

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 Act, 42 U.S.C. 7607 (b)(2).)

The Office of Management and Budget 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, 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 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. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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, Small business stationary source technical and environmental assistance program.

Dated: April 17, 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 II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(79) to read as follows:

#### § 52.1770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(79) The North Carolina Department of Environment, Health and Natural Resources has submitted revisions to the North Carolina SIP on July 19, 1993. These revisions address the requirements of section 507 of title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) North Carolina's Small Business Stationary Source Technical and Environmental Compliance Assistance Program which was adopted on May 12, 1994.

(ii) Other material. None.

[FR Doc. 95-10981 Filed 5-5-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

[TN-107-1-6200a; FRL-5198-3]

#### Approval and Promulgation of Implementation Plans, Tennessee: 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 Tennessee through the Tennessee Department of

Environment and Conservation 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 February 23, 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 action will be effective July 7, 1995, unless notice is received by June 7, 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 Tennessee 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.

Division of Air Pollution Control, Tennessee Department of Environment and Conservation, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243-1531.

**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 extension 4195.

**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 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 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 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 Tennessee has addressed these requirements and established a PROGRAM as described below.

### **1. Small Business Assistance Program (SBAP)**

Tennessee 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 Tennessee Department of Environment and Conservation has established the Division of Clean Air Assistance within the Bureau of Resources Management with the responsibility of establishing a clearinghouse of relevant technical and regulatory literature to disseminate to the small business community. A mailing list of both trade groups and interested parties will be maintained as a basis for information distribution. Seminars, workshops, public service announcements, an on-line electronic bulletin board, and other appropriate educational mechanisms will be utilized by the Division. The Division will provide assistance regarding compliance methods, control technologies, pollution prevention and accidental release information and detection. The Division will disseminate information on compliance which is easily understandable to a nontechnical audience as well as handle inquiries on specific methods for achieving compliance with state and federal regulations. The Division staff will develop information packages addressing all topics germane to the SBAP, including: compliance, pollution prevention, legal rights under the CAA, permitting assistance, notification of rights, audits and source modification. A toll free number has been installed and has been functioning for several months. Through a variety of outreach techniques, the SBAP staff will inform small business stationary sources of their obligations under the CAA. The

SBAP staff has compiled and maintains a current source list of persons and organizations capable of providing technical expertise and support to answer specific inquiries and compliance assistance in determining applicable requirements of state and federal rules and regulations, determining the necessity of a permit and identifying alternatives for achieving compliance with state and local regulations.

The staff or representatives of the Division will either conduct audits of small business stationary air pollution sources or contract such audits to qualified auditors to facilitate the assessment of options and requirements to ensure compliance with regulations and the CAA. The Division will also develop procedures for consideration of requests from a source with regards to modification of work practices, compliance methods or implementation schedules.

The Department is committed to cross media coordination and through the Bureau of Resources Management, has procedures in place to provide assistance to small businesses on issues related to solid waste, hazardous waste, groundwater, water pollution, etc., as well as air pollution. This activity extends to the Department's contract with the University of Tennessee where technical assistance on waste reduction and pollution prevention is available to private industry across media lines.

### **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. Tennessee has appointed a Small Business Ombudsman and established the office of Tennessee Small Business Ombudsman to represent the interests of small businesses as they come under the regulation of the CAA. The Ombudsman's position was established in the Department of Environment and Conservation to report directly to the Assistant Commissioner. Organizationally, the position is independent of the Division of Air Pollution Control and all other regulatory programs.

### **3. Compliance Advisory Panel**

Section 507(e) of the CAA 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. Tennessee established a seven member CAP with a membership consistent with the aforementioned CAA requirements. The makeup of the CAP is prescribed as required by the CAA and administrative support will be provided by the Department to fulfill all the responsibilities under the CAA.

The duties of the CAP include: providing overall direction and oversight to the Tennessee Division of Clean Air Assistance and the Ombudsman in their specific responsibilities and duties; rendering advisory opinions regarding the effectiveness of the Tennessee Division of Clean Air Assistance, the difficulties encountered, and the degree and severity of enforcement; reviewing information for small business stationary air pollution sources to assure such information is understandable by the layperson; 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

Tennessee 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 as defined in Titles I and III of the CAA;
- (4) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
- (5) Emits less than 75 tpy of all regulated pollutants.

