

entity or jurisdiction. A small government jurisdiction is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." This certification is based on the fact that the I/M areas impacted by the rule do not meet the definition of a small government jurisdiction, that is, "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Motor vehicle pollution, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: December 23, 1994.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble part 51 of title 40 of the Code of Federal Regulations is amended to read as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 is revised as follows:

Authority: 42 U.S.C. 7401(a)(2), 7475(e), 7502(a) and (b), 7503, 9601(a)(1) and 7602.

2. Section 51.372 is amended by adding new paragraphs (c), (d) and (e) to read as follows:

§ 51.372 State Implementation plan submissions.

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

(1) Legal authority to implement a basic I/M program (or enhanced if the state chooses to opt up) as required by this subpart. The legislative authority for an I/M program shall allow the adoption of implementing regulations without requiring further legislation.

(2) A request to place the I/M plan (if no I/M program is currently in place or if an I/M program has been terminated,) or the I/M upgrade (if the existing I/M program is to continue without being

upgraded) into the contingency measures portion of the maintenance plan upon redesignation.

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt regulations to implement the required I/M program in response to a specified triggering event. Such contingency measures must be implemented on the trigger date, which is a date determined by the State to be no later than the date EPA notifies the state that it is in violation of the ozone or carbon monoxide standard.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones, including the items in paragraphs (a)(1)(iii) through (a)(1)(vii) of this section. In addition, the schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart, excluding schedule requirements. Schedule milestones shall be listed in months from the trigger date, and shall comply with the requirements of paragraph (e) of this section. SIP submission shall occur no more than 12 months after the trigger date as specified by the State.

(d) Basic areas continuing operation of I/M programs as part of their maintenance plan without implemented upgrades shall be assumed to be 80% as effective as an implemented, upgraded version of the same I/M program design, unless a state can demonstrate using operating information that the I/M program is more effective than the 80% level.

(e) *SIP submittals to correct violations.* SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in § 51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the trigger date. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect within 24 months of the trigger date. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

[FR Doc. 95-254 Filed 1-4-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 52

[PA32-1-5966; FRL-5126-1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania Small Business Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP revision was submitted by the State to satisfy the Federal mandate of the Clean Air Act ("the CAA" or "the Act") which lists specific program criteria to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The intended effect of this action is to approve this SIP revision. This action is being taken under section 110 of the CAA.

DATES: This action will become effective March 6, 1995, unless adverse comments received on or before February 6, 1995, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Makeba Morris, (215) 597-2923.

SUPPLEMENTARY INFORMATION:

Background

Implementation of the provisions of the CAA, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics.

Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, section 507 of the CAA requires that states adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the federally approved SIP. In addition, section 507 of the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of Title V of the CAA. In February 1992, EPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the federal and state roles in meeting the new statutory provisions, and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

On February 1, 1993, the Commonwealth of Pennsylvania submitted a SIP revision to EPA in order to satisfy the requirements of Section 507. In order to gain full approval, the state submittal must provide for each of the following elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small business stationary sources in connection with the implementation of the CAA; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP and the state Small Business Ombudsman. The plan must also determine the eligibility of small business stationary sources for assistance in the program. The plan must include the duties, funding and schedule for implementation for the three program components.

Analysis

1. Small Business Assistance Program

Sections 7.7 through 7.9 of the 1992 Pennsylvania Air Pollution Control Act, authorize the establishment of a Small Business Assistance Program which meets the requirements of section 507 of the CAA. In developing the PROGRAM submittal, the Commonwealth has delegated the majority of its functions to the Department of Environmental Resources (DER).

Section 507(a) of the CAA sets forth seven requirements that states must meet to have an approvable SBAP. Six requirements will be discussed in this section of this document, while the seventh requirement, establishment of a state Small Business Ombudsman, will be discussed in the next section.

The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the CAA. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

Pennsylvania has met the first requirement through the use of an independent contractor, who will conduct the reactive technical assistance and proactive outreach portion of the program. The DER will train the contractor in state and federal permitting and enforcement policies. The contractor will then have the responsibility of serving as a clearinghouse for information related to compliance methods and control technologies, pollution prevention and accidental release prevention and detection. In the reactive portion of the program, the contractor will maintain a toll free telephone line for small businesses and be responsible for responding to questions raised by small businesses. All answers will be verified with the DER prior to issuance. In addition, the contractor will maintain a database of all questions and answers.

