

Coast Guard**33 CFR Part 165**

[COTP Miami 94-045]

RIN 2115-AA97

Safety Zone Regulations; Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone at Port Everglades, Fort Lauderdale, Florida. This safety zone is needed to protect the Whitbread Round the World Race participant vessels from safety hazards associated with the spectator vessels operating in the area of the Whitbread/Heineken Trophy Village at Port Everglades in Fort Lauderdale, Florida. Entry into this zone is prohibited unless authorized by the Captain of the Port, Miami, Florida, or his designated representative.

FOR OTHER INFORMATION CONTACT: LT Robert G. Garrott, Port Operations Department, USCG Marine Safety Office, 51 SW. First Avenue, Miami, Florida 33130 (305) 536-5693.

EFFECTIVE DATES: This regulation becomes effective at 11:30 a.m. Eastern Daylight Time (EDT), April 23, 1994 or upon arrival of the first Whitbread Round the World Race participant vessel. It terminates at 11:30 a.m. (EDT), May 21, 1994 or upon departure of the final Whitbread Round the World Race participant vessel.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication.

Drafting Information

The drafters of this regulation are Lieutenant Robert G. Garrott, Project Officer for the Captain of the Port, Miami, Florida, and Lieutenant Jacqueline M. Losego, Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulations

The event requiring this regulation to be established is the presence of the Whitbread Round the World Race participant vessels at the Whitbread/Heineken Trophy Village. The Trophy Village is located within Port Everglades on the west side of the Atlantic Intercoastal Waterway with its easternmost limits marked by NO WAKE signs. There are significant risks

associated with spectator vessels operating in close proximity to the participant vessels. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule making does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.c of Commandant Instruction M16475.1B and the establishment of safety zones has been determined to be categorically excluded from further environmental documentation.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will only be in effect for such a small area that it is not expected to have a significant impact on any commercial navigation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-6, and 33 CFR 160.5.

2. A new § 165.T07-045 is added to read as follows:

§ 165.T07-045 **Safety Zone: Whitbread Round the World Race participant vessels at the Whitbread/Heineken Trophy Village at Port Everglades in Fort Lauderdale, Florida.**

(a) *Location.* The following area is a safety zone:

All waters within fifty yards in all directions from the easternmost limit of the Whitbread/Heineken Trophy Village, as marked by NO WAKE signs.

(b) *Effective date.* This section becomes effective at 11:30 a.m. (EDT), April 23, 1994 or upon arrival of the first Whitbread Round the World Race participant vessel. It terminates at 11:30 a.m. (EDT), May 21, 1994 or upon departure of the final Whitbread Round the World Race participant vessel.

(c) *Regulations.* In accordance with general regulations in Section 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Miami, Florida, or a Coast Guard commissioned, warrant, or petty officer designated by him. Section 165.33 also contains other general requirements.

Dated: April 14, 1994.

L. A. Doyle,

Captain, U.S. Coast Guard, Captain of the Port, Miami.

[FR Doc. 94-11709 Filed 5-13-94; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS**38 CFR Part 3**

RIN 2900-AG46

Disease Subject To Presumptive Service Connection (Cancer of the Urinary Tract)

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning presumptive service connection for certain diseases resulting from exposure to ionizing radiation during military service. Congress has added cancer of the urinary tract to the list of radiogenic conditions for which presumptive service connection is authorized, but did not indicate which entities it considers part of the urinary tract. This amendment is intended to define the term "urinary tract" for VA purposes.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Carol McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: VA published in the *Federal Register* of October 5, 1993 (58 FR 51798-99) a proposed amendment to 38 CFR 3.309(d) to define the term "urinary tract" for purposes of implementing the presumption of service connection for urinary tract cancers based on exposure to ionizing radiation established in the Radiation Exposure Amendments of 1992, Public Law 102-578. Interested parties were invited to submit written comments on or before November 4, 1993. Since no comments were received on the proposed rule, the final rule is adopted as proposed, effective October 1, 1992, the date provided by Public Law 102-578.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: January 31, 1994.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.309, paragraph (d)(2)(xv), add a note at the end to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(d) * * *

(2) * * *

(xv) Cancer of the urinary tract.

