

**Errata: The 1-800-535-0202 phone number listed on page 8 of this document is no longer associated with EPA's Emergency Planning and Community Right to Know Hotline. The new number is 1-800-424-9346. Sorry for any confusion this may have created.**

GUIDELINES FOR IMPLEMENTATION OF SECTION 507 OF THE  
1990 CLEAN AIR ACT AMENDMENTS

**FINAL GUIDELINES**

**U.S. EPA**

**Office of Air Quality Planning and Standards  
Office of Air and Radiation  
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## PREFACE

Implementation of the provisions of the 1990 Clean Air Act Amendments (Amendments) will more likely require regulation of small businesses in order to attain and maintain the national ambient air quality standards (NAAQS) and control air toxic emissions. These small businesses frequently lack the technical expertise and financial resources necessary to evaluate State regulations and determine the appropriate mechanisms for compliance. The Congress, in anticipation of this new burden on small businesses, added provisions designed to be implemented by the Environmental Protection Agency (EPA) and the States to provide technical assistance and compliance information to small businesses. This document is intended to delineate the Federal and State roles in meeting these new statutory provisions and to provide guidance to the States on submitting an acceptable State implementation plan (SIP).

The material included in this document is meant to provide guidance to States in the adoption of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The EPA describes the statutory requirements set forth in section 507 of the amended Clean Air Act (Act) and presents recommended interpretations of those requirements. The State must comply with all statutory requirements of the Act however, to the extent that EPA is interpreting the Act requirements, these interpretations are not binding on the States, and EPA will independently evaluate each State plan in light of the Act's requirements.

Section 507 of the Amendments (42 U.S.C. §2661f) requires each State to submit a revision to the federally-approved SIP by November 15, 1992 to establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. Failure of the States to adequately respond could result in the imposition of one or more penalties (sanctions) included in the statute. The EPA recognizes that most States have active technical support programs to assist regulated sources. The EPA encourages States to continue any ongoing technical and compliance assistance programs and, wherever possible, to include all appropriate State agencies in the process of proactive and reactive support to small businesses. The EPA interprets the statute as granting the States

substantial flexibility in designing and implementing programs to assist applicable sources. The EPA has designed its guidance, as set forth in the following chapters, such that it does not overburden the States with prescribed methods of meeting the statute. The EPA believes that States and associated local agencies are the best sources of information to small businesses and can provide the most efficient service to the regulated community. Although the Act does not require local agencies to develop small business technical and compliance assistance programs, the States may find it appropriate to cooperatively work with such local agencies whenever such agencies can be supportive of the SIP required program.

The EPA desires that States be as innovative as possible in program design and implementation. To that end, the Agency is examining some of the existing technical assistance programs at State and local levels designed to provide general and/or specific technical support to small businesses. While these programs may not have been designed to meet the provisions of section 507 or may address environmental pollutants other than those encompassed by the Act, these programs can demonstrate the approaches envisioned by section 507. The EPA will provide this information to States as soon as it is available. In the interim, EPA encourages State-to-State communications to investigate methods for providing proactive and reactive support to small businesses.

The following three terms used in this guideline are important to understand: State office to serve as Ombudsman for small business (Small Business Ombudsman); the small business assistance program (SBAP); and the Compliance Advisory Panel. The combination of these three terms is referred to as the PROGRAM. The core of the PROGRAM is the SBAP, where the actual assistance to small businesses occurs. The Small Business Ombudsman is to serve as a representative for small businesses in the implementation of the State's responsibility under section 507. The Compliance Advisory Panel is to render advisory opinions, submit reports to EPA on the PROGRAM effectiveness, and review information to assure that it is understandable by the layperson.

## **1.0 INTRODUCTION**

Congress adopted Title V, section 507, of the Amendments for the purpose of ensuring that small businesses would have access to the technical and compliance information necessary to comply with the Act. Toward achieving this objective, section 507 includes requirements that apply to the EPA as well as other requirements that States must meet. In addition to these mandated requirements, section 507 also provides EPA and States with the opportunity to exercise discretion in certain areas of program implementation. Summaries of the EPA and State mandatory and discretionary provisions contained in section 507 are presented in Subchapters 1.1 and 1.2, respectively. To assist States in meeting both the mandatory and discretionary provisions contained in section 507, EPA has developed this guidance document for States to use in developing and implementing a small business technical and environmental compliance assistance program (herein referred to as the "PROGRAM"). In general, the PROGRAM includes three key components: (component #1) the designation of a State office to serve as Ombudsman for small businesses in connection with the implementation of the Act; (component #2) the establishment of a small business assistance program (SBAP) for providing technical and compliance assistance to small businesses; and (component #3) the creation of a Compliance Advisory Panel for determining the overall effectiveness of the SBAP.

Chapter 2.0 of this guidance document describes the general requirements for States to follow in providing a demonstration to EPA of the adequacy of their PROGRAM in order to receive approval of the PROGRAM as part of the SIP. Chapter 3.0 addresses the three key components of a State's PROGRAM.

## **1.1 EPA Obligations Under Section 507**

Within nine months after enactment of the Amendments, section 507(b) requires EPA to establish a Federal program. The functions of the program will include (1) assisting States in developing a small business technical and environmental compliance assistance program; (2) issuing technical guidance for the States to use during implementation of the PROGRAM, including guidance on alternative control technologies, pollution prevention, and accidental release prevention methods for small business stationary sources; and (3) providing for the implementation of a portion of the PROGRAM under section 507(a)(4) if a State fails to submit such a program. Toward meeting the first requirement, EPA is issuing this guideline document. Furthermore, EPA will follow-up with individual assistance to States that request such help. States are encouraged to work with the appropriate EPA Regional Office to resolve issues or to discuss additional interpretations of these provisions. In order for EPA to meet its second obligation of providing technical assistance to States, EPA is utilizing its current technical support services such as the Control Technology Center (CTC), the Emissions Measurement Technical Information Center (EMTIC), the Emergency Planning and Community Right-to-Know Hotline, and the Pollution Prevention Information Clearinghouse (PPIC). A brief description of these services is provided in the following paragraph. These technical support centers and offices can provide the States with up-to-date information on new methods, control techniques, and upcoming regulations. In meeting the third requirement, EPA is designing and will operate a small business technical and compliance assistance program by utilizing contractors under EPA supervision and the aforementioned technical support services, which will be available if a State fails to implement the provisions of section 507.

