

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. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2) and 7410 (k)(3).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this or final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and Recordkeeping requirements, Sulfur oxides.

Dated: July 25, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

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

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

Subpart II

2. Section 52.1770, is amended by adding paragraph (c)(81) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(81) The VOC revision to the North Carolina State Implementation Plan which were submitted on October 14, 1994.

(i) Incorporation by reference. Addition of new North Carolina regulations 15A NCAC 2D .0518 which was state effective on September 1, 1994.

(ii) Other material. None.

* * * * *

[FR Doc. 95-20596 Filed 9-1-95; 8:45 am]

BILLING CODE 6050-50-P

40 CFR Part 52

[AK-8-1-6733a; FRL-5286-8]

Approval and Promulgation of Implementation Plans: Alaska

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves the State of Alaska Implementation Plan (SIP) revision submitted by the State of Alaska for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The implementation plan was submitted by the State to satisfy the Federal mandate of the Clean Air Act (CAA or Act), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the approval is set forth in this document; additional information is available at the address indicated below.

DATES: This final rule is effective on November 6, 1995 unless notice is received by October 5, 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: Montel Livingston, SIP Manager, Air and Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, WA 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT-082), Seattle, WA 98101, and Alaska Department of Conservation, 410 Willoughby Avenue, Suite 105, Juneau, AK 99801-1795.

FOR FURTHER INFORMATION CONTACT: David J. Dellarco, Air and Radiation Branch (AT-082), EPA, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-4978.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions 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 January 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 Alaska 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 to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Section 507(a) sets forth six requirements¹ 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 State of Alaska has met this requirement by developing its SBAP with both proactive and reactive components. The proactive element will use outreach techniques to develop and distribute compliance and technical information to small businesses, including details on their rights and obligations, alternative control technologies, and compliance methods. These techniques will include direct mail, public service announcements, and meetings with small businesses. The reactive element will use a telephone hot line to receive questions from small businesses. In addition, the SBAP will maintain a clearinghouse of information, in the form of a library of documents and computer files, relevant to the compliance alternatives available to small businesses.

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 planning to provide small businesses with information and assistance on accidental release prevention and detection. This information may include requirements under the accidental release provisions of the CAA, requirements of the

Superfund Amendments and Reauthorization Act title III, Occupational Safety and Health administration process safety standards, as well as general information on prevention practices and technologies. The State of Alaska's non-regulatory pollution prevention program will provide the SBAP with direct pollution prevention support and expertise. The pollution prevention office will utilize both State and regional pollution prevention resources to provide direct pollution prevention technical assistance to 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 Act in a timely and efficient manner. The State has met this requirement by planning to develop its SBAP with a main emphasis on assisting small businesses in obtaining any necessary air quality operating permits. The SBAP plans to use workshops to guide small businesses through the air quality operating permit application process. In addition, the SBAP will develop source specific outreach materials on the responsibilities of small businesses established through existing and future CAA requirements.

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 regulations or standards issued under the Act. The State has met this requirement by planning to use direct mailing, public service announcements, and meetings with small businesses to notify them of their rights and obligations under air quality requirements in a timely manner.

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 planning to establish a voluntary on-site evaluation program to help small businesses determine if their operations comply with the Act.

The sixth requirement is to develop procedures for consideration of requests from small business stationary sources

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 planning to develop procedures, by regulation, to respond to requests from small businesses for work practice modifications. The State of Alaska will develop these procedures concurrently with its revisions to Alaska's air quality regulations, and follow the requirements of Alaska's Administrative Procedure Act. The regulations that address requirements for work practice modification requests will be submitted by Alaska with its Title V Operating Permits Program, and become effective upon EPA approval of Alaska's Title V Operating Permits Program.

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 establishing the position of Small Business Advocate, which will promote the rights and concerns of small businesses. The Small Business Advocate is separate from the SBAP and independent from Alaska's Air Quality Management Program.

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 met this requirement by appointing its CAP in accordance with the above 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 Act²; (3) to

² Section 507(e)(1)(B) requires the CAP to report on the *compliance* of the SBAP with these three

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

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 met these requirements by directing its CAP to meet the above areas of responsibility.

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.

In addition, under Section 507(c)(2) of the CAA a State may, upon petition by a source and after notice and opportunity for comment, include as a "small business stationary source" any source that does not meet the provisions of Sections 507(c)(1) (C), (D), and (E) of the CAA but does not emit more than 100 tpy of all regulated pollutants.