Note: For the purposes of this section, the term "urinary tract" means the kidneys, renal pelvis, ureters, urinary bladder, and urethra.

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[FR Doc. 94-11759 Filed 5-13-94; 8:45 am]

BILLING CODE 8320-01-P

38 CFR Part 3

RIN 2900-AG51

Returned and Canceled Checks

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its regulations concerning returned and canceled checks. The amendment will assure that the regulations clearly reflect the requirements of the governing statutes as interpreted in a precedent opinion of VA's General Counsel. The intended effect of the amendment is to ensure that the amount represented by a benefit check received but unnegotiated prior to a beneficiary's death is properly distributed.

EFFECTIVE DATE: This amendment is effective June 15, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233-3005.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR 3.1003 in the *Federal Register* of September 3, 1993 (58 FR 46920-21). Interested persons were invited to submit written comments on or before October 4, 1993. No comments were received, and the amendments are adopted as proposed with the exception of the following technical amendment. Section 3.1003(a), as here amended, will provide that the amount represented by a returned and canceled check will be payable to the living person or persons in the order of precedence listed in § 3.1000(a)(1)-(4), which deals with accrued benefits. Section 3.1000(a)(4) provides, in effect, that, where there is no living person in the classes identified in § 3.1000(a)(1)-(3), the amount of accrued benefits payable is limited to the amount necessary to reimburse the person who bore the expense of last sickness or burial. We are adding to § 3.1003(a), as originally proposed, a similar statement to ensure that there is no confusion on the amount of a returned and canceled check that may be paid in such a situation.

The Secretary hereby certifies that these regulatory amendments will not

have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

There is no affected Catalog of Federal Domestic Assistance program number.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: January 31, 1994.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.1003 is revised to read as follows:

§ 3.1003 Returned and canceled checks.

Where the payee of a check for benefits has died prior to negotiating the check, the check shall be returned to the issuing office and canceled.

(a) The amount represented by the returned check, or any amount recovered following improper negotiation of the check, shall be payable to the living person or persons in the order of precedence listed in § 3.1000(a)(1) through (4), except that the total amount payable shall not include any payment for the month in which the payee died (see § 3.500(g)), and payments to persons described in § 3.1000(a)(4) shall be limited to the amount necessary to reimburse such persons for the expenses of last sickness and/or burial.

(1) There is no limit on the retroactive period for which payment of the amount represented by the check may be made, and no time limit for filing a claim to obtain the proceeds of the check or for furnishing evidence to perfect a claim.

(2) Nothing in this section will preclude payment to an otherwise

entitled claimant having a lower order of precedence under § 3.1000(a)(1) through (4), if it is shown that the person or persons having a higher order of precedence are deceased at the time the claim is adjudicated.

(b) Subject to the limitations in § 3.500(g) of this part, any amount not paid in the manner provided in paragraph (a) of this section shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee, provided that the estate, including the amount paid under this paragraph, will not escheat.

(c) The provisions of this section do not apply to checks for lump sums representing amounts withheld under § 3.551(b) or § 3.557. These amounts are subject to the provisions of § 3.1001 and § 3.1007, as applicable.

(Authority: 38 U.S.C. 501(a), 5122)

[FR Doc. 94-11761 Filed 5-13-94; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 20

RIN 2900-AG42

Rules of Practice; Attorneys' and Agents' Fees

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs has amended its regulation to cover an exception to the requirements for charging a fee in connection with a proceeding before the Department with respect to benefits administered by the Secretary. These fee agreements will be treated similarly to other fee agreements for administrative efficiency.

EFFECTIVE DATE: June 15, 1994.

