

Dated: June 23, 1994.

John Wise,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(182)(i)(A)(4) and (c)(189)(i)(B)(2) to read as follows:

§ 52.220 Identification of plan.

(c) * * * * *
(182) * * * * *
(i) * * * * *
(A) * * * * *

(4) Rule 461, adopted on July 7, 1989.

(189) * * * * *
(i) * * * * *
(B) * * * * *

(2) Rule 74.10, adopted on June 16, 1992.

[FR Doc. 94-19907 Filed 8-16-94; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 52

[DC16-1-6286a, A-1-FRL-5052-6]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia—Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the District of Columbia for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP revision was submitted by the District to satisfy the Federal mandate 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 approval is set forth in this document; additional information is available at the address indicated in the ADDRESSES section. This action is being taken in accordance with section 110 of the CAA.

DATES: This final rule is effective on October 17, 1994 unless adverse or critical comments are received by September 16, 1994. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; District of Columbia Environmental Regulation Administration, 2100 Martin Luther King, Jr., Avenue, SE., room 203, Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Abramson, (215) 597-2923.

SUPPLEMENTARY INFORMATION:

I. Background

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

On October 22, 1993, the District of Columbia submitted a formal revision to its SIP. The SIP revision consists of a plan for establishing a PROGRAM. In order to gain full approval, the District's 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 District 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 include the duties, funding, and schedule of implementation for the three program components. The plan must also determine the eligibility of small business stationary sources for assistance in the program.

The District's plan for the establishment of a Small Business Assistance Program (SBAP) and Ombudsman was adopted and will be implemented pursuant to the authority vested in the Mayor by section 422(6) of the District of Columbia Self Government and Governmental Reorganization Act of 1973, as amended (1992), D.C. Code sections 1-242 (6), (11) and (12), 6-901, 6-902 and 6-903. The creation and administration of the Compliance Advisory Panel will be accomplished by Mayoral order.

Milestones for implementing the essential elements of the District's PROGRAM are included as part of the SIP revision submittal. The District has committed to establishing a SBAP, administered by the Air Resources Management Division of the Environmental Regulation Administration, by September 1, 1993. In January, 1994 the District appointed a small business representative to coordinate SBAP activities. Eligibility for assistance under the SBAP will be determined by the criteria outlined in the PROGRAM submittal. Full SBAP implementation will begin no later than November 15, 1994. The District has committed to establishing an Ombudsman's office, to be located in the Office of the Administrator of the Environmental Regulation Administration, by September 1, 1993. The Ombudsman will complete the first annual review of the SBAP by November 15, 1994. A Mayoral Order establishing the creation and administration of the Compliance Advisory Panel was issued on November 3, 1992. The District has committed to convening its CAP by June 1, 1993. The CAP will submit its first annual report to EPA by November 15, 1994.

II. Analysis of SIP Revision

Section 507(a) of the CAA sets forth seven requirements that the District must meet to have an approvable SBAP.

Six of the requirements will be discussed in this section of this document, while the seventh requirement, establishment of a state Small Business Ombudsman, will be discussed in the next section.

1. Small Business Assistance Program

The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the CAA. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The District has met these requirements by establishing a SBAP, administered by the District of Columbia Air Resources Management Division (ARMD). The ARMD SBAP has the responsibility of collecting and coordinating information concerning compliance methods and acceptable control technologies for small business stationary sources. The ARMD will also work closely with the Office of Emergency Preparedness and other District organizations in coordinating information exchange regarding alternative technologies, process changes, products and other methods of pollution prevention and accidental release prevention and detection. The dissemination of SBAP information shall take two forms. Technical and compliance information will be disseminated to small businesses in a proactive manner via press releases, brochures and other media as necessary. Additionally, "outreach" programs such as conferences or meetings with Advisory Neighborhood Commissioners, small businesses, and/or trade associations, etc. may be utilized. The SBAP will also disseminate information in a reactive manner via an established telephone hotline and information clearinghouse which will be capable of handling inquiries from the small business community.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the CAA in a timely and efficient manner. The SBAP will work closely with the staff of

the ARMD Engineering and Planning Branch and Compliance and Enforcement Branch to help sources identify applicable requirements and obtain permits. Specifically, the SBAP will be responsible for providing advice and assistance to small businesses in the interpretation of regulatory requirements, explaining permitting procedures and providing information regarding fees, when and where to apply, the length of time necessary to receive a permit, etc. Additional responsibilities include helping small businesses determine if they qualify for reduced fees under the waiver provisions of the title V Operating Permit Program.