Under Alaska's PROGRAM, a facility is a "small business facility" and thus eligible for assistance under the PROGRAM if the facility:

- (A) Is owned or operated by a person who employs 100 or fewer individuals;
- (B) Is a small business concern as defined in 15 U.S.C. 631 (Small Business Act); and
- (C) Emits less than 100 tpy of regulated air contaminants. Alaska Statutes 46.14.990(22). Alaska has therefore expanded PROGRAM eligibility by statute to include all sources that could apply for eligibility on a case-by-case basis under Section 507(c)(2) of the CAA after notice and opportunity for comment. Based on assurances from the State, EPA believes that Alaska's definition of eligible sources will not interfere with the State's obligation to provide assistance to "small business stationary sources" as defined under Section 507(c)(1) of the CAA and that it is therefore consistent with Section 507(c) of the Clean Air Act.

In addition, the State of Alaska has provided, as required by Section 507(3) of the CAA, for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration

Federal 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.

Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA. The State of Alaska has also established a mechanism based on direct assistance from the Small Business Advocate for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility under Section 507(c) of the CAA.

III. This Action

In this action, EPA approves the SIP revision submitted by the State of Alaska.

The State of Alaska has submitted a SIP revision implementing each of the PROGRAM elements required by Section 507 of the CAA. At this time, the SBAP, Small Business Advocate, and CAP are in place.

IV. Administrative Review

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, the 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 in this action 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 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 business entities affected.

SIP approvals under section 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. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for 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.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory

action from Executive Order 12866 review.

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 November 6, 1995 unless, by October 5, 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 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 November 6, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 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), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Small Business Assistance Program.

Note: Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: August 15, 1995.

Jane S. Moore,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

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

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

Subpart C—Alaska

2. Section 52.70 is amended by adding paragraph (c) (20) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(20) On April 18, 1994, the Commissioner of the Alaska Department of Environmental Conservation (ADEC) submitted "The Alaska Air Quality Small Business Assistance Program State Air Quality Control Plan Amendment," adopted April 8, 1994, as a revision to the Alaska SIP.

(i) Incorporation by reference.

(A) Letter dated April 8, 1994, from the Commissioner of ADEC to the Regional Administrator of EPA, submitting "The Alaska Air Quality Small Business Assistance Program State Air Quality Control Plan Amendment" to EPA; the Alaska Air Quality Small Business Assistance Program State Air Quality Control Plan Amendment (which includes Appendix A the Alaska Statutes Title 46, Chapter 14, Article 3), dated April 1994, and adopted April 8, 1994.

(ii) Additional information.

(A) Letter dated July 24, 1995, from Alaska Department of Environmental Conservation, submitting information necessary for approval of the SBAP revision to EPA; the July 1995 SBAP Update, Responses to EPA Comments, and the Air Quality/Small Business Assistance Compliance Advisory Panel Board Information.

* * * * *

[FR Doc. 95-21875 Filed 9-1-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[AZ 17-1-6710; FRL-5279-8]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Environmental Services Department—Air Pollution Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on March 10, 1994. The revisions concern rules from the Maricopa County Environmental Services Department—Air Pollution Control (Maricopa County). This approval action will incorporate these

rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). This final action serves as a final determination that the findings of non-submittal that were issued for these rules have been corrected and that any sanctions or Federal Implementation Plan (FIP) obligations triggered by such non-submittal are permanently stopped. These rules control VOC emissions from graphic arts printing and coating operations and from the storage, loading, and transport of organic liquids. Thus, EPA is finalizing the approval of these rules into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATES: This action is effective on October 5, 1995.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, D.C. 20460.

Maricopa County Environmental Services Department, 2406 South 24th Street, Suite E-214, Phoenix, AZ 85034-6822.

Arizona Department of Environmental Quality, Air Quality Planning Office, 3003 N. Central Avenue, Fifth Floor, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Erik H. Beck, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Telephone: (415) 744-1190. Internet E-mail: beck.erik@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1994, EPA proposed approval of the following rules into the Arizona SIP: 337 ("Graphic Arts"), 350 ("Storage of Organic Liquids at Bulk Plants and Terminals"), 351 ("Loading of Organic Liquids"), and 352 ("Gasoline Delivery Vessels"), as