The EPA currently has various technical support services that the Agency anticipates will be able to provide technical assistance to the States. The CTC is a no-cost, technical assistance service for all State and local air pollution control agencies and Regional Offices. It offers quick access to EPA experts via the CTC Hotline and in-depth technical support through source-specific engineering assistance projects. The EMTIC is an information exchange network for the promotion of consistent, uniform application of stationary source emission test methods in the development and enforcement



of emission control programs on a national basis. The Emergency Planning and Community Right-to-Know Hotline provides ancillary technical services for EPA's Chemical Emergency Preparedness and Prevention Office (CEPPO). The CEPPO is primarily responsible for programs involving accidental releases of hazardous chemical substances. Under the authority of the Emergency Planning and Community Right-to-Know Act of 1986 or SARA Title III, CEPPO helps States and local entities plan what to do in the event of a chemical emergency. The CEPPO's purview also extends to fostering the prevention and minimization of the consequences of accidental releases, mainly under the accidental release provisions of the Amendments. The prevention program, in particular, contains a strong outreach component directed to smaller businesses that manufacture, store, distribute, or use hazardous chemicals in other ways. Its aim is to increase the understanding and application of good prevention practices and technologies, using an approach known as chemical process safety management. The Emergency Planning and Community Right-to-Know Hotline answers questions concerning chemical accident prevention and the accidental release provisions of the Amendments. It also deals with questions concerning chemical emergency preparedness and other questions related to SARA Title III. The Hotline staff can be reached at 1-800-535-0202. Finally, PPIC provides information on pollution prevention programs through a variety of activities including a hard copy reference library, an electronic database, a toll-free Hotline, and other outreach efforts such as distributing information packets and conducting workshops.

Other services provided by the EPA will include (1) coordination with the Federal regulatory development programs within EPA and other involved agencies to assure that small business needs and permitting issues are addressed during standards setting and control techniques guideline (CTG) development; (2) preparation of small business instructional materials along with the development of any standards or CTGs that present the information in easy-to-understand language (to include sample permits, simplified permit application instructions, etc.); (3) preparation of alternative control techniques (ACT) documents for sources that are affected by State programs but are not expected to be regulated by Federal programs in the near future (efforts will be concentrated in those areas that will benefit the most States); and (4) coordination with State SBAPs to develop, as necessary and appropriate, materials for other small businesses.

In addition to these general requirements, section 507(c) contains a discretionary provision that allows EPA to consider modifications to the eligibility criteria for determining if certain small businesses may be excluded from the requirements of section 507, or if small businesses have the technical and financial capability to meet the requirements of the Act without the application of Section 507. The Agency will evaluate a State's request to exclude sources from the SBAP based upon the statutory reasons for including such sources for technical assistance, i.e., financial and technical capability to assess control alternatives. In exercising this discretion, EPA must provide notice and an opportunity for public comment and consultation with the Administrator of the Small Business Administration (SBA).

Under section 507(d), EPA must establish a monitoring program through the EPA Ombudsman's Office to monitor the effectiveness of each State PROGRAM under section 507. In so doing, Congress has charged EPA with a continuing oversight responsibility. To this end, EPA has established an Ombudsman through the Office of Small and Disadvantaged Business Utilization in the Office of the Administrator to monitor and report to Congress on the effectiveness of this program. This Office can be reached at 703-305-5938. The EPA Ombudsman is required to (1) render advisory opinions on the overall effectiveness of each State PROGRAM; (2) report periodically to Congress on the compliance status of the EPA and State agencies with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act (see next paragraph below); (3) review information (e.g., enabling documents) issued by the responsible Federal and State PROGRAM officials to ensure that it is understandable to the layman; and (4) have the responsible Federal and State PROGRAM officials serve as the secretariat for the development and dissemination of reports to Congress and advisory opinions. The EPA's Small Business Ombudsman Office would extend its program to small businesses in that particular State, to the extent resources permit, if that State fails to designate a State office as Ombudsman to small businesses. In addition, the EPA Regional Offices maintain a small business liaison for assisting States on matters relating to all environmental media. A listing of these Regional contacts is contained in Appendix A.

The statute requires the EPA Ombudsman (and the State Compliance Advisory Panel) to monitor each State PROGRAM for compliance with the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act. As such, the Agency will monitor the State PROGRAM to determine whether it is following the broad intent of these provisions.

In carrying out this oversight responsibility, there are a number of questions that may help EPA evaluate the efficacy of each State PROGRAM. Examples of some potentially relevant questions are contained in Appendix B.

Where the Agency has the responsibility for permitting and collecting fees, EPA may reduce the fees required under the Act for small business stationary sources by considering their available financial resources [section 507(f)]. While EPA has not established specific criteria to be used in the process of determining whether fee reduction is appropriate, the Agency will be guided by the statutory intent that such fees not detract from the implementation of control objectives. Requests for fee reductions will be assessed on a case-by-case basis. The Agency does not intend of its own volition to grant broad fee reductions for small businesses. Further, EPA is obligated under the Act to (1) consider the necessity and appropriateness of continuous emissions monitoring (CEM) requirements for small business stationary sources when developing regulations and CTGs that require CEMs pursuant to the Act [section 507(g)]; and (2) consider the size, type, and technical capabilities of small business stationary sources in the development of CTGs for small business stationary sources [section 507(h)].

## **1.2 State Obligations Under Section 507**

States are required to establish and implement a PROGRAM as part of the State's responsibility to have a fully-approved and implemented SIP. The SIP revisions which incorporate this PROGRAM must be submitted to EPA within 24 months after enactment of the Amendments (by November 15, 1992). The Agency interprets the Act as requiring the State to submit, as a SIP revision, plans for establishing its PROGRAM. These plans should provide for timely phasing in of the program

elements with implementation to fully comply with the statutory provisions of the PROGRAM by the effective date of the State's operating permit program -- i.e., not later than November 15, 1994. This timing is necessary so that small businesses that will be subject to the permit requirements will have available the guidance the PROGRAM is required to provide. As discussed in Chapter 2.0, in order to receive approval of the section 507 portion of the SIP, the State must submit schedules and commitments to have in place and/or to have operational all elements of the PROGRAM. These program elements are discussed below. Where the State chooses to submit schedules and commitments as the plan, these schedules and commitments must specify how and when each element will be placed into full operation (i.e., the Governor may not have specific authority to initiate a particular element, and the plan must demonstrate the efforts to gain legislative approval and subsequent implementation if the Governor does not presently have specific authority to initiate an element of the PROGRAM).

In reviewing and approving section 507 SIP revisions submitted by the State, EPA will fully approve each program element that is either fully implemented in accordance with the statute and this guideline, or for which the schedules and commitments will ensure implementation by November 1994. Elements of submitted PROGRAMS for which the State submits a schedule and commitment will be evaluated against the principles established by the statute and this guideline.

The following program elements must be addressed in the SIP revision in order to satisfy the requirements of section 507(a) regarding implementation of the PROGRAM:

1. Development, collection, and coordination of information on compliance methods and technologies for small business stationary sources.
2. Assistance to small business stationary sources on methods of pollution prevention and accidental release prevention and detection, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.
3. Designation of a State office to serve as an Ombudsman for small businesses in implementing the requirements of the Act.

4. Establishment of a small business stationary source compliance assistance program for determining applicable requirements and permit issuance.
5. Adequate mechanisms for notifying small business stationary sources on a timely basis of their rights under the Act.
6. Adequate mechanisms for informing small business stationary sources of their obligations under the Act, including a program for referring sources to qualified auditors or for the State to provide for audits of the operations of such sources to determine compliance with this Act.
7. Expedited procedures to respond to requests from small business stationary sources for modification of any work practice or technical method of compliance, or 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. No such modification may be granted unless it is in compliance with the applicable requirements of the Act including the requirements of the SIP.
8. Creation of a Compliance Advisory Panel.