The fourth requirement is to develop 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. The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors or, at the option of the state, for providing audits of the operations of such sources to determine compliance with the CAA. The SBAP is responsible for notifying eligible sources of their statutory and regulatory rights and obligations under the Clean Air Act in a timely fashion. Such communication will include explaining fine and permit policies, the consequences of operating in violation of regulations, and appeal procedures. In addition, the District's SBAP will administer an audit program which provides technical assistance on pollution prevention or control options. Environmental professionals from the Compliance and Enforcement Branch and the Engineering and Planning Branch of the ARMD are to serve as auditors for the program.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work practice or technological method of compliance; or (B) the schedule of milestones for implementing such work practices or compliance methods preceding any applicable compliance date. The SBAP will meet this requirement by developing procedures, in accordance with section 507(a)(7) of the CAA, for handling requests from small businesses for modifications of work practices or alternative air

pollution control methods. The District has committed to establishing such procedures by November 15, 1994.

An ARMD program analyst, authorized to report directly to the Program Manager of the Air Resources Management Division, is responsible for the development and initiation of SBAP programs. As SBAP programs are developed, additional staff will be hired as required. The SBAP will be funded by District of Columbia and/or Federal air pollution control grant funds until the effective date of implementation of the District's title V Operating Permits Program. After the effective date, the District's SBAP will be funded by District of Columbia funds appropriated from the revenues generated by fees required by the title V Operating Permits Program.

2. Ombudsman Office

The seventh requirement of section 507(a)(3) is the designation of a state office to serve as the Ombudsman for small business stationary sources in connection with the implementation of the CAA. The District's Ombudsman will work in the Office of the Administrator of the Environmental Regulation Administration as a member of the Administrator's staff. Consequently, the Ombudsman will be in an effective position to represent the views and interests of the small business community on issues concerning the implementation of the CAA. The Ombudsman will have direct access to the Program Manager of the ARMD and his/her superior, the Administrator. In this position, the Ombudsman can easily evaluate the District's SBAP, investigate and resolve disputes between businesses and air pollution control authorities, develop and propose legislation, and actively promote the small business point-of-view. The Ombudsman will also have access to the Director of the Department of Consumer and Regulatory Affairs, the Office of the Corporation Counsel, and the Office of the Mayor.

A listing of the Ombudsman's duties indicate that it will be readily accessible to small businesses and, on their behalf, be authorized to provide reports to and to communicate with appropriate personnel. The Ombudsman will also distribute the District's CAP reports and advisory opinions and provide administrative support to the CAP. The District has committed to hiring a program analyst to serve as the Small Business Ombudsman. Additional staff for the Office of the Ombudsman will be recruited as necessary. The Ombudsman will be funded with District of Columbia appropriated funds. After the effective

date of the District's title V Operating Permits Program, the Ombudsman and his or her staff may be funded by appropriations from revenues of the District's title V Operating Permits Program.

3. Compliance Advisory Panel

Section 507(e) of the CAA requires each state to establish a Compliance Advisory Panel that includes two members selected by the Governor (or equivalent) who are not owners or representatives of owners of small business stationary sources; four members selected by the state legislature (or equivalent) 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 District has committed to creating a compliance advisory panel. The composition of the District's CAP is in accordance with the method of selection required by section 507(e)(2) of the CAA for a unicameral legislature. All CAP members, with the exception of the representative of the Air Resources Management Division, a District of Columbia employee, will be unpaid appointees.

In addition to establishing the minimum membership of the CAP the CAA delineates certain responsibilities of the panel. A description of the duties and authorities delegated to the District's Compliance Advisory Panel indicates that it will be responsible for all activities required by section 507(e). These activities include rendering advisory opinions on the effectiveness of the small business ombudsman and SBAP and preparing periodic reports to EPA concerning the effectiveness of the PROGRAM following the intent of the Federal Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act. The CAP will also be responsible for reviewing information disseminated to small business stationary sources to assure such information is understandable to laypersons.

4. Source 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 District's program definition of the term "small business stationary source" is identical to the statutory definition found in section 507(c). All small business stationary sources located in the District shall be eligible to receive assistance from the SBAP. Any source which does not meet the criteria in (C), (D), and (E) above but does not emit more than 100 tons per year of all regulated pollutants may petition the District of Columbia to be included in the SBAP. The District may, after public notice and opportunity for public comment, permit such a source to participate in the SBAP even though the source does not meet the criteria given above.

III. Summary of SIP Revision

The District has submitted a SIP revision which fully implements each of the program elements required by CAA section 507. As previously stated, the District has committed to fully implementing its SBAP, administered by the Air Resources Management Division of the Environmental Regulation Administration, by November 15, 1994. The District's Ombudsman, located in the Office of the Administrator of the Environmental Regulation Administration, shall complete its first annual review of the SBAP, by November 15, 1994. The District's CAP, authorized by Mayoral Order, shall complete its first annual review of the SBAP and Ombudsman and submit it to EPA by November 15, 1994. In this action, EPA is approving the SIP revision submitted by the District of Columbia. Accordingly, § 52.510 is added to 40 CFR part 52, subpart J—District of Columbia to reflect EPA's approval action and the fact that it is considered part of the District of Columbia SIP.

