

Dated: December 19, 1994.

William L. Hensley,

Chair, Federal Subsistence Board.

Dated: December 29, 1994.

Phil Janik,

Regional Forester, USDA-Forest Service.

[FR Doc. 95-4359 Filed 2-23-95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC-27-1-6735a; FRL-5145-8]

Approval and Promulgation of Implementation Plans South Carolina: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), which will be fully implemented by November 15, 1994. This implementation plan was submitted by the State on January 20, 1993, to satisfy the Federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective April 25, 1995 unless notice is received March 27, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of South Carolina may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency,

401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

State of South Carolina Department of Health and Environmental Control, Environmental Quality Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555 x4195.

SUPPLEMENTARY INFORMATION: Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the National ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a PROGRAM, and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program 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 and the EPA guidance document *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*. In order to gain full approval, the state submittal must provide for each of the following PROGRAM 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 businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507(a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of South Carolina has addressed these requirements and established a PROGRAM as described below.

1. Small Business Assistance Program (SBAP)

South Carolina has established a mechanism to implement the following six requirements set forth in section 507 of title V of the CAA:

A. The establishment of 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 comply with the CAA;

B. The establishment of 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;

C. The development of a compliance and technical assistance program for small business stationary sources which assist small businesses in determining applicable permit requirements under the CAA in a timely and efficient manner;

D. The development of adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA 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;

E. The development of 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; and

F. The development of 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 practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The State of South Carolina acknowledges the heart of the PROGRAM is the Small Business Assistance Program (SBAP), which resides within the Department of Health and Environmental Control. The SBAP

will provide an information clearinghouse and refer small businesses to State technical experts within the Department who are trained to handle specific questions relevant to achieving compliance with the CAA. In addition, the SBAP will provide for the collection and dissemination of information to small businesses on determining applicable requirements under the CAA, permit issuance, small businesses' rights and obligations, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, audit programs and procedures, and other matters deemed useful or necessary by the Department. The specific mechanisms for collection and dissemination of information will be developed by the Ombudsman. The SBAP also will consider requests from small business stationary sources for modifications of work practices, technological methods of compliance, or compliance procedures and provide guidance as necessary. The SBAP will utilize, on an as needed basis, the services of other in-state entities with expertise in various aspects related to the PROGRAM.

The dissemination of information to small businesses in South Carolina through the SBAP involves both a proactive and a reactive component. The Ombudsman will actively advertise the SBAP to ensure the regulated communities are aware of their obligations under the CAA. The reactive component takes place after the regulated community recognizes that there is or could be some obligation on their part to comply with the CAA. The Department is committed to supporting the proactive component of the program through newspapers, radio, and TV announcements and advertisements. Public service announcements will be used to the maximum extent possible. Informational packets will be distributed. Other avenues for disseminating information will be utilized through the Secretary of State's office, the South Carolina State Development Board, the Environmental Quality Control Advisory Board, the Federal Small Business Assistance Office, the Chambers of Commerce's Technical Committee, the General Assembly's Joint Liaison on Small Business, other appropriate State offices, public hearings, and by the identification of potentially affected sources by the Department. Reactive components of the SBAP include the installation of a toll-free hot line to facilitate contacting the Department and the designation of the point-of-contact

on the Department's staff to handle inquiries. The Ombudsman will be the primary point-of-contact who will either handle the question or direct the inquirer to the appropriate source within the Department for assistance. Other sources of information include the following: public hearings on rule changes, control technology guidelines, EPA's Control Technology Center, the Emissions Measurement Technical Information Center, the Emergency Planning and Community Right to Know Hotline, EPA Regional Offices, other state's air programs and industry and trade groups.

The SBAP will assist small businesses in determining applicable requirements and will provide information on permit issuance, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, and audit programs. The SBAP will inform small businesses about their rights under the CAA; assist in the preparation of guidance documents and ensure that technical and compliance information is available to the small business community and the general public; answer regulatory questions raised by small businesses and provide them with clean air compliance information; obtain information and counsel from other appropriate state agencies; and participate and sponsor meetings and conferences on air quality requirements, pollution prevention, and other regulatory issues.