Unless otherwise approved by EPA, the plan must demonstrate that all small business stationary sources will be eligible for assistance under the State program. Section 507(c) defines a small business stationary source as a stationary source that:

1. is owned or operated by a person that employs 100 or fewer individuals;
2. is a small business concern as defined in the Small Business Act (see definition on page 10);
3. is not a major stationary source as defined in Titles I and III of the Amendments (these definitions are listed in *Table 1*);
4. does not emit 50 tons or more per year of any regulated pollutant<sup>1</sup>; and

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<sup>1</sup> "Regulated air pollutant" means the following:

- (1) Nitrogen oxides (NO<sub>x</sub>) or any volatile organic compound.
- (2) Any pollutant for which a national ambient air quality standard has been promulgated.
- (3) Any pollutant that is subject to any standard promulgated under section 111 of the Act.
- (4) Any Class I or II substance listed pursuant to section 602 of the Act.

(continued...)

5. emits less than 75 tons per year of all regulated pollutants.

This demonstration can take the form of enabling documents defining eligible sources or State certification that eligible sources will not be excluded from the PROGRAM without prior EPA approval.

Section 507(c) allows States, after notice and opportunity for public comment, to extend the definition of eligible source to include small business stationary sources which do not meet the criteria of subparagraphs (3), (4), or (5) above, but do not emit more than 100 tons per year of all regulated pollutants. As these provisions of this guideline intend to establish minimum criteria, the Agency does not intend to disapprove such expansions that fit within the 507(c) exception. Should States fail to implement the PROGRAM, however, EPA intends to implement the PROGRAM based upon the statutory criteria.

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(...continued)

- (5) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including section 112(r).
- (6) Any pollutant subject to requirements under section 112(j) of the Act. Such pollutant shall be considered to be regulated at the time the Administrator does not promulgate a standard by the date established pursuant to section 112(e) of the Act.
- (7) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

Table 1. Major Stationary Sources as Defined in Titles I and III of the Amendments<sup>2</sup>

**TITLE I**

Sources subject to the nonattainment area provisions of Title I, Part D, with the potential to emit pollutants in the following or greater amounts:

		<u>TONS PER YEAR</u> (tpy)
(i) Ozone (VOCs and NOx) <sup>3</sup>	Serious	
	50	
	Transport regions not severe or extreme	50 (VOC only)
	Severe	
25		
	Extreme	
10		
(ii) Carbon monoxide		
	Serious (where stationary sources contribute significantly)	50
(iii) Particulate Matter (PM-10)		
	Serious	70

**TITLE III**

<sup>2</sup> The EPA recognizes that several definitions exist for the term "major stationary source." The EPA is including this definition in this document to clearly define those sources for which the State is minimally responsible to provide technical and compliance assistance under Section 507.

<sup>3</sup> For this purpose, Title I treats volatile organic compounds (VOC's) and oxides of nitrogen (NOx) sources differently. In areas qualifying for an exemption under section 182(f), NOx sources with the potential to emit less than 100 tpy would not be considered major sources under Part D of Title I. In areas not qualifying for this exemption, NOx sources are subject to the lower thresholds created by section 182(f). In ozone transport regions, a lower threshold of 50 tpy for VOC sources is created by section 184(b). Because section 182(f) does not refer to section 184(b), the lower threshold in ozone transport regions applies to VOC sources, but not to NOx sources. Whatever its location, any 100 tpy source would be considered a major source under section 302.

Air toxics sources, as defined in section 112 of the Act, with the potential to emit 10 tpy or more of any hazardous air pollutant, 25 tpy or more of any combination of hazardous air pollutants, or a lesser quantity of a given pollutant if the Administrator so specifies.



The Small Business Act defines a small business as any business which is independently owned and operated and not dominant in its field as defined by Small Business Administration (SBA) regulations under section 3 of the Small Business Act. The definitions for a small business under SBA regulations can be found in 13 CFR Part 121 and are listed by Standard Industrial Code (SIC) categories. For further assistance in determining the size cut-off for defining a small business, States should consult with the SBA's Office of Policy Analysis. States may contact SBA's Office of Policy Analysis at 202-205-6530.

Section 507(c)(3)(B) also allows States to exclude from the small business stationary source definition under section 507 those categories of small business stationary sources which the State determines to have sufficient financial and technical support to meet the requirements of the Act without the application of section 507. In exercising this discretion, States must provide notice and opportunity for public comment and consult with the Administrator of the EPA and the SBA. Such exclusions may not be implemented unless approved by EPA as part of the appropriate SIP. In making its determination, EPA will consult with the Administrator of SBA, taking into consideration public comments received by the State, and the State's demonstration that the class of sources to be excluded are financially and technically capable of implementing the Act.

Section 507(e) requires States to create a Compliance Advisory Panel to carry out the same duties required by the EPA Small Business Ombudsman. Given the short response time and the need to coordinate with the legislature EPA believes that it is in the best interest of the State to establish this panel as early as possible in this process. However, as already discussed in this subchapter, a State may submit a schedule committing the State to establish this panel no later than November 1994.

Finally, section 507(f) allows States the flexibility to reduce any fees required under the Act for small business stationary sources by considering their available financial resources. The basic intent of section 507 appears to suggest that States remove or diminish the burdens imposed on small sources to assist in complying with the provisions of the Act. Where States reduce fees, however,

the modification to the fee structure must demonstrate that the effectiveness of the PROGRAM will not be affected as a result.

## **2.0 GENERAL REQUIREMENTS FOR SIP APPROVAL**

Under the Act, the State is not required to have the PROGRAM in place at the time it submits the SIP revision, but rather to have a plan for PROGRAM implementation. As a result, the State's submittal should consist of a description of the activities the State will undertake and the infrastructure established (or to be established) to ensure each component of the PROGRAM is accomplished (see Chapter 1.0). In order to receive EPA approval of this required aspect of the SIP, the State should demonstrate that the requirements in section 507 can be met by the implementation of the State's existing and anticipated PROGRAM. The submittal by the State must address each of the required eight elements presented in Subchapter 1.2 and discuss how each of the elements as implemented by the State will meet the requirements established by the Act.

In addition to submitting the required plan revision to the appropriate Regional Office no later than November 15, 1992, each State must demonstrate that the submitted plan, including implemented and yet-to-be implemented elements, is capable of meeting the requirements of the Act. In contrast to other types of plan revisions with clearly definable objectives (i.e., attainment of the NAAQS), the demonstration is more of an abstract analysis of how each element of the State program will work in concert with the overall program to ensure that eligible small businesses are provided with the technical assistance and compliance information envisioned by section 507. As explained in Chapter 1.0, the State, in addition to any elements which have been implemented, may submit schedules and commitments as part of the submittal due on November 15, 1992. Schedules and commitments submitted must provide for implementation of the full program, as defined in Chapter 3.0, not later than November 15, 1994.

Although the Act requires the State to submit "plans for establishing a [PROGRAM]" by November 15, 1992, the Act does not specify when the PROGRAM must be fully implemented. However, since States may begin to implement a federally enforceable source operating permit PROGRAM by November 15, 1994, the Agency believes it is necessary for States to have their PROGRAMs operational by that time. Since many aspects of the PROGRAM concern informing the

States about and aiding them with the permit program requirements, the States need to be prepared at that point to provide these services.

