locate or modify, to provide written notice to all nearby States the pollution levels of which may be affected by such source 60 days prior to the date on which commencement of construction is to be permitted by the State, and (2) identify all major existing stationary sources which may have the impact described in (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources. (b) Any State may petition EPA for a finding that any major source or group of stationary sources emits or would emit any pollutant in violation of the prohibition of § 110(a)(2)(D)(ii) or this section. (c) Notwithstanding any permit which may have been granted by the State, it shall be a violation of this section and the plan - (1) for any major proposed new or modified source with respect to which a finding has been made under subsection (b) to be constructed or to operate in violation of this section and the prohibition of § 110(a)(2)(D)(ii) or this section, or (2) for any major existing source to operate more than 3 months after such finding has been made. EPA may permit the continued operation of a source beyond the expiration of the 3-month period if the source complies with the emission limitations and compliance schedules as may be provided by EPA to bring about compliance with the requirements of § 110(a)(2)(D)(ii). Nothing shall be construed to preclude any such source from being eligible for an enforcement order under § 113(d) after the expiration of such period during which EPA has permitted continuous operation.

<sup>7</sup> § 115 (a) Whenever EPA, upon receipt of reports, surveys or studies from any duly constituted international agency has reason

### **Maryland Requirement:**

- Maryland's permitting regulations under COMAR 26.11.02 and COMAR 26.11.03.
- Maryland's Nonattainment New Source Review (NNSR) requirements are under COMAR 26.11.17 and Maryland PSD requirements under COMAR 26.11.06.14.
- §2-301(a) (1) of the Environment Article, Annotated Code of Maryland provides authority to control air pollution in Maryland.
- In addition, nothing in Maryland's statutory or regulatory authority prohibits or otherwise interferes with Maryland's ability to exercise §§126 and 115 of the Clean Air Act.

***Adequate resources: § 110(a)(2)(E)** requires states to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP-related issues. This section also requires that state boards meet requirements under § 128 and that the state shall remain responsible for any portions of the SIP carried out by other organizations, such as local agencies.*

***Adequate resources (legal, personnel and funding (E) (i):** Provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan).*

In Maryland, the resources to carry out the implementation plan are provided through:

- The §§ 103 and 105 grant process;
- Title V grant funds;
- Title V permit fees (collected under the authority § 2-403 of the Environment Article, Annotated Code of Maryland and pursuant to COMAR 26.11.02.19.)

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to believe that any pollutants emitted in the US cause or contribute to pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests it to do so, EPA shall give formal notification to the Governor of the State in which such emissions originate. (b) The EPA notice shall be deemed to be a finding under § 110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable plan as is inadequate to prevent or eliminate the endangerment. Any foreign country so affected by such emission of pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable plan. (c) This section shall apply only to a foreign country which EPA determines has given the US the same rights with respect to the prevention or control of air pollution occurring in that country. (d) Recommendations issued following any abatement conference conducted prior to CAA 1977 shall remain in effect with respect to any pollutant for which no NAAQS has been established under § 109 unless EPA, after consultation with all agencies, which were party to the conference, rescinds any such recommendation.

- Maryland's Clean Air Fund (Environment Article, §2-107, Annotated Code of Maryland) composed of funds collected from application fees, permit fees, renewal fees, and civil or administrative penalties or fines. Maryland's Clean Air Fund may be used for (1) identifying, monitoring, and regulating air pollution in the State, including program development of these activities as provided in the State budget; and (2) providing grants to local governments to supplement funding for programs conducted by local governments that are consistent with the Maryland program.
- Other authorities to implement the Maryland State Implementation Plan are provided below:

Authority to monitor ambient air quality in the State: Environment Article, §§2-103(b)(2), Annotated Code of Maryland.

Authority to advise the Governor when an air pollution emergency exists: Environment Article, §2-105, Annotated Code of Maryland.

Authority to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition: Environment Article, §2-301(a)(2), Annotated Code of Maryland.

Air Quality Control Advisory Council - consultation advice regarding proposed regulations: Environment Article, §§ 2-201-206, Annotated Code of Maryland.

Authority to adopt rules and regulations for the control of air pollution in the State, including testing, monitoring, record keeping, and reporting requirements: Environment Article, §2-301(a)(1), Annotated Code of Maryland.

Authority to set emission standards and ambient air quality standards for each air quality control area in the State: Environment Article, §2-302 (b)-(d), Annotated Code of Maryland.

Authority to enforce the standards and impose penalties: Environment Article, §§2-601—614, Annotated Code of Maryland.