The Department will maintain lists of environmental consulting companies that perform auditing services and will make the lists available upon request. For those sources unable to afford consultants, the Department will conduct a consultation audit to assess the need for control measures and/or a permit to operate.

A small business may petition the Department to modify work practices, compliance methods or implementation schedules in accordance with established procedures as described in the SIP.

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. South Carolina has appointed a Small Business Ombudsman and established the Office of the Ombudsman within the Department of Environmental Quality Control. Through that office, the Ombudsman will have direct access to the Governor, the Commissioner, the Chief of the Air Pollution Program, and other state and Federal agencies. The

Ombudsman will have the necessary autonomy to function independently of the air program.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires the State to establish a CAP that must include two members selected by the Governor who are not owners or representatives of owners of small businesses. Four members will be selected by the state legislature who are owners, or represent owners, of small businesses. The majority and minority leadership in both the house and the senate shall each appoint one member of the panel. One member will be selected by the head of the agency in charge of the Air Pollution Permit Program. South Carolina established a CAP with a membership consistent with the aforementioned CAA requirements. The SBAP will serve as the secretariat to the CAP in the development and dissemination of reports, advisory opinions, and other information.

The duties of the CAP include: providing advisory opinions to the EPA and the Department regarding the effectiveness of the state PROGRAM and the difficulties encountered by small businesses in meeting the mandates of the CAA; reviewing information for small business stationary air pollution sources to assure such information is understandable to the lay person; and to make periodic reports to the Administrator of the Environmental Protection Agency in accordance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act.

4. Source Eligibility

South Carolina has incorporated section 507(c)(1) and defined a Small Business Stationary Source as a source that:

- (1) Is owned or operated by a person who employs 100 or fewer individuals;
- (2) Is a small business concern as defined in the Small Business Act;
- (3) Is not a major stationary source; and
- (4) Does not emit 50 tons per year (tpy) of any regulated pollutant and emits less than 75 tpy of all regulated pollutants.

South Carolina has established the following mechanisms as required by section 507: (1) A process for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA; (2) a process for public notice and comment on grants of

eligibility to sources that do not meet the provisions of sections 507(c)(1)(C), (D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) a process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Department determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

Final Action

In this action, EPA is approving the PROGRAM SIP revision submitted by the State of South Carolina through the Department of Health and Environmental Control. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective April 25, 1995. However, if notice is received by March 27, 1995 someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent documents will be published before the effective date. One document will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607 (b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

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

factors and in relation to relevant statutory and regulatory requirements.

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

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action.

The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. Environmental Protection Agency*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: January 12, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, 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. 7401-7671q.

Subpart PP—South Carolina

2. Section 52.2120 is amended by adding paragraph (c)(38) to read as follows:

§ 52.2120 Identification of plan.

* * * * *
(c) * * *

(38) The South Carolina Department of Health and Environmental Control has submitted revisions to the South Carolina Air Quality Implementation Plan on November 12, 1993. These revisions address the requirements of section 507 of title V of the Clean Air Act and establish the Small Business Stationary Source Technical and Environmental Program.

(i) Incorporation by reference.

(A) The submittal of the state of South Carolina's Small Business Assistance Program which was adopted on September 9, 1993.

(ii) Additional material. None.

[FR Doc. 95-4629 Filed 2-23-95; 8:45 am]

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40 CFR Parts 52 and 81

[FL56-1-6883a; FRL-5148-8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On November 8, 1993, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a maintenance plan and a request to redesignate the Southeast Florida area from moderate nonattainment to attainment for ozone (O₃). The Southeast Florida O₃ nonattainment area consists of Dade, Broward and Palm Beach Counties. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data are available to warrant such revisions and the CAA redesignation requirements are satisfied. In this action, EPA is approving Florida's request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is also approving the 1990 base year emission inventory for the Southeast Florida area. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for the Southeast Florida area.

DATES: This final rule is effective April 25, 1995, unless adverse or critical comments are received by March 27, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Joey LeVasseur, Regulatory Planning and Development Section, Air Programs Branch, Air,