In some cases, the measure of program adequacy is clear and easily quantified (i.e., the designation of the State office to serve as Ombudsman). In other cases, the demonstration is more subjective (sources will have access to appropriate technical information/staff to assist in complying with the statutory provisions). In addition, in preparing these guidelines, EPA has attempted to allow States the maximum degree of flexibility in designing and implementing the PROGRAM. The easier option, from an EPA review perspective, would have been to design a highly prescriptive PROGRAM. While this would have simplified EPA's review responsibility, such a PROGRAM would not have recognized the differences in State infrastructures and could have imposed substantial burdens on the States to design and implement this PROGRAM. Since this program is substantially different from many other SIP programs, it is logical for each State to ask, in advance of the State's efforts to meet these requirements and design a PROGRAM, what PROGRAM is acceptable to EPA in order to receive approval of their State PROGRAM for incorporation into the federally-approved SIP.

The State must demonstrate that the State PROGRAM clearly addresses each of the eight statutorily mandated elements of the PROGRAM. The PROGRAM described in Chapter 3.0 requires the State to develop an information dissemination system accessible to small businesses (PROGRAM component #2). The State must demonstrate that it has in place and operational an accountability system that serves small businesses in a reactive mode (i.e., that the system components, however assembled and integrated, respond to requests from eligible sources and provide such sources with the information regarding compliance with State and Federal rules as required under the Act). Section 507(a)(5) of the Act requires the State to develop and implement "outreach" programs. The State must therefore demonstrate a proactive aspect of the PROGRAM which actively seeks to inform small businesses of these rights, as well as the source's obligations under the Act. A PROGRAM without one or the other of these modes of operation is not approvable. The Act also requires the State to evaluate the effectiveness of the State PROGRAM in achieving these objectives.

The EPA will examine the State-established procedures for internal PROGRAM review designed to ensure maximum PROGRAM effectiveness. This internal review process includes the Compliance Advisory Panel. It is advisable that the Panel be functional at a time sufficiently in advance of the time required for full PROGRAM implementation to assist in the design and initial implementation of the PROGRAM, such that the panel can effectively perform oversight of the PROGRAM at a later date.

As noted in Chapter 1.0, two of the components of the PROGRAM are the State Ombudsman and the SBAP. The EPA anticipates that the primary responsibility for these activities will be placed within State offices. The EPA does not prescribe the placement of the Ombudsman Office<sup>4</sup> or the office to be charged with implementation of an SBAP.

An Ombudsman, as defined in Webster's dictionary, is a deputy or representative. It would appear that Congress, in establishing the requirement for designation of a State office to serve as Ombudsman for small businesses (PROGRAM component #1), desired to ensure that small businesses have a representative in the infrastructure being established that understands the needs of small businesses. As such, EPA believes that in designating the office, States should carefully examine how this office can represent the interests of small businesses, especially in relation to ensuring that small businesses receive the technical and compliance assistance demanded by section 507. As discussed in Chapter 3.0, there are many duties that can be ascribed to the Ombudsman. The critical test for EPA approval, with respect to this element of the PROGRAM, will be whether (1) the designated office is encumbered with activities that prevent it from performing effectively; (2) sufficient expertise exists to represent small businesses; and (3) no conflicts of interest exist within the office that would prevent the Ombudsman from serving effectively.

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<sup>4</sup> The term office is used interchangeably in this document to mean either a specific, designated State official, the title of a State official, or an organizational unit or department within the State's Executive Branch.

The Act requires that the State create a Compliance Advisory Panel (PROGRAM component #3) for the primary purpose of performing oversight of the State's section 507 responsibilities. In submitting this component, the State must demonstrate that the Panel is legally adopted and duly constituted as described in section 507. The panel must be empowered to perform the statutory function as explained in Chapter 3.0 and must be sufficiently funded to carry out these responsibilities.

The EPA, in review of the State PROGRAM as prescribed in the submitted SIP revision, will attempt to assess whether the PROGRAM as designed by the State is capable of meeting the statutory requirements. The EPA will assess each aspect of the SIP revision as it relates to the goal of providing technical and compliance assistance to the affected community. State assurances of PROGRAM operational capability should clearly describe each PROGRAM element and demonstrate coordinated action between organizations, whether State or local agencies, wherever the responsibilities are separate. To the extent that several different governmental units are involved in implementation of the PROGRAM, the State should demonstrate each office's responsibility and accountability under the PROGRAM. In addition, the State must demonstrate the technical capability and sufficient resource allocations for each office charged with implementing any element of the PROGRAM. This demonstration may take the form of a memorandum of understanding between the various governmental units or directives issued by the appropriate governmental authority.

In addition, the State must demonstrate that adequate legal authority exists to implement the PROGRAM (i.e., interdepartmental coordination, ability to establish and maintain the Compliance Advisory Panel, etc.), that adequate commitment of resources exists to implement the proposed PROGRAM (i.e., available staff, established hotlines, designated Ombudsman, etc.), and that the PROGRAM has been duly adopted and subjected to public review as defined in the Act and 40 CFR Part 51, Subpart F. Where elements of the PROGRAM are not in place at the time of SIP submittal, the State must demonstrate activity to implement the element. This could include, but would not be limited to, requests for legislative authority to develop and implement the program elements, budgetary requests for program support, allocation of resources from fees collected, and contract bids for elements to be supported by nongovernmental personnel.

Irrespective of the manner in which a State chooses to design and implement the PROGRAM, it is incumbent upon the State to demonstrate the PROGRAM capabilities in order to receive EPA approval. As discussed previously, EPA believes that States should be provided with the maximum degree of flexibility to develop and implement this PROGRAM within the constraints of the statute. This means that there is no single acceptable PROGRAM. In fact, EPA anticipates that States will use many different and innovative approaches to ensure that the appropriate information is available to small businesses. The EPA recognizes that many State and local agencies have provided technical assistance to the regulated industry. The EPA trusts that States will be able to formalize existing activities to meet many of the provisions of these guidelines.

### **3.0 COMPONENTS OF A STATE SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM (PROGRAM)**

To comply with the provisions of section 507 requiring States to develop plans for establishing a PROGRAM, States must incorporate three key components: (1) designating a State office to serve as the Ombudsman for small businesses; (2) establishing a Small Business Assistance Program (SBAP) that contains the necessary procedures for meeting the objectives of section 507; and (3) establishing a Compliance Advisory Panel for determining the overall effectiveness of the SBAP. This chapter provides guidance to States for implementing these three key components of the PROGRAM. Specifically, Subchapter 3.1 provides guidance on the establishment of a State office to serve as Ombudsman for small business (Small Business Ombudsman) (PROGRAM component #1), Subchapter 3.2 provides guidance for establishing an SBAP to provide assistance to small businesses subject to the requirements of the Act (PROGRAM component #2), and Subchapter 3.3 provides guidance for establishing a Compliance Advisory Panel to provide oversight of the PROGRAM (PROGRAM component #3).