FOR FURTHER INFORMATION CONTACT:

Steven L. Keller, Counsel to the Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202-233-2978).

SUPPLEMENTARY INFORMATION: In the *Federal Register* of September 7, 1993, at pages 47100 through 47101, VA published a proposed rule to implement an exception regarding the requirements for charging a fee in connection with a proceeding before the Department in cases arising out of certain loans. The amendment regarding the exception was created by section 303 of Public Law 102-405. Interested persons were invited to submit written comments, suggestions or objections on or before October 7, 1993. Since no comments were received, the final rule is adopted as proposed.

There are no Catalogs of Federal Domestic Assistance numbers associated with these final regulatory amendments.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal Services, Veterans.

Approved: January 25, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 20.609 paragraph (d) is redesignated as paragraph (d)(2), and a new paragraph (d)(1) is added reading as set forth below; and in paragraph (e) introductory text, the first sentence, the words "under paragraph (c)" are removed.

§ 20.609 Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

* * * * *

(d) *Exceptions*—(1) *Chapter 37 loans.* With respect to services of agents and attorneys provided after October 9, 1992, a reasonable fee may be charged or paid in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37, United States Code, even though the conditions set forth in paragraph (c) of this section are not met.

* * * * *

(Authority: 38 U.S.C. 5902, 5904, 5905)

(Approved by the Office of Management and Budget under control number 2900-0085)

[FR Doc. 94-11760 Filed 5-13-94; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD16-1-5967; A-1-FRL-4884-4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland Small Business Stationary Source Technical 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 State of Maryland for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP revision was submitted by the State to satisfy the Federal mandate of the Clean Air Act ("CAA" or "the Act") which lists specific program criteria to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with CAA. The rationale for EPA's approval is set forth in this document; additional information is available at the address indicated below. This action is being taken in accordance with CAA.

DATES: This final rule will become effective July 15, 1994 unless notice is received on or before June 15, 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; Air Docket, 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Maryland Department of the Environment, Air and Radiation Management Association, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Makeba Morris at (215) 597-2923. U.S. Environmental Protection Agency, Region III (3AT11), 841 Chestnut Building, Philadelphia, PA 19107.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of 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, section 507 of 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, section 507 of 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 13, 1992, the State of Maryland submitted a SIP revision to EPA in order to satisfy the requirements of section 507. In order to gain full approval, the state 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 business stationary sources in connection with the implementation of CAA; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP and the state Small Business Ombudsman.

II. Analysis

1. Small Business Assistance Program

Sections 1-402, 1-404 and 2-201 of the Code of Maryland authorizes the Secretary of the Maryland Department of the Environment (MDE) to establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program which meets the requirements of section 507 of CAA. In developing Maryland's PROGRAM submittal, the Secretary of MDE has delegated the majority of its functions to the Department of the Environment, Air Management Administration (AMA) which will establish a small business assistance office.

Section 507(a) of CAA sets forth seven requirements that states must meet to have an approvable SBAP. Six requirements will be discussed in this section of this document, while the seventh requirement, establishment of a

state Small Business Ombudsman, will be discussed in the next section.

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 CAA. The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

The State has met these first two requirements by charging the AMA SBAP 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. Information on pollution prevention/accidental release will focus on the requirements under the accidental release provisions of title III of CAA, the Emergency Planning and Community Right-to-Know Act of 1986, the Occupational Safety and Health Administration (OSHA) process safety standards, using the Pollution Prevention Information Clearinghouse (PPIC) and the Chemical Emergency Preparedness and Prevention Office (CEPPO) as resources. Relevant clearinghouse material will be translated into layman's terms and organized into information packets. The AMA will also use as resources EPA's Control Technology Center (CTC), Emissions Measurement Technical Information Center (EMTIC), as well as other state organizations, such as the University of Maryland's Technology Extension Service. The AMA will work closely with other state agencies, particularly the Maryland Department of Economic and Employment Development (DEED) to optimize information exchange and program effectiveness. Information dissemination shall take two forms. The proactive portion of the program (Information Outreach Network) will utilize industry groups, trade associations, Maryland's Small Business Development Center (SBDC) and additional avenues as needed to disseminate information to eligible small business stationary sources. The AMA will also disseminate information in a reactive manner by establishing an Information Clearinghouse, via a toll-free telephone

hotline, which will be responsible for answering questions directly or referring such questions to appropriate agency experts.

