determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analysis for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 3, 1995.

Brent Wahlquist,

Regional Director Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 901—ALABAMA

1. The authority citation for Part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 901.25 is amended to add paragraph (e) to read as follows:

§ 901.25 Amendment to approved Alabama abandoned mine land reclamation plan.

* * * * *

(e) The Alabama amendment pertaining to the Alabama abandoned mine land reclamation plan, as submitted to OSM on December 5, 1994, and revised on March 27, 1995, and April 18, 1995, is approved effective August 15, 1995.

[FR Doc. 95–19981 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

31 CFR Part 0

Department of the Treasury Employee Rules of Conduct

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: On Thursday, June 1, 1995, the Department of the Treasury published the Employee Rules of Conduct as an interim rule. The rule became effective upon publication and comments were invited from the public until July 3, 1995. The Department did not receive any comments on the interim rule. Accordingly, the Department adopts the interim rule as a final rule without amendment.

EFFECTIVE DATE: This rule is effective as a final rule on August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen J. McHale, Henry H. Booth, or R. Peter Rittling, Office of the Assistant General Counsel (General Law and Ethics), Department of the Treasury, telephone (202) 622–0450, FAX (202) 622–1176, e-mail Peter.Rittling@treas.sprint.com.

SUPPLEMENTARY INFORMATION:

I. Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

This rule is limited to agency organization, management and personnel matters; therefore, it is not subject to Executive Order 12866.

Regulatory Flexibility Act

It is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule affects only Federal employees.

List of Subjects in 31 CFR Part 0

Government employees.

Dated: August 8, 1995.

Edward S. Knight,

General Counsel, Department of the Treasury.

PART 0—DEPARTMENT OF THE TREASURY EMPLOYEE RULES OF CONDUCT

The interim rule revising 31 CFR Part 0 which was published at 60 F.R. 28535, on June 1, 1995, is adopted as a final rule without change.

Authority: 5 U.S.C. 301.

[FR Doc. 95–19990 Filed 8–14–95; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH40–1–5784a; AD–FRL–5276–7]

Approval and Promulgation of Small Business Assistance Program; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving the State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of establishing a Small Business Assistance Program (SBAP). The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 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.

DATES: This action will be effective October 16, 1995 unless notice is received by September 14, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: Regulation Development Section, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Branch, Regulation Development Section (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886–6067.

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, both to provide for attainment of the national ambient air quality standards (NAAQS) in the areas in which they are located and to 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 Assistance Program (SBAP) and submit this SBAP as a revision to the Federally approved SIP. In addition, the CAA directs the USEPA to oversee these small business assistance programs and report to Congress on their implementation.

The requirements for establishing a SBAP are set out in section 507 of the CAA. In January 1992, USEPA 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 to provide further guidance to the States on submitting acceptable SIP revisions. This guidance specifies that the State submittal must provide for each of the

following SBAP elements: (1) the establishment of a 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.

Ohio's initial submittal addressing SBAP requirements was a commitment and schedule submitted to USEPA on January 8, 1993. More complete descriptions of the planned program were submitted on November 10, 1993, and May 17, 1994. USEPA expressed concern that Ohio was including unacceptable provisions for confidentiality of emissions data. After considerable discussion of this issue, USEPA issued revised guidance on August 12, 1994, providing two new alternatives by which sources would not be ''penalized'' (via added enforcement action or adverse publicity) for seeking SBAP assistance and yet by which appropriate enforcement under Sections 113 and 114 may properly proceed. Ohio submitted a further refinement of its SBAP in accordance with this policy on May 4, 1995. The following section evaluates whether these submittals satisfy the requirements for SBAP programs.

II. Evaluation of State Submittals

A. Assistance to be Provided to Small Businesses

Six of the seven requirements set forth in section 507(a) specify types of assistance that the State must provide to have an approvable SBAP. (The seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.) (1) The State must establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act; (2) The State must 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; (3) The State must develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner; (4) The State must develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act; (5) The State must develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act; and (6) The State must 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 practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

Ohio's submittals specify suitable mechanisms its SBAP will use to be able to satisfy these requirements. Ohio is operating its SBAP as part of the Division of Air Pollution Control of the Ohio Environmental Protection Agency (OEPA). As a result, SBAP staff will have direct access to the expertise of OEPA staff in order to provide small businesses the information on compliance techniques, applicable requirements, technical information on efficient and effective means of achieving compliance, pollution prevention opportunities, and other information small businesses need to achieve and maintain compliance. The SBAP will also provide audits where appropriate.

