

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. USEPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 USC § 7410 (a)(2).

This action has been classified as a Table 2 action 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. A future notice will inform the general public of these tables. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under § 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 13, 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 § 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of

Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 26, 1995.

John P. DeVillars,
Regional Administrator, EPA-New England.

Part 52 of 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 USC 7401-7671q

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(68) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(68) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on March 24, 1994, May 20, 1994, and March 4, 1994.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated March 24, 1994 submitting a revision to the Connecticut State Implementation Plan.

(B) Letter from the Connecticut Department of Environmental Protection dated May 20, 1994 submitting a supplemental revision to the Connecticut State Implementation Plan.

(C) State Order No. 8073: State of Connecticut vs. City of New Haven (effective September 24, 1993) and attached plan titled "Remedial Action Plan for Prevention of Airborne Particulate Matter and Fugitive Discharge of Visible Emissions in the Alabama Street/East Shore Parkway Area of New Haven."

(D) State Order No. 8074: State of Connecticut vs. Waterfront Enterprises, Inc. (effective November 5, 1993) and attached plan titled "Proposed Operation Plan in Response to Unilateral Order (September 20, 1993)."

(E) State Order No. 8075: State of Connecticut vs. Laydon Construction, (effective September 21, 1993) and attached plan titled "Plan for Control of Fugitive Emissions of PM10 (September 21, 1993)."

(F) State Order No. 8076: State of Connecticut vs. United Illuminating Company (effective December 2, 1993) and attached plan titled "Remediation Plan for Fugitive Emissions: Alabama Street and Connecticut Avenue, New Haven, Connecticut (November 19, 1993)."

(G) State Order No. 8076c: State of Connecticut vs. M. J. Metals, Inc. (effective June 18, 1993).

(H) State Order No. 8078: State of Connecticut vs. New Haven Terminal, Inc. (effective November 15, 1993) and attached plan titled "Fugitive Dust Control Plan (Revised January 19, 1994)."

(I) State Order No. 8079: State of Connecticut vs. Yankee Gas Services Company (effective September 24, 1993) and attached plan titled "Revised Compliance Plan for Consent Order No. 8079 (August 31, 1993)."

(J) Letter from the Connecticut Department of Environmental Protection dated March 4, 1994 (received March 16, 1995) submitting two amendments to the Regulations of Connecticut State Agencies concerning abatement of air pollution: amended Sections 22a-174-24(f) and -24(g) "Connecticut primary and secondary ambient air quality standards for particulate matter" and amended Sections 22a-174-6(a) and -6(b) "'Air Pollution' emergency episode procedures" (both effective July 7, 1993).

(K) Amended Regulations of Connecticut State Agencies: amended Sections 22a-174-24(f) and -24(g) "Connecticut primary and secondary ambient air quality standards for particulate matter" and amended Sections 22a-174-6(a) and -6(b) "'Air Pollution' emergency episode procedures" (both effective July 7, 1993).

(ii) Additional materials.

(A) An attainment plan and demonstration which outlines Connecticut's control strategy and for attainment and maintenance of the PM10 NAAQS, implements and meets RACM and RACT requirements, and provides contingency measures for New Haven.

(B) Nonregulatory portions of the submittal.

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40 CFR Part 52

[DE22-1-7160a, DC19-1-7159a, MD36-1-7161a, PA48-1-7162a, VA42-1-7163a; FRL-5291-8]

Approval and Promulgation of Air Quality Implementation Plans; Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia; Revisions to the State Implementation Plans (SIPs) Addressing Ozone Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the ozone State Implementation Plans (SIPs) for Delaware, the District of Columbia (the District), Maryland, Pennsylvania and Virginia. This action is based upon revision requests which were submitted by these states to satisfy the requirements of the Clean Air Act (Act), as amended November 15, 1990, and the Photochemical Assessment Monitoring Stations (PAMS) regulations. The PAMS regulations required affected states to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network in the form of PAMS by November 12, 1993.