The DER will also monitor permit applications and compliance reports, contact trade associations and the EPA for information regarding the appropriate compliance techniques for small businesses and maintain a database of this information, which will be used to advise small businesses of compliance alternatives.

The contractor, in conjunction with the DER and the small business ombudsman will implement the proactive outreach portion of the program through the development of outreach documents (pamphlets and brochures, etc.), and seminars for small businesses and trade associations. In addition, the DER will maintain a computer bulletin board system which

will allow sources to download up to date information regarding regulations and other policy documents.

The second requirement will be met through the outreach and audit programs. Pamphlets will contain information regarding accidental release prevention and pollution prevention. In addition, pollution prevention and accidental release information will be provided during onsite audits, which may be requested by the small businesses.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the CAA in a timely and efficient manner. Pennsylvania has met this requirement by providing contractor assistance in the application process. The contractor will assist the small business in determining if a permit is required and provide the source with all applicable permit application forms as well as the proper interpretation of the application forms. In addition, the proactive outreach and reactive technical assistance portion of the program, discussed above, will be used to assure small business will be informed of the applicable requirements in a timely manner.

The fourth requirement is to develop adequate mechanisms to assure that small businesses stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the CAA. The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA. Pennsylvania has met these requirements by planning to maintain a toll free telephone line to allow easy access to information regarding federal and/or state requirements. In addition the State will inform affected small businesses, in a timely manner by the proactive mechanisms described above. The State will provide material, through the outreach portion of the program on environmental auditors to assist small businesses in meeting the requirements of CAA. The environmental audit will determine applicable requirements, compliance status, control options and pollution prevention alternatives.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practices or compliance methods. Pennsylvania has met this requirement by establishing a mechanism to receive, review and process requests for work practice, compliance method or milestone modifications. The mechanism provides that the small business must submit the request in writing to the DER, which will review said request in 30 days and make a decision no later than 6 months from the date of submittal. Requests will be reviewed to ensure that no violation of state or federal requirement occur.

2. Ombudsman

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. The Pennsylvania Air Pollution Control Act, Section 7.9 designates the Department of Commerce to house the Office of Small Business Ombudsman. The Ombudsman will be readily accessible to small businesses and, on their behalf, be authorized to provide reports to and communicate with state air pollution control authorities. In addition, the Ombudsman will review and handle complaints from small businesses regarding improper treatment by the DER, and recommend procedural changes that may improve relations with small businesses. The Ombudsman may sponsor meetings and conferences and work directly with trade associations. Finally, on an annual basis the Ombudsman must report to the Governor and State Legislature on the effectiveness of the PROGRAM, and also prepare reports evaluating proposed regulations for their economic impact on small businesses.

Ombudsman's office will be staffed by two individuals, an Ombudsman and a secretary.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires the state to establish a Compliance Advisory Panel (the CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the state legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The Pennsylvania Compliance Advisory Committee was

established by the State Air Pollution Control Act, Section 7.8. The Committee will include eleven members, seven of which will be chosen consistent with the requirements of section 507(e) of the CAA. The four additional members consist of the Secretary of Commerce, the Small Business Ombudsman and two additional members selected by the Governor.

In addition to establishing the minimum membership of the CAP, the CAA delineates four responsibilities of the Panel: (A) to render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (B) to review and assure that information for small business stationary sources is easily understandable; (C) to develop and disseminate the reports and advisory opinions made through the SBAP; and (D) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act. (Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three statutes. However, since state agencies are not required to comply with them, EPA believes that the state PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal Statutes.) Pennsylvania has met these requirements by delegating the above mentioned duties to the Compliance Advisory Committee, specifically the SIP submittal states: the Committee will report on the program's compliance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act and the Equal Access to Justice Act and report on the program and recommend changes that are needed as well as new material that may be necessary to improve the effectiveness of the program.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

- (A) is owned or operated by a person who employs 100 or fewer individuals;
- (B) is a small business concern as defined in the Small Business Act;
- (C) is not a major stationary source;
- (D) does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
- (E) emits less than 75 tpy of all regulated pollutants.