B. Ombudsman.

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. Ohio has established an Ombudsman's office at the Ohio Air Quality Development Authority (OAQDA). The OAQDA is a financing agency for industries that are trying to meet pollution control requirements. It was established by the Ohio General Assembly in 1970 as an independent organization. OAQDA's current work has given it expertise in complicated technical issues. The OAQDA has hired personnel to develop and execute the program and will implement the functions set forth in USEPA's guidance.

C. Compliance Advisory Panel.

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has committed to establish a CAP according to the methods set forth in section 507(e) of the CAA.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to USEPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act [1]; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has committed to meet these requirements by establishing the Panel and assigning the Panel functions as set forth in section 507(e) of the CAA.

D. Eligibility

Section 507(c)(1) of the CAA defines the term ''small business stationary source'' as a stationary source that:

1. Is owned or operated by a person who employs 100 or fewer individuals;
2. Is a small business concern as defined in the Small Business Act;
3. Is not a major stationary source;
4. Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
5. Emits less than 75 tpy of all regulated pollutants.

Ohio defines the number of employees on a full-time equivalent basis, which results in availability of small business assistance to slightly more companies than would be the case with a definition on a number of people employed basis.

[1] Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State SBAP must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

USEPA permits States to grant SBAP eligibility to sources that do not meet the criteria of sections 507(c)(1) (C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants. Ohio has chosen to grant such eligibility if its resources are underutilized.

USEPA also permits States to exclude from the small business stationary source definition, after consultation with the USEPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA. Ohio's plan contains provisions to exclude such sources.

E. Schedule

The State submitted a detailed schedule for implementation of its SBAP, including milestones for adoption of legislation, adoption of SIP elements, hiring of staff, and other actions necessary to initiate SBAP operations. These dates have now passed, and Ohio has completed its commitments sufficiently to begin providing assistance to small businesses.

F. Confidentiality

An important issue for SBAPs in general, and Ohio's SBAP in particular, is the extent to which the State may promise sources seeking SBAP assistance that the information the State obtains will be kept confidential. On the one hand, sources may choose not to seek the benefits of SBAP assistance without being assured that they will not be penalized for seeking that assistance, whether by becoming subject to enforcement action that they would not otherwise have encountered or by receiving adverse publicity for noncompliance. On the other hand, Section 114 of the CAA specifically provides that emissions data shall not be kept confidential, and a source must not be shielded from enforcement action simply by having requested SBAP assistance.

A review by USEPA of earlier Ohio's SBAP submittals, documented in a technical support document dated April 21, 1994, concluded that Ohio's legislation and program description granted excessive confidentiality, including confidentiality of emissions data, and thereby contravened Section 114 of the CAA and USEPA's guidance on the proper balance between confidentiality and enforcement. After further consideration of the confidentiality issue, USEPA established a revised policy on this issue by a memorandum dated August 12, 1994. The revised policy provides two new options designed to balance the needs of sources (which need to believe they will not be penalized for seeking SBAP assistance) with the needs of USEPA's enforcement and compliance assurance program. The first option under the revised policy, labeled the ''correction period option,'' allows States in specified circumstances to give small businesses up to 90 days to correct violations discovered during SBAP assistance. The second option, labeled the ''confidentiality option,'' allows States with separation between their SBAP and their enforcement program to have the SBAP keep the identity of noncomplying sources confidential, though the SBAP is to provide statistical and other summary information to the enforcement program, and the State is to retain the option of taking enforcement action considering whether SBAP participation reflects good faith effort to achieve compliance.