DATES: This final rule is effective November 13, 1995 unless adverse comments are received by October 11, 1995. If the effective date is delayed, timely notice will be published in the *Federal Register* (FR).

ADDRESSES: Written comments should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 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, Pennsylvania 19107; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903; District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Avenue, SE., Washington, DC 20020; Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; Pennsylvania Department of Environmental Protection, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-6863.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittals

SIP revisions incorporating PAMS into the ambient air quality monitoring networks of State or Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS) were submitted to EPA from the following state agencies on the following days:

(1) Delaware's Department of Natural Resources & Environmental Control submitted a PAMS SIP revision on March 24, 1994;

(2) The District of Columbia's Department of Consumer and Regulatory Affairs submitted a PAMS SIP revision on January 14, 1994;

(3) Maryland's Department of the Environment submitted a PAMS SIP revision on March 24, 1994;

(4) Pennsylvania's Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection) submitted a PAMS SIP revision on September 23, 1994; and

(5) Virginia's Department of Environmental Quality submitted a PAMS SIP revision on November 23, 1994. These states will establish and maintain PAMS as part of their overall ambient air quality monitoring networks.

Section 182(c)(1) of the Act and the General Preamble (57 FR 13515) require that the EPA promulgate rules for enhanced monitoring of ozone, oxides of nitrogen (NO_x), and volatile organic compounds (VOC) no later than 18 months after the date of the enactment of the Act. In addition, the Act requires that, following the promulgation of the rules relating to enhanced ambient monitoring, states must commence actions to adopt and implement programs based on these rules, to improve the monitoring of ambient concentrations of ozone, NO_x, and VOC; and to improve the monitoring of emissions of NO_x and VOC.

The final PAMS rule was promulgated by the EPA on February 12, 1993 (58 FR 8452). Section 58.40(a) of the revised rule requires states with serious and above areas to submit a PAMS network description, including a schedule for implementation, to the Administrator within six months after promulgation or by August 12, 1993. Further, section 58.20(f) requires these states to provide for the establishment and maintenance of a PAMS network within nine months after promulgation of the final rule or by November 12, 1993.

While EPA recognizes that none of the above states met either of the deadlines, EPA considers this point moot, since

these states have since submitted revisions and adopted implementation schedules for PAMS in all affected areas. These submittals have been reviewed by the EPA and are intended to satisfy the requirements of 40 CFR section 58.40(a). Since network descriptions may change annually, they are not part of the SIP as recommended by the Guideline for the Implementation of the Ambient Air Monitoring Regulations 40 CFR 58. However, the network description is negotiated and approved during an annual review as required by 40 CFR section 58.25 and section 58.36, respectively, and the revision codified at 40 CFR section 58.46.

The PAMS SIP revisions outlined above are intended to meet the requirements of section 182(c)(1) of the Act and affect compliance with the PAMS regulations, codified at 40 CFR part 58, as promulgated on February 12, 1993.

Public hearings on the PAMS SIP revisions were held on the following dates:

- (1) Delaware—November 18, 1994;
- (2) the District—January 4, 1994;
- (3) Maryland—November 4, 8, 9 and 10, 1994;
- (4) Pennsylvania—August 1, and 9, 1994; and
- (5) Virginia—August 15, 1994.

None of the states received comment on the PAMS revisions during the public hearings or public comment periods.

II. Analysis of State Submittals

The PAMS SIP revisions will provide Delaware, the District, Maryland, Pennsylvania, and Virginia with the authority to establish and operate the PAMS sites, secure State funds for PAMS and provide the EPA with the authority to enforce the implementation of PAMS, since their implementation is required by the Act.