Under Section 507(c)(2) major sources may petition for admittance to the PROGRAM. The Pennsylvania SIP

revision provides a mechanism for source inclusion upon approval by EPA. Except for source categories which the EPA Administrator or the Commonwealth of Pennsylvania determines (in accordance with sections 507(c)(3) (A) and (B)), to have sufficient financial and technical capabilities to meet the requirements of the Act without PROGRAM assistance, all small business stationary sources located in Pennsylvania will be eligible to receive assistance under the PROGRAM. Pennsylvania's PROGRAM criteria for defining a "small business stationary source" is substantially equivalent to the criteria listed in Section 507(c)(1) of the CAA. The Commonwealth has provided for the extension of eligibility for assistance under the PROGRAM beyond the requirements of Sections 507(c)(1)(C-E) with notice and opportunity for public comment as provided in Section 7.5 of the Pennsylvania Air Pollution Control Act.

Summary of SIP Revision

The Commonwealth of Pennsylvania has submitted a SIP revision implementing each of the PROGRAM elements required by section 507 of the CAA. The Small Business Assistance Program (SBAP) will be administered by the Department of Environmental Resources. Program implementation will begin no later than November 1994. By this action, EPA is hereby approving the SIP revision submitted by the Commonwealth of Pennsylvania. Accordingly, § 52.2060 is added to 40 CFR part 52, subpart NN in order to reflect EPA's approval action and the fact that it is considered part of the Pennsylvania SIP.

Final Action

EPA is approving the Commonwealth of Pennsylvania SIP revision submittal for the establishment of the Small Business Assistance Program submitted February 1, 1993. Accordingly, § 52.2060 is added to 40 CFR part 52, subpart NN—Pennsylvania to reflect EPA's approval action. EPA has reviewed this request for revision of the federally-approved state implementation plan for conformance with the CAA including section 507 and section 110(a)(2)(E).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By this action, EPA is approving a state program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because EPA's approval of this program does not impose any new regulatory requirements on small businesses, the Administrator certifies that it does not have an economic impact on any small entities affected.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the Pennsylvania Small Business Stationary Source Technical and Environmental Compliance Assistance Program must be filed in the United States Court of Appeals for the appropriate circuit by March 6, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Small business assistance program.

Dated: August 11, 1994.

W.T. Wisniewski,
Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart NN—Pennsylvania

2. Section 52.2060 is added to read as follows:

§ 52.2060 Small Business Assistance Program.

On February 1, 1993, the Secretary of the Pennsylvania Department of Environmental Resources submitted a plan for the establishment and implementation of the Small Business Assistance Program as a state implementation plan (SIP) revision, as required by Title V of the Clean Air Act Amendments. EPA approved the Small Business Assistance Program on March 6, 1995, and made it part of the Pennsylvania SIP. As with all components of the SIP, Pennsylvania must implement the program as submitted and approved by EPA.

[FR Doc. 95-259 Filed 1-4-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5134-2]

Clean Air Act Final Interim Approval of the Operating Permits Program; Washoe County District Health Department, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the operating permits program submitted by the Washoe County District Health Department (Washoe or District) for the purpose of complying with Federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: March 6, 1995.

ADDRESSES: Copies of the District's submittal and other supporting information used in developing the final interim approval are available for inspection (docket number NV-WSH-94-1-OPS) during normal business hours at the following location: U.S. Environmental Protection Agency,

Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (telephone 415/744-1249), Mail Code A-5-2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the Clean Air Act (Act), and implementing regulations at 40 CFR part 70 require that states develop and submit operating permit programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On August 24, 1994, EPA proposed interim approval of the operating permits program for Washoe County, Nevada. See 59 FR 43523. The August 24, 1994 *Federal Register* document also proposed approval of Washoe's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. Public comment was solicited on these proposed actions. EPA received one comment on the section 112(g) proposal and is responding to that comment in this document and in a separate "Response to Comments" document that is available in the docket. The proposed actions have not been altered as a result of public comment or for any other reason. Hence, this final rule is granting interim approval to Washoe's operating permits program and approving the 112(g) and 112(l) mechanisms noted above.

II. Final Action and Implications

A. Analysis of State Submission

Washoe's title V operating permits program was submitted by the Nevada Division of Environmental Protection, on behalf of Washoe, on November 18, 1993 and found to be complete on January 13, 1994. The regulations that comprise the program were adopted by the Washoe County District Board of