Ohio has adopted the ''confidentiality option.'' In its description of its SBAP, by memorandum dated April 27, 1995, Ohio uses language very similar to that given in USEPA's policy to describe how it will handle information obtained as a result of SBAP assistance. Ohio's SBAP ''will keep confidential information regarding violations detected in the program, including names and locations of businesses, [but] will provide emissions data and general statistical information such as the types of noncompliance being encountered.'' In addition, the State reserves the right to conduct follow-up audits to assess program effectiveness. At the same time, Ohio's SBAP description states that ''[Ohio's] enforcement program is not prohibited from taking action against small businesses who are receiving SBAP assistance. However, considering that [enforcement staff] are granted enforcement discretion, the enforcement program may consider a company's good faith efforts to achieve compliance by participating in the SBAP as a mitigating factor in determining the appropriate enforcement response or civil penalty.'' The description concludes that ''The SBAP will act independently of [Ohio's] enforcement program'' but will work with the enforcement program to seek consistency in the compliance advice given. Thus, Ohio's provisions on confidentiality are fully consistent with USEPA's revised policy.

III. Final Action

USEPA concludes that Ohio's SBAP submittals fully satisfy the requirements of Section 507 of the CAA. Because USEPA considers the action noncontroversial and routine, USEPA is taking final action to approve these submittals without prior proposal. This action will become effective on October 16, 1995, unless notice is received by September 14, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

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

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 exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, USEPA 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, USEPA 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.

USEPA 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 USEPA'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. In addition, the statutory and regulatory requirements at issue in this action were in effect prior to January 1, 1996, and are thus not

subject to the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 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, Small business assistance program.

Dated: July 28, 1995.

William E. Muno,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—[Amended]

2. Section 52.1889 is added to read as follows:

§ 52.1889 Small business stationary source technical and environmental compliance assistance program.

The Ohio program, submitted as a requested revision to the Ohio State Implementation Plan on May 17, 1994, and May 4, 1995, satisfies the requirements of section 507 of the Clean Air Act.

[FR Doc. 95–20019 Filed 8–14–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[OH001; FRL–5276–9]

Clean Air Act Final Full Approval of Operating Permits Program; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is fully approving the operating permits program submitted by the State of Ohio for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: October 1, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Pak, EPA Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1497.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the Clean Air Act (''the Act'') and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On April 13, 1995, EPA proposed full approval of the operating permits program for the State of Ohio. See 60 FR 18790. EPA received comments from two organizations on the proposal and is responding to the comments below. EPA has also compiled a Technical Support Document responding to the comments. In this notice, EPA is taking final action to promulgate full approval of the operating permits program for the State of Ohio.

II. Final Action and Implications

A. Analysis of State Submission

On April 13, 1995, EPA proposed full approval of the operating permits program for the State of Ohio. The program elements and issues discussed in the proposal are unchanged since the original analysis in the proposal and the program continues to fully meet the requirements of part 70.

B. Response to Public Comments

EPA received comments from two organizations: Porter, Wright, Morris & Arthur, submitted on behalf of the Ohio Chamber of Commerce, the Ohio Chemical Council, and the Printing Industry of Ohio; and Wright-Patterson Air Force Base in Ohio. Porter, Wright, Morris & Arthur supports EPA's proposed full approval. Wright-Patterson Air Force Base included a list of nine comments on the Ohio operating permits program. Responses to these nine comments follow.

One of the comments questions the approvability of the Ohio operating permits program because the electronic application form currently being developed by the State is ''nothing like'' the application form that the State submitted with its program. The part 70 requirements with respect to application forms deal with application content and not format. These requirements are found at section 70.5(c) and are fully satisfied by the State's regulations. This comment does not alter EPA's approval of the Ohio program because the commentor did not provide any information to indicate that the electronic version of the application form is inconsistent with section 70.5(c), and because the electronic application form to which the commentor refers has not been submitted to EPA for approval and is not an element of this approval.

Five of the comments can be categorized as inquiries and concerns with program implementation. These comments do not deal with program approval requirements under part 70 and do not affect EPA's approval of the Ohio operating permits program. The commentor should approach the State directly with these program implementation questions and concerns.

The remaining three comments express dissatisfaction with the scope of specific provisions in the State's program and could be considered requests for EPA to broaden the scope of the State's program; however, the provisions that the commentor references currently comply with the requirements of part 70. In addition, EPA's role in the approval process is to review and approve or disapprove operating permits programs submitted by States and not to make revisions to those programs. In any case, the commentor should contact the State with requests for program revisions.