Tennessee 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 Tennessee through the Tennessee Department of Environment and Conservation. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 7, 1995 unless, by June 7, 1995, adverse or critical comments are received. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 7, 1995.

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 July 7, 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 USEPA 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 USEPA'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)(3).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Small business stationary source technical and environmental assistance program.

Dated: April 17, 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 RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(117) to read as follows:

#### § 52.2220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(117) The Tennessee Department of Environment and Conservation has submitted revisions to the Tennessee State Implementation Plan. These revisions address the requirements of section 507 of Title V of the CAA and establish the Small Business Stationary Source Technical and Environmental Assistance Program (PROGRAM).

(i) Incorporation by reference.

(A) Revision to the Tennessee State Implementation Plan to Incorporate Small Business Assistance Program as Required by the Clean Air Act Amendments of 1990, approved by the Tennessee Air Pollution Control Board on February 10, 1993.

(ii) Additional information—None.

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#### 40 CFR Part 52

[AZ 47-1-6945a FRL-5191-1]

#### Approval and Promulgation of Implementation Plans; Arizona—State Implementation Plan Revision, Maricopa Nonattainment Area; Basic and Enhanced Inspection and Maintenance Program for Carbon Monoxide and Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is giving full approval through a direct final action on revisions to the Arizona State Implementation Plan (SIP) for the attainment of National Ambient Air Quality Standards (NAAQSs) for carbon monoxide (CO) and ozone. The SIP revision provides for the adoption and implementation of both basic and enhanced motor vehicle inspection/maintenance (I/M) programs meeting all requirements of EPA regulations, published in the **Federal Register** on November 5, 1992 (I/M Regulations), concerning motor vehicle I/M programs. On November 14, 1994, the Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision to implement both a basic and enhanced I/M program meeting EPA's I/M regulations.

This direct final approval action will incorporate these rules into the federally approved SIP. The intended effect of approving this SIP revision is to regulate emissions of CO and volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). Thus, EPA is finalizing the approval of

these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary NAAQS and plan requirements for nonattainment areas.

**DATES:** This action is effective on July 7, 1995, unless adverse or critical comments are received by June 7, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

**ADDRESSES:** A docket has been established and contains material relevant to this action. A copy of the docket is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted SIP revisions are available for inspection at the following locations:

Mobile Sources Section (A-2-1), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), ANR 443, 401 "M" Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Roxanne Johnson, Mobile Sources Section (A-2-1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1225.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Motor vehicles are a major contributor of VOCs, CO, and oxides of nitrogen (NO<sub>x</sub>) emissions. The motor vehicle I/M program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of NO<sub>x</sub> and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 20×10<sup>12</sup> (20 trillion) miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections indicate that the steady growth in vehicle miles will continue.

Under the Act, the U.S. EPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact

the environment. This notice addresses the third element of the strategy, I/M, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by EPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The EPA projects that sophisticated I/M programs such as Arizona's will identify emission related problems and prompt the vehicle owner to obtain timely repairs, thus reducing emissions.

The Act directed EPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own programs if they can show that their program is as effective as the model program used in the performance standard. The more effective the program the more credit a State will get towards the emission reduction requirement. An effective program will help to offset growth in vehicle use and allow for industrial and or commercial growth. EPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs for polluted areas. There are three major keys to an effective program:

1. Given the advanced state of current vehicle design and anticipated technology changes, the ability to accurately fail problem vehicles and pass clean ones requires improved test equipment and test procedures;
2. Comprehensive quality control and aggressive enforcement is essential to assuring the testing is done properly;
3. Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are missing in most older I/M programs. Specifically, the idle and 2500 RPM/idle short tests and anti-tamper inspections used in current I/M programs are not as effective in identifying and reducing in-use emissions from the types of vehicles in the current and future fleet. Also, covert audits by EPA and State agencies typically discover improper inspection and testing 50 percent of the time in test-and-repair stations. Experience has shown that quality control at high-