

(USEPA) proposes to approve Indiana's March 23, 1994, submittal of requested revisions to the Indiana State Implementation (SIP) for lead. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

**DATES:** Comments on this proposed rule must be received on or before June 2, 1995.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Rosanne Lindsay, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6036.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 3, 1995.

**David A. Ullrich,**

*Acting Regional Administrator.*

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#### 40 CFR Part 52

[NV9-1-6574; FRL-5201-8]

#### Clean Air Act Partial Approval and Partial Disapproval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Nevada

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The EPA today proposes to partially approve and partially disapprove the State Implementation Plan (SIP) revision submitted by the State of Nevada for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The implementation plan was submitted by the State to satisfy the Federal mandate, found in Section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the partial approval and partial disapproval is set forth in this document; additional information is available at the address indicated below.

**DATES:** Comments on this proposed action must be received in writing by June 2, 1995. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

**ADDRESSES:** Comments can be mailed to the U.S. Environmental Protection Agency, Division Director, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105, Attention: R. Michael Stenburg.

Copies of the State's submittal and EPA's technical support document are available for inspection during normal business hours at the following locations: (1) U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; (2) Nevada Division of Environmental Protection, Bureau of Air Quality, 123 West Nye Lane, Room 123, Carson City, NV 89710.

**FOR FURTHER INFORMATION CONTACT:** R. Michael Stenburg, A-1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1102.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Implementation of the provisions of Title V of the Clean Air Act (CAA), as amended in 1990, 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, 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, the CAA directs the Environmental Protection Agency (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.

The State of Nevada has 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 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.

#### II. Analysis

##### 1. Small Business Assistance Program

Section 507(a) sets forth six requirements<sup>1</sup> that the State must meet to have an approvable SBAP. 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 Act. The

<sup>1</sup> A seventh requirement of Section 507(a), establishment of an Ombudsman office, is discussed in the next section.

State has met this requirement by describing a satisfactory program that, when operational, would utilize a variety of outreach techniques to disseminate information to small business stationary sources. These efforts include distributing fact sheets, working with industry trade groups, conducting seminars, developing newsletters for industry-specific mailing lists, disseminating news media articles and developing videotapes. In addition, the State will provide statewide toll-free access to the Small Business Assistance Program, develop a library of reference materials, organize an information clearinghouse and utilize electronic bulletin boards to receive and communicate regulatory information.

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. The State has met this requirement by describing a satisfactory program that, when operational, would provide sources with technical information and assistance on air pollution prevention, including technical assistance on process changes and methods of operation that help reduce air pollution. Resources utilized will include the Pollution Prevention Information Clearinghouse which provides information on pollution prevention programs, an electronic database and a toll-free hotline. In addition, the State will help sources develop plans for accidental release prevention and detection. This effort will be coordinated with the appropriate local, state and federal programs. Resources utilized will include a Chemical Safety Audit Program to provide mechanisms for examining process management systems and preventing accidental releases of hazardous air pollutants.

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 Act in a timely and efficient manner. The State has met this requirement by describing a satisfactory program that, when operational, would provide clear and timely compliance advice and assistance to small businesses, including permit assistance, and technical assistance on compliance options such as alternative technologies and material substitution. The state will

provide this assistance using informational materials available on request, statewide toll free access to SBAP, staff presentations at workshops for key target groups and coordination through the appropriate trade associations and industry groups.

The fourth requirement is to develop adequate mechanisms to assure that small business 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 Act. The State has met this requirement by describing a satisfactory program that, when operational, will notify sources of their rights and responsibilities under the Clean Air Act and Nevada Statutes and Regulations through preparation and distribution of information materials, as well as in providing direct technical assistance.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, 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 Act. The State has met this requirement by describing a satisfactory program that, when operational, would inform small business sources of their obligations under the Act through preparation and distribution of information materials, as well as providing direct technical assistance. Compliance assessments will be provided by the State free of charge to sources and will not involve regulatory or enforcement actions unless a clear and immediate danger is identified. The State will also provide sources with a list of qualified auditors.

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 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 has met this requirement by specifying administrative procedures for small businesses to request modifications of work practices, compliance methods and the implementation for work practices or compliance methods,

The State has provided supplementary written information

describing an implementation schedule of milestones showing when the programs will be operational, what the program resources will be and where the programs will be located organizationally.

## 2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by providing supplementary written information describing a milestone schedule showing when the Ombudsman will be operational. This position will be located within the Nevada State Environmental Commission office. The Ombudsman will serve as an advocate for small business stationary sources in the investigation and resolution of complaints and disputes against the State or local air pollution control agencies. The Ombudsman will also aid in the dissemination of information to small businesses and other interested parties and will encourage small businesses to participate in the development of regulations that affect them.

## 3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (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 State has not met this requirement because it has not indicated an implementation schedule of milestones showing when the officials will be appointed and when the program will be operational. The composition of the seven member panel will be in accordance with the Clean Air Act requirements.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) 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;<sup>2</sup> (3) to

<sup>2</sup> Section 507(e)(1)(B) requires the CAP to report on the *compliance* of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the

review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has partially met these requirements by specifying that, when operational, the panel will evaluate the effectiveness of the SBAP, issue advisory opinions, prepare periodic reports to EPA regarding the program's compliance with the Paperwork Reduction Act, the Regulatory Flexibility Act and the Equal Access to Justice Act. The State has not indicated that the CAP will review and assure that information for small business stationary sources is easily understandable.

#### 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.

The State of Nevada has not established a definition of a small business and therefore has not established procedures for including or excluding sources from that definition. Although the program has been developed to assist small businesses, the State has determined that assistance will be provided to any business seeking assistance.

### III. Today's Action

In today's action, EPA is proposing to partially approve and to partially disapprove the SIP revision submitted by the State of Nevada. The submittal does not adequately meet all of the requirements for the Compliance Advisory Panel. EPA is proposing to partially approve this submittal for satisfying all of the requirements for the Small Business Assistance Program, the Ombudsman and most of the requirements for the Compliance Advisory Panel. EPA is also proposing to partially disapprove this submittal for not satisfying the Compliance Advisory Panel requirements for indicating an implementation schedule of milestones showing when the officials will be appointed and when the program will be operational and for not indicating

CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

that the Compliance Advisory Panel will review and assure that information for small business stationary sources is easily understandable. If the State submits the necessary information to correct these deficiencies before EPA goes final, then EPA will fully approve the submittal.

The OMB has exempted this action from review under Executive Order 12866.

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 today's action, EPA is partially approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being partially approved today 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 the EPA's partial 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.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations.

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

Dated: April 24, 1995.

**John Wise,**

*Acting Regional Administrator.*

[FR Doc. 95-10880 Filed 5-2-95; 8:45 am]

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#### 40 CFR Part 52

[WA25-1-6520b; FRL-5190-2]

#### Approval and Promulgation of State Implementation Plans: Washington

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of

Washington for the purpose of approving the Southwest Air Pollution Control Authority's (SWAPCA) 400 General Regulations for Air Pollution Sources. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

**DATES:** Comments on this proposed rule must be received in writing by June 2, 1995.

**ADDRESSES:** Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT-082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98504.

#### FOR FURTHER INFORMATION CONTACT:

Kelly McFadden, Environmental Engineer, Air Programs Branch (AT-082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553-1059.

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: March 30, 1995.

**Chuck Clarke,**

*Regional Administrator.*

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