

4. The Postal Service reserves the right to reject a claim for reward where there has been collusion, criminal involvement, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward when several persons were convicted of the same offense, or one person was convicted of several of the above offenses.

5. Other rewards not specifically referred to in this notice may be offered upon the approval of the Chief Postal Inspection (39 U.S.C. 404 (a)(8)).

(c) \* \* \*

Stanley F. Mires,

Chief Counsel, Legislative Division.

[FR Doc. 94-2064 Filed 2-3-94; 8:45 am]

BILLING CODE 7710-12

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA15-1-5995; A-1-FRL-4831-8]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia—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 Commonwealth of Virginia for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. This SIP revision was submitted by the Commonwealth 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 approving is set forth in this document; additional information is available at the address indicated. This action is being taken in accordance with the provisions of the CAA.

**EFFECTIVE DATE:** This action will become effective April 5, 1994, unless notice is received on or before March 7, 1994, that adverse or critical comments will be submitted. 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; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Virginia Department of Environmental Quality, 629 E. Main Street, Richmond Virginia, 23219.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Donahue, (215) 597-9781.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Implementation of the provisions of 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 (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 November 10, 1992, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of a plan for establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. In order to gain full approval, the Commonwealth'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 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.

Under sections 10.1-1323 through 10.1-1326 of the Code of Virginia, the Department of Air Pollution Control, now the Department of Environmental Quality (VA DEQ), is authorized to create and administer the Small Business Stationary Source Technical and Environmental Compliance Assistance Program. This law authorizes VA DEQ to create and administer the SBAP. This law also creates an Office of Small Business Ombudsman and a Small Business Environmental Compliance Advisory Board, and defines source eligibility for the SBAP.

#### II. Evaluation of SIP Revision

Section 507(a) of the CAA sets forth seven requirements that the Commonwealth must meet to have an approvable SBAP. Four of these requirements are discussed in the first section and the requirement for the establishment of an Ombudsman in the second section. Discussion of the remaining two requirements follows the third 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.

Virginia has met these first two requirements by establishing a SBAP, located in the VA DEQ Office of Permit Assistance, with the responsibility of serving as a clearinghouse for information related to compliance methods and control technologies, pollution prevention and accidental release prevention and detection. The Virginia SBAP 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 information dissemination will be both proactive and reactive. VA DEQ Air Division has presented a series of seminars throughout Virginia to explain applicable requirements to small businesses and interested citizens. Another series of seminars is being planned, with the assistance of Virginia's Department of Economic Development. The VA DEQ Air Division will also receive seminar assistance from the Waste Management Division and the Emergency Services Division for pollution prevention and accidental release prevention, respectively. The SBAP manager and staff members will develop public service announcements (PSAs) and information packages of print material, addressing all topics germane to the SBAP, including compliance, pollution prevention, accidental release prevention, legal rights under the CAA, permitting assistance, notification of rights, audits, and source modification. The PSAs and mailings of print material will begin in November, 1994. For the reactive component of the SBAP, a toll-free number will be installed by October, 1994. Through outreach techniques, the SBAP staff will inform small business stationary sources of their obligations under the CAA.

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, and 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. Virginia has met these requirements through the SBAP. The staff of the SBAP will compile a list of technical referrals who will assist them in responding to specific inquiries. The VA DEQ's Air Division, Office of Compliance and Enforcement (OCE) and regional offices currently offer compliance assistance to sources in determining applicable requirements of the CAA. The OCE will serve as technical experts available for referral by the SBAP in identifying applicable rules, determining necessity

of a permit, and identifying alternatives for achieving compliance with state and local regulations.

### 2. Ombudsman Office

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. The Code of Virginia, section 10.1-1324 authorizes the creation of the Ombudsman's office. In VA DEQ, the Director of the Office of Permit Assistance serves as Ombudsman. The Ombudsman is appointed by the DEQ's Director and reports directly to him or her, and the SBAP manager reports to the Ombudsman. Additionally, each of Virginia's seven air quality control regional offices will have an appointed liaison.