The criteria used to review the proposed SIP revision are derived from the PAMS regulations, codified at 40 CFR part 58, the Guideline for the Implementation of the Ambient Air Monitoring Regulations 40 CFR Part 58 (EPA-450/4-79-038, Office of Air Quality Planning and Standards, November 1979), the September 2, 1993 memorandum from G. T. Helms entitled Final Boilerplate Language for the PAMS SIP Submittal (Helms boilerplate memorandum), the Act and the General Preamble. The September 2, 1993 Helms boilerplate memorandum stipulates that the PAMS SIP, at a minimum, must:

- (a) Enable the monitoring of non-criteria pollutants (such as NO_x, nitric

oxide, and speciated VOC including carbonyls) and meteorological parameters, in addition to the monitoring of criteria pollutants (such as ozone and nitrogen dioxide);

(b) Provide a copy of the approved (or proposed) PAMS network description, including the phase-in schedule, for public inspection during the public notice and/or comment period provided for in the SIP revision or, alternatively, provide information to the public upon request concerning the State's plans for implementing the rules;

(c) Make reference to the fact that PAMS will become a part of the State or local air monitoring stations (SLAMS) network; and

(d) Require revisions to the statement that SLAMS will employ Federal reference methods (FRM) or equivalent methods inasmuch as PAMS sampling will be conducted using methods approved by the EPA which are not FRM or equivalent.

The PAMS SIP revisions for Delaware, the District, Maryland, Pennsylvania, and Virginia provide that each state will implement PAMS as required in 40 CFR Part 58, as amended February 12, 1993. This program is required in all ozone nonattainment areas designated as serious, severe, or extreme. The states will also implement these regulations in any existing ozone nonattainment area reclassified to serious, severe, or extreme, or any newly designated ozone nonattainment areas classified as serious or above. The PAMS stations will become a part of the existing NAMS/SLAMS network and will monitor ambient levels of "criteria pollutants," "non-criteria pollutants," and meteorological parameters.

Each state will develop its PAMS network design and establish monitoring sites pursuant to 40 CFR Part 58 in accordance with an approved network description and as negotiated with the EPA through the 105 grant process on an annual basis. Also, each state has begun implementing its PAMS network as required in 40 CFR Part 58.

All of the PAMS SIP revisions mentioned also include provisions to meet quality assurance requirements as contained in 40 CFR Part 58, Appendix A. All of the states also assure that the PAMS monitors will meet monitoring methodology requirements contained in 40 CFR Part 58, Appendix C. These states' SIP revisions also assure that their PAMS networks will be phased in over a period of five years as required in section 58.44. The states' PAMS SIP submittals and the EPA's technical support document are available for viewing at the EPA Region III Office and

the state agencies as outlined under the ADDRESSES Section of this FR notice.

III. Final Action

EPA is approving revisions to the ozone SIPs for PAMS in Delaware, the District of Columbia, Maryland, Pennsylvania and Virginia. 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 the FR publication, the EPA is proposing to approve the SIP revision should adverse comments be received. Thus, the action will be effective November 13, 1995 unless, by no later than October 11, 1995, adverse or critical comments are received.

If such comments are received, this action will be withdrawn before the effective date by publishing a subsequent notice which will withdraw the final action. All public comments 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 comments are received, the public is advised that this action will be effective November 13, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the Clean Air Act Amendments. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP 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.*, the 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, the 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.

SIP approvals under section 110 and Subchapter I, Part D, of the Act 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the 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 (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 notice 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.

This action has been classified as a Table 3 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 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 E.O. 12866 review.

Under section 307(b)(1) of the Act, petitions for judicial review of this Direct Final PAMS approval action must be filed in the U.S. Court of Appeals for the appropriate circuit by November 13, 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)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 18, 1995.

W. Michael McCabe,
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 I—Delaware

2. Section 52.430 is added to read as follows:

§ 52.430 Photochemical Assessment Monitoring Stations (PAMS) Program.

On March 24, 1994 the Delaware Department of Natural Resources & Environmental Control submitted a plan for the establishment and implementation of a Photochemical Assessment Monitoring Stations (PAMS) Program as a state implementation plan (SIP) revision, as required by section 182(c)(1) of the Clean Air Act. EPA approved the Photochemical Assessment Monitoring Stations (PAMS) Program on September 11, 1995 and made it part of the Delaware SIP. As with all components of the SIP, Delaware must implement the program as submitted and approved by EPA.