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 CAA in a timely and efficient manner. The AMA has met this requirement by planning to develop pamphlets and information packets, as well as sponsoring seminars detailing general permit requirements, new and existing regulatory requirements and methods of pollution prevention and accidental release prevention and detection. These informational packages will be disseminated in a timely manner by the Information Outreach Network described in the preceding paragraph. Specific questions about permitting responsibilities and procedures will be directed to appropriate experts in the AMA.

The fourth requirement is to 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 CAA. The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with CAA. The AMA has met these requirements by planning to maintain a database of all small business stationary sources and small business membership groups subject to Federal and/or state requirements and notify these sources, in a timely manner by the proactive mechanisms described above, of rights and obligations under CAA. In support of said PROGRAM, the AMA will also conduct periodic surveys, to solicit feedback from the small business community. In addition, the AMA will provide material, through the Information Outreach Network and the Information Clearinghouse, on environmental auditors to assist small businesses in meeting the requirements of CAA. AMA staff will also be available to provide limited on-site assistance.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (A) Any work

practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practices or compliance methods. The AMA will meet this requirement by establishing a mechanism in accordance with section 507(a)(7) of CAA to receive, review and process requests for work practice, compliance method or milestone modifications.

2. Ombudsman

Section 507(a)(3) of CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. Maryland's Secretary of the Department of the Environment has designated the Office of Community Assistance to serve as Ombudsman for small business concerns as they relate to the SBAP. The Office of Community Assistance presently coordinates the Department outreach activities, and serves a problem mediation function for private citizens, industry, and local organizations, etc. The Ombudsman will be readily accessible to small businesses and, on their behalf, be authorized to provide reports to and communicate with state air pollution control authorities and the Secretary of the Department of the Environment. It is anticipated that the Ombudsman's office will be adequately staffed and funded to fulfill its function with existing personnel.

3. Compliance Advisory Panel

Section 507(e) of CAA requires the state to establish a Compliance Advisory Panel (the 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 Compliance Advisory Panel will be established by the Governor of the State of Maryland, through an executive order to be issued no later than September 1, 1994. The Panel will include seven members who will be chosen consistent with the requirements of section 507(e) of the CAA.

In addition to establishing the minimum membership of the CAP, 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.)

Upon review of the November 13, 1992 formal SIP revision submittal EPA has determined that Maryland specifically satisfies these requirements. Section 4.0 of the SIP revision states that: (1) The CAP will render advisory opinions concerning measures to enhance the effectiveness of the program; (2) prepare periodic reports to the EPA on compliance status of the program with the Federal Paperwork Reduction Act, the Regulatory Flexibility Act and the Equal Access to Justice Act; and (3) review information directed to small businesses stationary sources to assure such information is understandable to the layperson. The SBAP will serve as the Secretariat for the development and dissemination of Panel reports and advisory opinions.

The Compliance Advisory Panel will be established by the Governor of the State of Maryland, through an executive order to be issued no later than September 1, 1994. If the executive order for the establishment of the Compliance Advisory Panel is not issued by September 1, 1994, the EPA will issue a SIP call, pursuant to 110(k)(5), to ensure its timely issuance.

4. Eligibility

Section 507(c)(1) of 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.

