

economic 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 Clean Air 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, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the

U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial 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 December 23, 1996. 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 must 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 26, 1996.

Patricia D. Hull,

Acting Regional Administrator.

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 BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(43) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(43) On May 22, 1995, the Governor of Montana submitted revisions to the plan, which included revisions to the State's open burning regulation and other minor administrative revisions.

(i) Incorporation by reference.

(A) Revisions to the Administrative Rules of Montana (ARM), 16.8.1301-1310, effective September 9, 1994; and

(B) Revisions to the ARM, 16.8.708, 16.8.946, 16.8.1120, 16.8.1429,

16.8.1702, 16.8.1802, and 16.8.2003, effective October 28, 1994.

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[FR Doc. 96-27006 Filed 10-22-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[Region 2 Docket No. NJ12-3-157a, VI2-3-158a; FRL-5637-8]

Clean Air Act Approval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program; New Jersey and the U.S. Virgin Islands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is fully approving the State Implementation Plan (SIP) revisions submitted by the States of New Jersey and the U.S. Virgin Islands for the establishment of Compliance Advisory Panels under their Small Business Stationary Source Technical and Environmental Compliance Assistance Programs. The SIP revisions were submitted by New Jersey and the Virgin Islands to satisfy the Federal mandate, found in the Clean Air Act (CAA), that states create a Compliance Advisory Panel which is authorized to determine the state's effectiveness in ensuring 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 in the ADDRESSES section.

DATES: This rule is effective on December 23, 1996 unless adverse or critical comments are received by November 22, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of all of New Jersey's and the Virgin Islands' submittals are available for inspection during normal business hours at the EPA Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. In addition, copies can be found at the New Jersey Department of Environmental Protection, Office of Permit Information and Assistance, 401 East State Street, Trenton, New Jersey, attention: Chuck McCarty; and the Virgin Islands Department of Planning and Natural Resources, Division of Environmental Protection, Wheatley Shopping Center #2, St. Thomas, VI 00802, attention: Marilyn Stapleton.

All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007-1866.

FOR FURTHER INFORMATION CONTACT: Christine Fazio, Permitting Section, Air Programs Branch, at the above EPA address or at telephone number (212) 637-4015.

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 February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments (Final Guidelines)* 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.

In order to gain full approval, the state submittal must provide for each of the following PROGRAM components: (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.

EPA proposed to conditionally approve New Jersey's and the U.S. Virgin Islands' SIPs on December 21, 1993 (58 FR 67383) and finalized the

conditional approval on July 5, 1994 (59 FR 34383). A detailed discussion of New Jersey's and the Virgin Islands' PROGRAM and EPA's evaluations of the PROGRAM is contained in the above cited Federal Registers. EPA found that New Jersey and the U.S. Virgin Islands lacked the requisite authority to establish a CAP. Therefore, EPA conditionally approved New Jersey's and the U.S. Virgin Islands' section 507 programs and stated that full approval will be granted once authority to establish a CAP has been enacted and submitted as a SIP revision.

II. Summary of Submittal

Section 507(e) requires the State to establish a 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 Governor of New Jersey signed Chapter 188 of the Laws of New Jersey on August 2, 1995. New Jersey's law specified the CAP's make-up, terms, and duties consistent with section 507 of the CAA. The Governor of the U.S. Virgin Islands signed Act No. 6011 on September 2, 1994 which authorizes the establishment of a CAP. Act No. 6011 specifies the CAP's make-up, terms, and duties consistent with the requirements in section 507 of the CAA.

III. Final Action

EPA is fully approving the SIP revisions submitted by New Jersey and the U.S. Virgin Islands. The revisions satisfy the requirements of section 507 of the CAA.

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 December 23, 1996 unless, by November 22, 1996, 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 notice 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 December 23, 1996.

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.

Administrative Requirements

Executive Order 12866

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.

Regulatory Flexibility Act

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

Unfunded Mandates

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 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.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

Petitions for Judicial 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 December 23, 1996. 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: September 30, 1996.

William J. Muszynski,

Acting Regional Administrator.

For the reasons set forth in the preamble, the State implementation Plan revisions which were conditionally approved and listed in 40 CFR 52.1607 and 52.2782 (59 FR 34386, July 5, 1994) are fully approved.

[FR Doc. 96-27130 Filed 10-22-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 271

[FRL-5638-1]

Ohio: Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Ohio submitted an application seeking final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976, as amended (RCRA). The application included a program description, a statement by the Ohio Attorney General, a memorandum of agreement, and the revisions to Ohio's Administrative Code. The Environmental Protection Agency (EPA) has reviewed Ohio's application and has reached a decision, subject to public review and comment, that these hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. Thus, EPA intends to grant final authorization to Ohio to operate its expanded program, subject to authority retained by EPA under the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter HSWA).

EFFECTIVE DATE: Final authorization for Ohio shall be effective on December 23, 1996 unless EPA publishes a prior Federal Register (FR) action withdrawing this immediate final rule. All comments on Ohio's final authorization must be received by 4:30 p.m. central time on November 22, 1996. If an adverse comment is received, EPA will publish either: a withdrawal of this immediate final rule or a document containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

ADDRESSES: Copies of Ohio's final Authorization Revision Application are available for inspection and copying from 9 a.m. to 4 p.m., at the following addresses: Ms. Kit Arthur, Ohio Environmental Protection Agency, 1800 WaterMark Drive, Columbus, Ohio 43215, Phone 614/644-3174; Mr. Timothy O'Malley, U.S. EPA Region 5, DR-7J, 77 W. Jackson, Chicago, Illinois 60604, Phone 312/886-6085. Written comments should be sent to Mr. Timothy O'Malley, U.S. EPA Region 5, DR-7J, 77 W. Jackson (DR-7J), Chicago, Illinois, 60604, Phone (312) 886-6085.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy O'Malley, Ohio Regulatory Specialist, U.S. EPA Region 5, DR-7J, 77 West Jackson Blvd., Chicago, Illinois, 60604, (312) 886-6085.

SUPPLEMENTARY INFORMATION

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereinafter HSWA) allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

In accordance with 40 CFR 271.21, revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 124, 260-266, 268, and 270.

B. Ohio

Ohio initially received final authorization for its program effective June 30, 1989 (54 FR 27170). Subsequently, Ohio received authorization for revisions to its program, which became effective on June 7, 1991 (56 FR 14203), August 19, 1991 (56 FR 28008), and September 25, 1995 (60 FR 38502). On September 10, 1996, Ohio submitted a final program revision application for additional program approvals. Today, Ohio is seeking approval of this program