#### **3.1 Designation of a State Office to Serve as Ombudsman For Small Business**

The first key component which States must consider in implementing a PROGRAM is the designation of a Small Business Ombudsman. One of the primary functions of the Ombudsman is to represent small businesses to the appropriate governmental organizations. The following discussion describes methods for satisfying the provisions of section 507(a)(3) for designating an office within the State government to serve as an Ombudsman for small business stationary sources.

In designating the Ombudsman the State may find it appropriate to identify a specific State official or office. Recognizing that many States may already have an existing Ombudsman office, the State may desire to expand the current duties of the Ombudsman to include representing small businesses as the State implements the provisions of the Act. Prior to or simultaneously with



designating a specific official or State office, the State should ensure that the office is provided adequate additional staff and funding to effectively represent small businesses.

The EPA's review of the criteria set forth in Chapter 2.0 for approval of any State office to serve as Ombudsman will consider the following:

- Is the Office capable of representing small business concerns to the State air pollution control agency? In some cases, this may require independent status;
- Will the Office have direct access to individuals or other government units to ensure the views and needs of small business are considered? This may include access to the Governor, the head of the State environmental control authority, the head of the State economic developmental agency, the Attorney General, or other secretary equivalent level officers;
- Is the Office authorized to provide reports to and communicate with appropriate personnel (e.g. State Legislators, Governor's office, the head of the State environmental control authority, the head of the State economic developmental agency, the Attorney General, or other secretary equivalent level officers)?;
- Is the Office granted sufficient independent authority to identify problems and make recommendations as they relate to implementation of the SBAP?

The EPA encourages the early appointment of the State Ombudsman to assist in the development of the SBAP. In addition, early involvement in the planning process will enable the Ombudsman to assist in the oversight role ensuring that small business concerns are represented. At a minimum, the SIP revision should either clearly identify the placement of the Ombudsman and indicate that this office has been designated prior to the date of the SIP revision submittal or present a schedule based upon the necessary steps to authorize establishment of the Ombudsman.

The State Ombudsman Office for small businesses, in order to represent small business effectively, may be charged with the following duties:

- Conduct independent evaluations of all aspects of the SBAP;

- Review and provide comments and recommendations to the EPA and State/local air pollution control authorities regarding the development and implementation of regulations that impact small businesses;
  - Facilitate and promote the participation of small businesses in the development of new regulations that impact small businesses;
  - Assist in providing reports to higher authorities and the public regarding the applicability of the requirements of the Act to small business;
  - Aid in the dissemination of information (i.e., upcoming air regulations, control technologies, etc.) to small businesses and other interested parties;
  - Participate in and sponsor meetings and conferences with State/local regulatory officials, industry groups, and small business representatives;
  - Aid in investigating and resolving complaints and disputes from small businesses against the State/local air pollution control authorities;
  - Periodically review the work and services provided by the SBAP with trade associations and small business representatives;
  - Operate a telephone Hotline (possibly toll-free) to provide confidential help on individual source problems and grievances;
  - Refer small businesses to the appropriate specialists in the SBAP where they may obtain information and assistance on affordable alternative technologies, process changes, products and operational methods to help reduce air pollution and accidental releases;
- Arrange for and assist in the preparation of guideline documents by the SBAP to ensure that the language is readily understandable by the lay person;
    - Work with trade associations and small businesses to bring about voluntary compliance with regulations under the Act;
    - Interface with Regional and State offices of the Small Business Administration, the Department of Commerce and/or other State and Federal agencies that may have programs to financially assist small businesses in need of funds to comply with environmental regulations;

- Interface with private sector financial institutions to assist small businesses in locating sources of funds to comply with State/local air pollution control requirements; and
- Conduct studies to evaluate the impacts of the Act on the State's economy, local economies, and small businesses.

States are encouraged to establish a network for sharing information on small businesses. These efforts could be coordinated through the Ombudsman's office.

### **3.2 Establishment of a Small Business Assistance Program (SBAP)**

The second key component that States must consider in implementing a PROGRAM is the establishment of an SBAP. The SBAP should provide sufficient communications with small businesses through the collection and dissemination of information to the small business on matters of (1) determining applicable requirements under the Act and permit issuance; (2) the rights of small businesses under the Act; (3) compliance methods and acceptable control technologies; (4) pollution prevention and accidental release prevention and detection; and (5) audit programs. The SBAP should also act as an information clearinghouse by referring small businesses to State technical experts specifically trained to handle specific questions relevant to achieving compliance with the Act. For example, the SBAP could operate a toll-free telephone hotline to respond to inquiries from small businesses. Small businesses could learn about the services provided by the SBAP either through direct contact with the SBAP or through information outreach programs with such organizations as industry groups and trade associations.

In general, the SBAP may be coordinated directly through or under the direction of the State air pollution control agency as an identifiable unit, but not be limited to this entity. For EPA to approve an SBAP that is separate from the State air pollution control agency, the State must demonstrate that the SBAP has the technical staff necessary to provide the technical information requested. A contact person(s) in the State SBAP should be established and a toll-free Hotline is also recommended.

In establishing an SBAP in accordance with this chapter, States must satisfy several of the required program elements listed in Subchapter 1.2 under section 507(a). Specifically, these elements are (1) developing, collecting, and coordinating information exchange on compliance methods and control technologies; (2) providing assistance to small business stationary sources with pollution prevention and accidental release prevention and detection; (3) providing assistance for determining applicable requirements under the Act and permit issuance; (4) determining adequate mechanisms for notifying small business stationary sources of their rights under the Act on a timely basis; (5) determining adequate mechanisms for informing small business stationary sources of their obligations under the Act, including a program for referring sources to qualified auditors or for the State to provide for such audits to determine compliance with this Act; and (6) procedures for considering requests from small business stationary sources for modifications of work practices or technological methods of compliance or compliance procedures. The SBAP would provide information and/or compliance and technical assistance relevant to each of these elements to small businesses. Information relative to procedures for implementing each of these required elements is contained in the following subchapters.

### **3.2.1 Methods for Disseminating Technical and Compliance Information to Small Businesses**

Each SIP revision developed in response to section 507 must contain procedures for disseminating information (easily understandable to the layman) on compliance issues and control technologies. In addition, States must provide a means of handling small business inquiries on specific methods for achieving compliance with State air pollution control regulations. In general, this flow of information process involves two components: a proactive component and a reactive component. The proactive component involves adequate communication with and information outreach to small businesses in the form of easily discernable information which specifically details their obligations under the Act. The reactive component involves the establishment of a clearinghouse for handling incoming inquiries from small businesses regarding methods for achieving compliance with air pollution control requirements under the Act. Ways in which the proactive and

reactive components of the information dissemination process can be implemented are described in the following paragraphs.