***(E) (ii) Boards: Requirements that the State comply with the requirements respecting State boards under § 128<sup>8</sup>.***

<sup>8</sup> § 128 (a) each plan shall contain requirements that - (1) any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders, and (2) any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be disclosed. A State may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than

- Maryland does not have any board or body, which approves air quality permits or enforcement orders.

***(E) (iii) Reliance on local units of government:*** *Necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.*

- Maryland does not rely on local or regional government, agency, or instrumentality for specific SIP implementation.
- Maryland has adequate personnel to carry out the SIP with respect to lead requirements.

***Stationary source monitoring systems:*** *§ 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emissions reports.*

The following Maryland SIP regulations (approved under 40 CFR 52.1070(c)) include stationary source emissions monitoring and periodic emissions reports:

- COMAR 26.11.01.04 Testing & Monitoring.
- COMAR 26.11.01.05 Records and Information.
- COMAR 26.11.01.05-1 Emission Statements.
- COMAR 26.11.01.07 Malfunctions & Other Temporary Increases in Emissions.
- Maryland's stationary source emissions monitoring requirements for specific source types are found throughout COMAR 26.11 as they relate to specific air pollution source categories.
- Maryland's revised opacity monitoring requirements under:  
COMAR 26.11.09.05 Visible Emissions  
COMAR 26.11.01.10 Continuous Opacity Monitoring (COM) Requirements  
COMAR 26.11.01.11 Continuous Emission Monitoring (CEM) Requirements  
These opacity requirements will be submitted to EPA for approval as part of Maryland's SIP as soon as they are effective as permanent regulations.
- Criteria pollutant emissions related data is available to the public for inspection upon request.

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the requirements of (1) and (2).

***Emergency powers: § 110(a)(2)(G) requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in the SIP. An emergency event is unlikely with Pb and if it did occur would be at a large lead source (EPA Final Lead Infrastructure SIP Guidance issued 10-17-11).***

- Air pollution emergency: Environment Article, §2-105, Annotated Code of Maryland.
- Authority to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition: Environment Article, §2-301(a) (2), Annotated Code of Maryland.
- Air Pollution Episode System COMAR 26.11.05, in the Maryland SIP under 40 CFR 52.1070(c).
- Authority regarding accidental or other releases that are not authorized by statute, regulation or permit or occur in conjunction with violations of existing regulatory requirements: Environment Article, §2-604 (Administrative corrective order authority) and § 2-609 (a) (Civil injunctive authority), Annotated Code of Maryland

***Future SIP revisions: § 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate.***

- Maryland's SIP is essentially a compilation of regulations, source-specific provisions and plans to meet the National Ambient Air Quality Standards (NAAQS). The authority to develop or revise a SIP is based on the authority to adopt new regulations and revise existing regulations to meet the NAAQS (§2-301(a)(1) Environment Article, Annotated Code of Maryland).
- Nothing in Maryland's statutory or regulatory authority prohibits the State from revising the SIP when the NAAQS are revised by EPA.

***Nonattainment area requirements: § 110(a)(2)(I) requires states to have the authority to meet the nonattainment planning requirements for areas not meeting the federal standards.***

Legal authority for such requirements are discussed above in the paragraphs concerning § 110(a)(2)(A) and § 110(a)(2)(H).

- §§2-301(a)(1) and 2-302(d) of the Environment Article, Annotated Code of Maryland, provide the authority to meet the nonattainment planning requirements for areas not meeting the federal standards.
- COMAR 26.11.17 contains Maryland's nonattainment provisions for major new sources and modifications.

Future plans for lead will continue to comply with all nonattainment planning requirements. Approved plans are noted in 40 CFR 52.1070(c), 40 CFR 52.1070(d), and 40 CFR 52.1070(e).

*Consultation with government officials: § 110(a)(2)(J) requires states to provide a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements pursuant to § 121<sup>9</sup> consultation requirements*

The Metropolitan Washington Air Quality Committee (MWAQC) was certified in 1991 by chief executives of Maryland, Virginia and the District of Columbia as the entity responsible for carrying out the regional planning requirements of the Clean Air Act Amendments of 1990 (membership includes local elected officials).

Interstate Air Quality Council (IAQC) Memorandum of Understanding signed 3/24/05 by the Governors of Maryland, Virginia and the District of Columbia.

COMAR 26.11.26 provides a legal platform for the various consultation procedures that have been developed between the Maryland Department of the Environment (MDE), Maryland Department of Transportation (MDOT), and Metropolitan Planning Organizations (MPOs). The MPOs provide the forum for consultation with local governments. Maryland's MPOs are: (1) the Baltimore Regional Transportation Board (BRTB), (2) the National Capital Transportation Planning Board (TPB) for the Washington region, (3) the Wilmington Area Planning Council (WILMAPCO) for New Castle County, Delaware and Cecil County, Maryland, and (4) the Hagerstown/Eastern Panhandle (HEP) for the Hagerstown area, which includes Washington County, Maryland and the counties of Berkeley and Jefferson in West Virginia.