Subpart J—District of Columbia

3. Section 52.480 is added to read as follows:

§ 52.480 Photochemical Assessment Monitoring Stations (PAMS) Program.

On January 14, 1994 the District of Columbia's Department of Consumer and Regulatory Affairs submitted a plan for the establishment and implementation of a Photochemical Assessment Monitoring Stations (PAMS) Program as a state implementation plan (SIP) revision, as required by section 182(c)(1) of the Clean Air Act. EPA approved the Photochemical Assessment Monitoring Stations (PAMS) Program on September

11, 1995 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.

Subpart V—Maryland

4. Section 52.1080 is added to read as follows:

§ 52.1080 Photochemical Assessment Monitoring Stations (PAMS) Program.

On March 24, 1994 Maryland's Department of the Environment submitted a plan for the establishment and implementation of a Photochemical Assessment Monitoring Stations (PAMS) Program as a state implementation plan (SIP) revision, as required by section 182(c)(1) of the Clean Air Act. EPA approved the Photochemical Assessment Monitoring Stations (PAMS) Program on September 11, 1995 and made it part of Maryland SIP. As with all components of the SIP, Maryland must implement the program as submitted and approved by EPA.

Subpart NN—Pennsylvania

5. Section 52.2035 is added to read as follows:

§ 52.2035 Photochemical Assessment Monitoring Stations (PAMS) Program.

On September 23, 1994 Pennsylvania's Department of Environmental Resources (now known as the Department of Environmental Protection) submitted a plan for the establishment and implementation of a Photochemical Assessment Monitoring Stations (PAMS) Program as a state implementation plan (SIP) revision, as required by section 182(c)(1) of the Clean Air Act. EPA approved the Photochemical Assessment Monitoring Stations (PAMS) Program on September 11, 1995 and made it part of Pennsylvania SIP. As with all components of the SIP, Pennsylvania must implement the program as submitted and approved by EPA.

Subpart W—Virginia

6. Section 52.2426 is added to read as follows:

§ 52.2426 Photochemical Assessment Monitoring Stations (PAMS) Program.

On November 23, 1994 Virginia's Department of Environmental Quality submitted a plan for the establishment and implementation of a Photochemical Assessment Monitoring Stations (PAMS) Program as a state implementation plan (SIP) revision, as required by section 182(c)(1) of the Clean Air Act. EPA approved the

Photochemical Assessment Monitoring Stations (PAMS) Program on September 11, 1995 and made it part of the Virginia SIP. As with all components of the SIP, Virginia must implement the program as submitted and approved by EPA.

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BILLING CODE 6560-50-P

40 CFR Part 52

[FRL-5291-5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Disapproval of the Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA hereby gives notice that pursuant to its authority under Clean Air Act (the Act) section 110(k)(4), 42 U.S.C. 7410(k)(3), in an April 13, 1995 letter EPA notified Pennsylvania that the conditional approval of the Pennsylvania enhanced Inspection and Maintenance (I/M) State Implementation Plan (SIP) revision had been converted to a disapproval. The letter triggered the 18-month timeclock for the mandatory application of sanctions under section 179(a) of the Act and the 24-month timeclock for the Federal Implementation Plan (FIP) under section 110(c)(1). This also serves to amend the C.F.R. to note the conversion of the conditional approval to a disapproval.

EFFECTIVE DATE: September 11, 1995.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly L. Bunker, (215) 597-4554.

SUPPLEMENTARY INFORMATION: On August 31, 1994 a final rule was published in the *Federal Register* (59 FR 44936) which conditionally approved the November 3, 1993 Pennsylvania SIP submittal for a centralized, test-only enhanced I/M program. The first two conditions of the conditional approval were required to be fulfilled by December 31, 1994. The first two conditions for approvability were as follows:

(1) by December 31, 1994, the Commonwealth was required to submit to EPA as a SIP revision, the *Pennsylvania Bulletin* notice which certified that the enhanced I/M program was required in order to comply with federal law, certified the geographic areas which were subject to the enhanced I/M program, and certified the