In implementing the proactive aspect of information dissemination, there are numerous ways information could be disseminated to small businesses. One way would be for the State's small business programs to prepare information packets which describe in layman terms compliance and technical information relevant to a small business stationary source's obligation under the Act. These packets would be distributed to the small business community via an outreach program. The outreach program would consist of industry groups, trade associations, and other organizations all assisting in distributing this information to small businesses. Information packets could be mailed to small businesses through the State air pollution control agency or Ombudsman office. Public service announcements on small business assistance could be made on the radio or TV. The State's pollution prevention technical assistance program for small businesses, if one exists, could be contacted to see how efforts on information dissemination could be coordinated. Possibly, the pollution prevention program could sponsor seminars or training to the small business on the State's SBAP and its services. Additionally, the use of the SBA, SBA field offices, State economic development commissions, Senior Corps of Retired Executives (SCORE), Small Business Institutes, State small business associations, major chemical distributors, the Chamber of Commerce, local Emergency Planning Committees, and small business development centers for information and referral services should be considered as avenues to assist small businesses in obtaining environmental and technical information. It should be left to the State's air compliance program, however, to provide answers or advice on questions about regulations or permits.

Trade associations could also be encouraged to establish "circuit riders" to reach out and assist small businesses with generic problems. This type of outreach program could also be invaluable in coordinating the preparation of permit applications.

By the time State outreach programs distribute informational materials for small businesses, a system will need to be in place for answering specific questions from small businesses concerning

regulatory requirements, appropriate control technologies, and compliance monitoring equipment (if appropriate). In some instances, the informational materials may never reach some small businesses. Such small businesses may instead learn about the State SBAP and the need to control or prevent air pollution through contact with peers. In either case, small businesses will need to direct their questions to an information clearinghouse. The following describes ways of implementing the reactive component of the information dissemination process.

As stated earlier, the State should establish a contact person(s) within the SBAP, and a toll-free Hotline is recommended. This contact person(s) and/or Hotline could direct incoming phone calls to a core group of State technical experts (assigned specific areas of expertise based on their experience and training backgrounds) to provide the appropriate technical assistance to small businesses. The EPA anticipates that the technical experts relied upon will be part of the present technical staff in the State air program control agency. Each technical expert would have a thorough knowledge of the methods, control technologies, approaches, and applicable regulations in his/her field of responsibility. This suggests that the technical specialists must have technical backgrounds in engineering or the physical sciences, as well as expertise in risk management, regulatory development, supervision, implementation, and communications. It is important to note that the information clearinghouse will need to interface with the various technical groups within the State environmental agency. These groups would include agency sections that handle engineering, regulatory development, permitting, inspections, and compliance issues. The amount of diversity contained within the SBAP will determine the extent of interaction required among the groups. The EPA expects that some of the most common questions which small businesses will ask are (1) what are the regulatory requirements for a specific process; (2) what are the types of control technologies to control a specific process; (3) what methods exist for estimating emissions (e.g., use of emission factors) for completing a permit application; (4) what are the types of processes that may generate regulated pollutants; and (5) what are the type(s) of process substitutes that can be used to prevent emissions of regulated pollutants. The technical experts should, however, understand the relationship of the above questions to small business capabilities.

In the event that the technical experts at the State level cannot provide adequate or complete information to the small businesses, the SBAP should obtain the necessary information from a number of other sources. These other sources include (1) technical support services such as the CTC, EMTIC, and the Emergency Planning and Community Right-to-Know Hotline established by EPA; (2) EPA Regional Offices; (3) other States' air programs; (4) trade associations; and (5) industry groups.

States should also consider the use of sections 1, 2 and 3 of the EPA's CTC manual for developing and implementing an information clearinghouse center. Specifically, sections 1 and 2 provide a structure on which the various technical groups interface in the CTC. Section 3, which provides the operating protocol of the CTC, can be used for its scope and rationale in the development of an SBAP. States that are interested in obtaining a copy of the CTC manual may contact the CTC at 919-541-0800.

The SBAP information clearinghouse would not only answer technical questions from the business community, but would also be involved in identifying technical problems not yet addressed by EPA's CTC or other informational sources. Incoming questions would be stored in a State's computer tracking system or accumulated in some other manner. Compilation of frequently asked but unanswered questions could establish possible areas of research for either State agencies or EPA to pursue. *Figure 1* shows how such an information transfer system on compliance and technology information between States and EPA could work. State programs are also encouraged to establish networks with

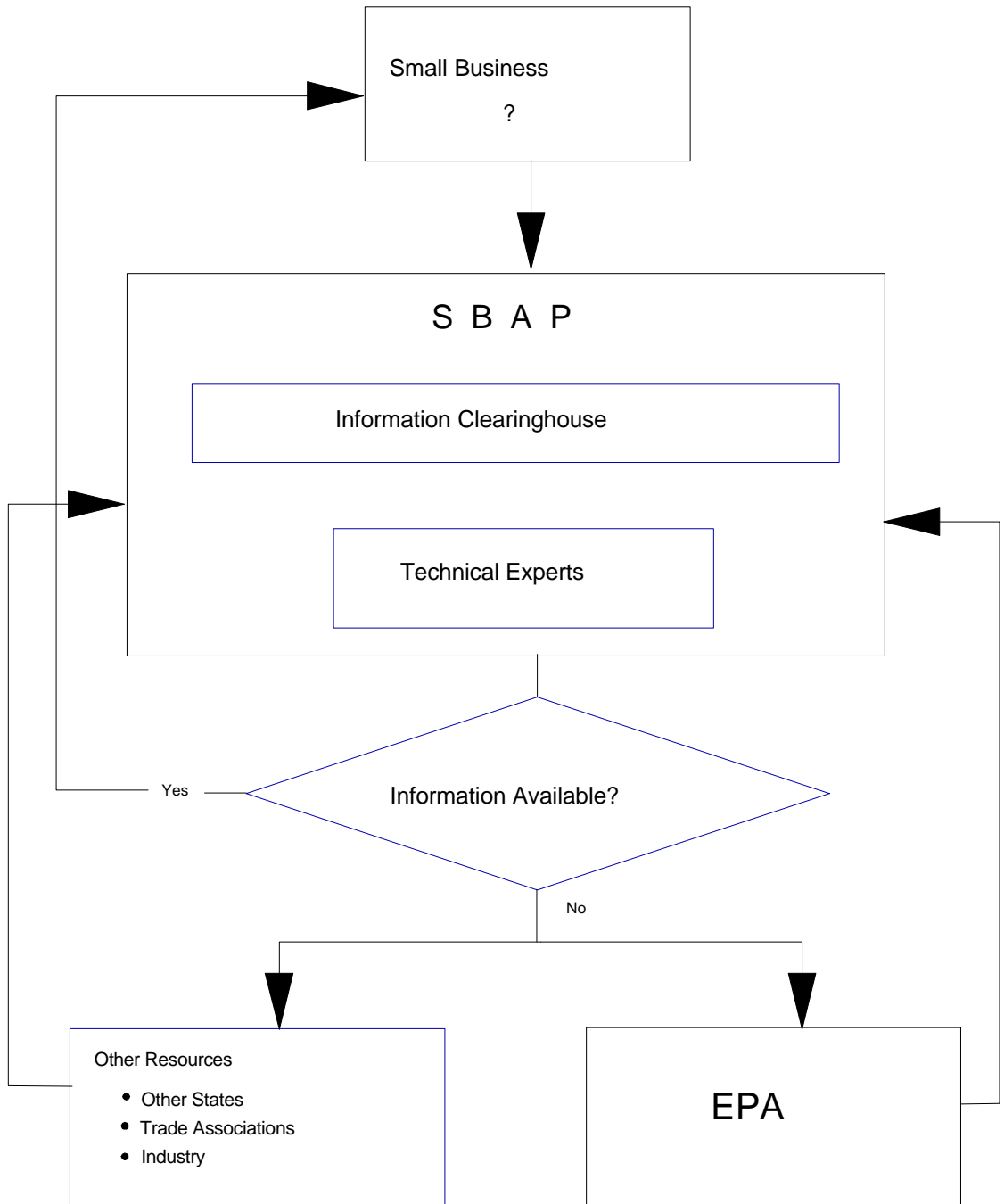


Figure 1. Information Transfer System on Compliance and Technology Information



professional organizations such as the State and Territorial Air Pollution Programs Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), the Air and Waste Management Association (AWMA), and the American Institute of Chemical Engineers (AIChE) to exchange technical information and experiences.