### 3. Compliance Advisory Board

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. Virginia has established a Compliance Advisory Board pursuant to the Code of Virginia, section 10.1-1325. It is comprised of seven members who are appointed for four-year terms, starting on July 31, 1993. The makeup of the board is prescribed as is required by section 507(e). Members of the board will serve without pay, and administrative support for the Board will be funded through the ombudsman's office.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (A) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (B) to review and assure that information for small business stationary sources is easily understandable; (C) to develop and disseminate the reports and advisory opinions made through the SBAP; and (D) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act. (Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three 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.) The duties and responsibilities of Virginia's Compliance Advisory Board under section 10.1-1326 of the Code of Virginia indicate that it will be responsible for all four of the activities listed above.

The sixth requirement of CAA section 507(a) 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 Commonwealth, for providing audits of the operations of such sources to determine compliance with the Act. Virginia's Ombudsman and Compliance Advisory Board will develop procedures for referring sources to qualified auditors. The procedures will determine how auditors will qualify, what the cost will be, the format and content of the audit report, and Virginia's actions in the event of a violation discovered during an audit. The audit procedures will be completed by July 31, 1994.

The seventh requirement of CAA section 507(a) 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. Virginia has committed to develop procedures for consideration of requests from a source for modification of work practices. The source modification procedures will be completed by July 31, 1994.

### 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.

Code of Virginia section 10.1-1323 duplicates the language of CAA section 507(c)(1) in defining eligible stationary sources. It also provides for the State Air Pollution Control Board to hear petitions for eligibility and eligibility exclusions. The Board will consult with both EPA and the Small Business Administration regarding exclusions.

The Ombudsman and Compliance Advisory Board will be responsible for developing eligibility determination procedures.

### III. Summary of SIP Revision

The Commonwealth of Virginia has submitted a SIP revision providing for each of the program elements required by CAA section 507. As previously stated, the authority to implement the SBAP has been delegated to the Department of Environmental Quality. Program implementation will begin no later than November 15, 1994. The Director of the Department of Environmental Quality will appoint the Ombudsman and hire the three staff dedicated to implementing the program at the beginning of the Commonwealth's 1993-1994 fiscal year. The Code of Virginia, section 10.1-1325 authorizes the creation of a Compliance Advisory Board to periodically review the effectiveness of the SBAP. All members will be appointed for four year terms, starting no later than July 31, 1993. In this action, EPA is approving the SIP revision submitted by the Commonwealth of Virginia. Accordingly, § 52.2460 is added to 40 CFR part 52, subpart VV—Virginia to reflect EPA's approval action and the fact that it is considered part of the Virginia SIP.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 5, 1994, unless, by March 7, 1994, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on April 5, 1994.

#### Final Action

EPA is approving Virginia's plan for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. Accordingly, 40 CFR 52.2460 is added to reflect EPA's approval action. The Agency has reviewed this request for revision of the federally-approved state implementation plan for conformance with the Clean Air Act, including sections 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 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 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.

In 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 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 entities affected.

This action to approve the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program in Virginia 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. On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. This request is still applicable under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action to approve the establishment of a

Small Business Stationary Source Technical and Environmental Compliance Assistance Program in Virginia must be filed in the United States Court of Appeals for the appropriate circuit by April 5, 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: November 10, 1993.

W.T. Wisniewski,  
Acting 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 VV—Virginia

2. Subpart VV is amended by adding § 52.2460 to read as follows:

#### § 52.2460 Small business stationary source technical and environmental compliance assistance program.

On November 10, 1992, the Executive Director of the Virginia Department of Air Pollution Control submitted a plan for the establishment and implementation of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program as a State Implementation Plan revision, as required by title V of the Clean Air Act. EPA approved the Small Business Stationary Source Technical and Environmental Compliance Assistance Program on February 4, 1994, and made it a part of the Virginia SIP. As with all components of the SIP, Virginia must implement the program as submitted and approved by EPA.

[FR Doc. 94-2282 Filed 2-3-94; 8:45 am]

BILLING CODE 6560-50-F