EPA is approving this SIP revision 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, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective October 17, 1994 unless, within 30 days of publication, adverse or critical comments are received.

If 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. 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 on October 17, 1994.

Final Action

EPA is approving the District of Columbia's plan for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. Accordingly, § 52.510 is added to 40 CFR part 52, subpart J—District of Columbia to reflect EPA's approval action. EPA has reviewed this request for revision of the federally-approved state implementation plan for conformance with the CAA including section 507 and section 110(a)(2)(E).

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

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

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

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

exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 17, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 9, 1994.

Peter H. Kostmayer,
Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart J—District of Columbia

2. Section 52.510 is added to read as follows:

§ 52.510 Small business assistance program.

On October 22, 1993, the Administrator of the District of Columbia Environmental Regulation Administration submitted a plan for the establishment and implementation of a Small Business Technical and Environmental Compliance Assistance Program as a state implementation plan revision (SIP), as required by title V of the Clean Air Act. EPA approved the Small Business Technical and Environmental Compliance Assistance Program on August 17, 1994 and made it part of the District of Columbia SIP. As with all components of the SIP, the District of Columbia must implement the program as submitted and approved by EPA.

[FR Doc. 94-20148 Filed 8-16-94; 8:45 am]

BILLING CODE 6560-60-F

40 CFR Part 81

[WI44-01-6426a; FRL-5053-5]

Designation of Areas for Air Quality Planning Purposes; Wisconsin; Redesignation of Oshkosh, WI, to Attainment for Carbon Monoxide

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA redesignates Oshkosh, Wisconsin from unclassifiable to attainment status for carbon monoxide. The State of Wisconsin requested this redesignation and provided the necessary monitoring data for USEPA to approve the change. The redesignation has no substantive effect because unclassifiable areas are subject to the same requirements as attainment areas. Elsewhere in this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this redesignation. If adverse comments are received in the time period specified below, USEPA will withdraw this final rule and address the comments in a subsequent final rule.

DATES: This final rule will be effective October 17, 1994 unless notice is received within 30 days of this publication that someone wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the redesignation request and USEPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Megan Beardsley at (312) 886-0669 before visiting the Region 5 Office.)

A copy of this SIP revision is also available at the Office of Air and Radiation, Docket and Information Center (Air Docket 6102), room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7548.

FOR FURTHER INFORMATION CONTACT: Megan Beardsley, Environmental Scientist, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-0669.

SUPPLEMENTARY INFORMATION:

I. Background

In November 1991, USEPA designated Oshkosh, Wisconsin as an unclassifiable area for carbon monoxide (56 FR 56850) because the available air quality data was not representative of air quality at the date of enactment of the 1990 Clean Air Act Amendments. Exceedances of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide had been recorded in Oshkosh, Wisconsin in late 1988 and early 1989, but the emissions causing the exceedances were brought under control later in 1989. These controls were approved by USEPA and incorporated into the State Implementation Plan on October 8, 1992 (57 FR 46309).

Wisconsin's current request, submitted on April 7, 1994, is to change the designation of Oshkosh from unclassifiable to attainment based on recent ambient air quality measurements.

II. Evaluation of State Submission

A. Procedural Background

Redesignation requests are processed under section 107(d)(3) of the Clean Air Act (the Act). While section 107(d)(3)(E) specifies a number of requirements for areas requesting redesignation from nonattainment to attainment, the redesignation of unclassifiable areas is not explicitly addressed. However, the general criteria governing designations, set forth in section 107(d)(1)(A), do apply. Therefore, to qualify an unclassified area for redesignation to attainment, the State must show that the area has attained the relevant standard.

For a carbon monoxide area to be designated as attainment for a pollutant, it must meet the NAAQS for that pollutant (40 CFR part 50), based on the most recent two years of data. In its redesignation request, Wisconsin submitted carbon monoxide data for Oshkosh from January 24, 1992 to January 31, 1994 (when the monitor was shut down). Wisconsin collected the air quality data as required in the 1992 SIP revision and under procedures in accordance with the USEPA's monitoring requirements set forth in 40 CFR part 58. This data has been entered into USEPA's Aerometric Information Retrieval System (AIRS) and is summarized in USEPA's Technical Support Document for this action (M. Beardsley to Files, July 20, 1994). The data show that Oshkosh is well under the NAAQS for carbon monoxide concentrations and, thus, meets the requirements for attainment status.