Finally, States could also exchange information and/or suggestions on compliance and technology relevant to small businesses through direct contact with other State air pollution control agencies or by the use of an electronic bulletin board. Interested States would log onto the bulletin board system and search for information on their topic of interest using key words. Questions entered into the system would be in question-and-answer form. The bulletin board system would also contain updates on the latest methods, procedures, and technology. Currently, the EPA Office of Air Quality Planning and Standards (OAQPS) operates a computerized technology transfer network bulletin board which could serve such a purpose. In addition, the Pollution Prevention Information Clearinghouse is available for States to exchange ideas on pollution prevention methodologies. States may contact OAQPS at 919-541-5635 for additional information on services provided by these offices. *Table 2* provides a summary of the ways in which the proactive and reactive components of the information dissemination process can be implemented.

### **3.2.2 Assistance to Small Businesses on Methods of Pollution Prevention and Accidental Release Prevention and Detection**

The SIP revisions in response to section 507 must address the ways in which the needs of small businesses will be met in the areas of pollution prevention, as defined in the Pollution Prevention Act of 1990, and accidental release prevention provisions contained in Title III of the Amendments. States may want to consider the use of the State SBAP information clearinghouse described in Subchapter 3.2.3 as a means to provide information on these subjects to small businesses.

<p align="center"><b>PROACTIVE COMPONENT</b></p> <p align="center"><b>(Communication/Outreach)</b></p>	<p align="center"><b>REACTIVE COMPONENT</b></p> <p align="center"><b>(Information Clearinghouse)</b></p>
<ul style="list-style-type: none"> <li>- State Air Pollution Control Agency</li> <li>- State Ombudsman Office</li> <li>- Newspapers</li> <li>- Small Business Administration (SBA)</li> <li>- SBA Field Offices</li> <li>- State Economic Development Commissions</li> <li>- Senior Corps of Retired Executives (SCORE)</li> <li>- Small Business Institutes</li> <li>- State's Small Business Association</li> <li>- Major Chemical Distributors</li> <li>- Chamber of Commerce</li> <li>- Small Business Development Centers or equivalent</li> <li>- Trade Associations</li> <li>- Industry Groups</li> <li>- State Pollution Prevention Program</li> <li>- State Emergency Response Commissions</li> <li>- Local Emergency Response Committees</li> </ul>	<ul style="list-style-type: none"> <li>- SBAP Clearinghouse</li> <li>- EPA Small Business Technical Assistance Center</li> <li>- EPA Regional Offices</li> <li>- Other States Programs (direct contact or electronic bulletin board)</li> <li>- Trade Associations</li> <li>- Industry Groups</li> <li>- Associations and Professional Organizations (i.e., STAPPA/ALAPCO, AWMA, AICHE)</li> <li>- Pollution Prevention Information Clearinghouse</li> <li>- Emergency Planning and Community Right-to-Know Hotline</li> </ul>

For disseminating information relevant to methods of pollution prevention and accidental release prevention and detection, States should encourage national trade associations and their State counterparts to establish "peer exchange" programs within industry-specific groups that could help others use new pollution prevention techniques and information and accidental release prevention technologies and management practices. State Economic Development Commissions should be encouraged to sponsor workshops to provide technical assistance to small businesses. Other valuable sources of information include trade associations; technical and professional societies; environmental organizations and other public interest groups; civic organizations (e.g., League of Women Voters); media (both broadcast and print); libraries; and community colleges and specialized training institutes. Specific information relevant to pollution prevention and accidental release prevention and detection follows.

### **3.2.3 Pollution Prevention**

The EPA has established a Pollution Prevention Office, and the Office of Research and Development (ORD) and other Agency offices are implementing pollution prevention programs. In addition to these programs, many States have developed comprehensive pollution prevention and regulatory compliance technical assistance programs. Many of these State programs target their complementary nonregulatory technical assistance towards small and medium size businesses. States have developed pollution prevention training programs, workshops and seminars and conducted on-site pollution prevention opportunity assessments for industry and small businesses.

The SIP revisions should address how the State plans to coordinate with any existing pollution prevention program in the respective State. States may contact the National Roundtable of State Pollution Prevention Programs at 612-379-5995 or the Pollution Prevention Information Clearinghouse (PPIC) at 703-821-4800 for additional information on pollution prevention programs for small businesses. Additional resources include Pollution Prevention Training Opportunities in 1991 and Pollution Prevention 1991: Progress on Reducing Industrial Pollutants, both of which can be obtained from PPIC.

Finally, a listing of Regional coordinators who may provide assistance to States regarding pollution prevention programs for small businesses is contained in Appendix C.

### **Accidental Release Prevention and Detection**

Within EPA, the responsibility for programs related to the prevention, detection, and monitoring of accidental chemical releases lies with CEPPPO. This office will generate and provide to States much of the information needed to assist small businesses in this area.

Depending on the nature of the structure each State chooses for its SBAP, States should be able to answer questions or refer questions to specialists on a number of aspects of chemical accident prevention, as well as detection and monitoring. Prevention, in the broadest sense, also includes chemical process safety management. Basic information on prevention should cover four areas: (1) requirements under the accidental release provisions of the Amendments; (2) complementary and closely related requirements under the Emergency Planning and Community Right-to-Know Act of 1986 or SARA Title III; (3) the Occupational Safety and Health Administration (OSHA) process safety standard as required by the Amendments; and (4) general information on prevention practices and technologies.

Concerning the first two areas, specific questions may be referred to the SBAP, which may in turn consult with EPA preparedness coordinators in the Regions, the Emergency Planning and Community Right-to-Know Hotline, specialists within CEPPPO, or other appropriate EPA program offices. A listing of Regional coordinators along with their respective phone numbers is contained in Appendix D. The EPA's Chemical Accident Prevention Program produces publications on different aspects of prevention and has materials that specifically relate to the concerns of smaller businesses. These materials will be made available to the State SBAP. In addition, EPA's Prevention Program may sponsor workshops or other events, and announcements of these events will be directed to the States in a timely way. Through the Accidental Release Information Program, which is part of the Chemical Accident Prevention Program, States may obtain information from a database that

examines the causes of accidents. The Chemical Action Prevention Program's Chemical Safety Audit Program provides a type of consultative audit that can assist facilities in improving their prevention practices. States may contact the Emergency Planning and Community Right-to-Know Hotline at 1-800-535-0202 for information provided by this Program office.