Except for source categories which the EPA Administrator or the State of Maryland determines (in accordance with sections 507(c)(3)(A) and (B)), to have sufficient financial and technical capabilities to meet the requirements of the Act without PROGRAM assistance, all small business stationary sources

located in Maryland will be eligible to receive assistance under the PROGRAM. Maryland's PROGRAM criteria for defining a "small business stationary source" is equivalent to the criteria listed in section 507(c)(1) of CAA. The State of Maryland has not provided for the extension of eligibility for assistance under the PROGRAM beyond the requirements of sections 507(c)(1)(C)-(E). However, the State may provide "unofficial" program assistance to any source that requests help if resources are available.

III. Summary of SIP Revision

The State of Maryland has submitted a SIP revision implementing each of the PROGRAM elements required by section 507 of CAA. The Small Business Assistance Program (SBAP) will be administered by the Maryland Department of the Environment (MDE), Air and Radiation Management Administration. Program implementation will begin no later than November 15, 1994. The Compliance Advisory Panel will be established by the Governor of the State of Maryland through an executive order to be issued no later than September 1, 1994. The Panel will be appointed by no later than November 15, 1994. By this action, EPA is hereby approving the SIP revision submitted by the State of Maryland. Accordingly, § 52.1110 is added to 40 CFR part 52, subpart V in order to reflect EPA's approval action and the fact that it is considered part of the Maryland 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 July 15, 1994 unless, by June 15, 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 documents. One document 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 July 15, 1994.

IV. Final Action

The Agency has reviewed Maryland's request for revision of its federally-approved SIP and found it to be in conformance with CAA, including sections 507 and 110(a)(2)(E) thereof. EPA is approving Maryland's plan for the establishment of a Small Business Stationary Source Technical and

Environmental Compliance Assistance Program. Accordingly, § 52.1110 is added to 40 CFR part 52, subpart V—Maryland to reflect EPA's approval action.

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.

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

This action has been classified as a Table 2 action for signature by the Acting Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the 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 CAA, petitions for judicial review of this action to approve the Maryland Small Business Stationary Source Technical and Environmental Compliance

Assistance Program must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication]. 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: December 30, 1993.

Elaine B. Wright,

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 V—Maryland

2. Section 52.1110 is added to subpart V to read as follows:

§ 52.1110 Small business stationary source technical and environmental compliance assistance program.

On November 13, 1992 the Acting Director of the Air and Radiation Management Administration, Maryland Department of the Environment 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 (SIP) revision, as required by title V of the Clean Air Act Amendments. EPA approved the Small Business Stationary Source Technical and Environmental Compliance Assistance Program on [Insert date of publication] and made it part of the Maryland SIP. As with all components of the SIP, Maryland must implement the program as submitted and approved by EPA.

[FR Doc. 94–11752 Filed 5–13–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[OR39–1–6366; FRL–4882–1]

Approval and Promulgation of State Implementation Plans; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the revisions to the State of Oregon Implementation Plan (SIP) which were submitted on February 4, 1994 by the Oregon Department of Environmental Quality (ODEQ). These revisions to OAR Chapter 340 Division 34 (Residential Woodheating and the Woodstove Certification Program) eliminate the State's independent Woodstove Certification program. The State instead will rely on the Federal woodstove certification program which is fully equivalent to Oregon's woodstove certification requirements. The revisions also eliminate Oregon's requirement for separate efficiency testing and labeling. The elimination of the State Certification Program will eliminate the duplication of program efforts between the Federal program and the State program.

DATES: This final rule will be effective on July 15, 1994 unless notice is received by June 15, 1994 that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, Docket # OR39–1–6366, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW., Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT:

Kelly McFadden, Air & Radiation Branch (AT–082), EPA, Seattle, Washington, (206) 553–1498.

SUPPLEMENTARY INFORMATION:

I. Background

EPA first established a Federal New Source Performance Standard (NSPS) for New Residential Wood Heaters February 26, 1988. (53 FR 5873) codified at 40 CFR part 60, subpart AAA. Oregon's Woodstove Certification Rules were first approved by EPA on August 2, 1985 (50 FR 31368) prior to promulgation of the NSPS. On