- The Air Quality Control Advisory Council consultation process (§§ 2-201-206 Environment Article, Annotated Code of Maryland).

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<sup>9</sup> § 121. In carrying out requirements for plans to contain - (1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of pollution, or (2) any measure referred to - (A) in part D, or (B) in part C, and in carrying out the requirements of § 113(d), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any FLM having authority over Federal land to which the State plan applies. Such process shall be in accordance with regulations promulgated by EPA. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of EPA approving any portion of a plan may petition for judicial review.

- COMAR 26.11.17 Nonattainment New Source Review Requirements; PSD permit requirements under COMAR 26.11.06.14.

***Public notification of NAAQS Exceedances:*** § 110(a)(2)(J) further requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. (§ 127<sup>10</sup> public notification)

***PSD and visibility protection:*** § 110(a)(2)(J) also requires states to meet applicable requirements of Part C related to prevention of significant deterioration and visibility protection.

Maryland incorporated by reference EPA's prevention of significant deterioration (PSD) requirements (40 CFR §52.21) under COMAR 26.11.06.14.

***Air quality modeling/data:*** § 110(a)(2)(K) requires that SIPs provide for performing air quality modeling for predicting effects on air quality of emission from any NAAQS pollutant and submission of such data to EPA upon requests.

#### Air Quality Modeling:

- Authority under §2-302 of the Environment Article, Annotated Code of Maryland.
- Inherent in the obligation to meet the NAAQS is the authority for the Department to perform modeling as required under the CAA to demonstrate attainment.

#### Air Quality Data:

- Maryland continued to submit Air quality modeling data as part of Maryland's relevant SIP submissions in accordance with the Clean Air Act and through federal grant commitments.

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<sup>10</sup> § 127. (a) Each plan shall contain measures to regularly notify the public of when any NAAQS is exceeded or was exceeded during the preceding year, to advise the public of health hazards associated with such pollution, and to enhance awareness of measures which can be taken to prevent the standards from being exceeded and ways in which the public can participate in regulatory and other efforts to improve air quality.

***Permitting fees: § 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.***

Maryland's permitting fee schedules and permit requirements are included under the following regulations:

COMAR 26.11.01.08 Determination of Ground Level Concentrations  
COMAR 26.11.02.09 Sources Subject to Permits to Construct and Approvals\*  
COMAR 26.11.02.12 Permits to Construct for PSD and NSR Sources  
COMAR 26.11.02.13 Sources Subject to State Permits to Operate  
COMAR 26.11.02.16 Permit Fees  
COMAR 26.11.02.17 Fee Schedule for New or Modified Emissions Units  
COMAR 26.11.02.19 Fee Schedule: Title V Permit or a State Permit to Operate

\* includes the following: Stationary source of lead that discharges 1 ton per year or more of lead or lead compounds measured as elemental lead—permit to construct required

## Additional Information on Lead (Pb) Monitoring

(Information below from the *AMBIENT AIR MONITORING NETWORK PLAN FOR CALENDAR YEAR 2012*, prepared by the Ambient Air Monitoring Program, Air and Radiation Administration Management, Maryland Department of the Environment, May 23, 2011)

**Table 1 Monitoring Required due to Revisions to Pb ambient air monitoring regulations**

Requirement	Appendix to Part 58	Required	Comments
One source-oriented SLAMS site located to measure the maximum Pb concentration resulting from each non-airport Pb source which emits 0.50 or more tons per year	4.5(a)	0	The Program modeled the .57tpy GenOn Energy in Charles County and found it below the threshold and will be submitting a waiver for it in early December 2011
One source-oriented SLAMS site located to measure the maximum Pb concentration resulting from airport which emits 1.0 or more tons per year	4.5(a)	0	The Program, in conjunction with EPA Region III, found no Pb sources satisfying this requirement in the 2007 emissions inventory
Non-source oriented Pb monitoring at each required NCore site in a CBSA having a population of 500,000 or more.	4.5(b)	1	

### Lead Sources

Lead (Pb) is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been motor vehicles (such as cars and trucks) and industrial sources. As a result of EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector dramatically declined by 95 percent between 1980 and 1999, and levels of lead in the air decreased by 94 percent between 1980 and 1999. Today, the highest levels of lead in air are usually found near lead smelters. Other stationary sources are waste incinerators, utilities, lead-acid battery manufacturers and general aviation airports. Soil can pick up lead from exterior paint, or other sources such as past use of leaded gas in cars.