Concerning the third area, for information on the OSHA process safety standard, (for which the statutory deadline is November 15, 1991), States are advised to contact OSHA directly. This standard, which covers process safety in the workplace, is very closely linked to the accidental release provisions that cover the environment and the public, for which EPA has responsibility.

For the fourth area of general prevention information, EPA can make available to the State's SBAP a resource guide that lists relevant organizations that States can contact. States may contact the Emergency Planning and Community Right-to-Know Hotline to obtain a copy of this resource guide. The following types of organizations could be useful.

- State Emergency Response Commissions
- Local Emergency Planning Committees
- State emergency management offices
- Fire service
- First responder agencies
- Trade associations (such as the Chemical Manufacturer's Association)
- Professional societies (such as the Center for Chemical Process Safety of the American Institute of Chemical Engineers)
- Unions and worker organizations
- Environmental organizations

### **3.2.3 Establishment of Compliance Assistance for Determining Small Business Stationary Source Applicability Requirements and Permitting**

Compliance assistance may provide for direct and timely, one-on-one assistance to small businesses to identify applicable requirements under the Act (e.g., SIP and new source requirements) and obtain needed assistance in complying with those requirements, including preparation of permit applications.

The SBAP could have the following specific roles in providing compliance assistance:

- Provide advice and assistance to small businesses in the interpretation of applicable SIP requirements and in obtaining needed technical and compliance assistance. This would include (1) identifying applicable rules; (2) determining whether a permit is needed; and (3) identifying alternatives for achieving compliance with applicable State/local regulations such as process changes, recycling programs, material substitutions, and other methods/processes which may reduce or eliminate pollutant emissions.
- Explain permitting procedures such as fees, when/where to apply, the length of time necessary to receive a permit, the consequences of operating in violation, fines, and appeal decisions.

### **3.2.4 Methods for Notifying Small Businesses of their Rights on a Timely Basis**

Section 507(a)(5) states that the SIP submittal required under section 507 must include adequate mechanisms to ensure that small businesses receive notice of their rights under the Act with sufficient lead time to evaluate compliance methods and the applicable requirements. Notifying a small business stationary source of its rights would include (but not be limited to) letting small businesses know of their legal rights under the Act. For example, small businesses need to know their legal recourse should they be notified of a SIP violation.

It is important that SIP revisions addressing section 507 contain adequate procedures to ensure that information which clearly delineates all legal rights entitled to a small business under the Act is adequately disseminated to small businesses on a timely basis. Some examples of ways in which to

disseminate this information to small businesses would be distributing easy-to-read pamphlets, training field inspectors to properly inform small businesses of their rights during site visits, using public service messages, and making presentations at trade association and chamber of commerce meetings. Other dissemination processes would be through other State programs that have mass mailings to small businesses and through business licensing programs.

### **3.2.5 Establishment of an Audit Program**

Each SIP revision addressing section 507 must contain procedures explaining how their SBAP will provide small businesses with a listing of qualified auditors or, at the option of the State, provide audits of the operations of a source to determine compliance. The auditor would provide the small business with technical assistance on pollution prevention opportunities or control options to comply with the applicable regulations. The auditor should strive to promote pollution prevention as discussed in the Pollution Prevention Act of 1990. Qualified auditors could be (1) inspectors from the State air program; (2) State technical assistance personnel from the pollution prevention, chemical accident prevention, and waste reduction programs; (3) environmental consulting companies; or (4) individuals with air pollution control knowledge or experience such as former State or Federal air inspectors or professional engineers. Such audits would be performed as a part of an outreach program and could include an evaluation of work practices, recommendations on whether compliance monitoring procedures are being correctly followed, and recommendations for making records orderly and accessible. It is discretionary whether States or the auditors choose to charge sources for this service.

The EPA recognizes that a voluntary audit may discover that a source is not in compliance with applicable State regulations. The EPA cannot approve an SBAP that grants immunity to sources for compliance problems discovered during such audits. The EPA recognizes the statutory intent, however, that voluntary audits be a major component of the SBAP. As such, the voluntary audits are designed to assist small businesses in complying with the applicable regulations. Should a compliance problem be uncovered during a voluntary audit, the State should determine appropriate

action in the first instance. If EPA decides to take any action in response to such a compliance problem, the Agency will consider how the information was obtained in determining appropriate action.

### **3.2.6 Procedures for Consideration of Requests from Small Business Stationary Sources for Modifications of Work Practices or Technological Methods of Compliance**

The SIP revision must include procedures for handling requests from small businesses for modifications of work practices or alternate control methods. In general, States must develop administrative procedures for receiving requests from small businesses to modify the provisions of State-adopted regulations. These administrative procedures should clearly indicate the format of such requests and indicate how the State will review and act upon each submitted request. In those cases where State and/or Federal law requires a public hearing, the procedures must state in what manner public notice will be provided and how public comment will be incorporated into the final decision. Where applicable, the procedures must indicate that the federally-approved SIP will not be affected by the State's approval of such modifications until such time as formal approval is granted by the EPA. The EPA believes that in most cases States have in place appropriate mechanisms for review of source specific modification of the applicable State regulation and that additional procedures will not be required. The State must demonstrate, however, that such procedures clearly identify to the small business the manner and content of the request. States must also coordinate such requests with EPA where the requests relate to Federal standards, and the specific authority to address such a request has not been delegated to the State.

The procedures must also ensure that no such modification may be granted unless it is in compliance with the applicable requirements of the Act, including the requirements of the applicable SIP. Where such applicable requirements are set forth in Federal regulations, only modifications authorized in such regulations may be allowed. Requests for such modifications should also be reviewed by the State Small Business Ombudsman.



### **3.3 Establishment of State Compliance Advisory Panels**

The third key component in the establishment of the PROGRAM is the creation of a State Compliance Advisory Panel for determining the overall effectiveness of the State SBAP. The following subchapters discuss the methodology for States to use in appointing an advisory panel to determine the overall effectiveness of the SBAP. Specifically, Subchapter 3.3.1 addresses the authority and function of the advisory panel, Subchapter 3.3.2 discusses the requirements for selecting panel members, and Subchapter 3.3.3 describes methods for implementing the advisory panel.

#### **3.3.1 Authority and Functions of the State Compliance Advisory Panel**

Section 507(e) requires each State to create a Compliance Advisory Panel consisting of at least seven individuals. The Compliance Advisory Panel has the following specific functions:

- (a) Render advisory opinions on the effectiveness of the PROGRAM, difficulties encountered, and degree and severity of enforcement;
- (b) Prepare periodic reports to the EPA on the compliance status of the PROGRAM following the intent of the provisions of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; and
- (c) Review information for small business stationary sources to assure such information is understandable to the layperson.

The PROGRAM is required to serve as the Secretariat for the development and dissemination of panel reports and advisory opinions and may provide administrative and logistical support to the Panel.

### 3.3.2 Selection of Panel Members

Section 507(e) requires the selection of panel members by the following method:

- (a) The Governor of the State shall select two members who are not owners or representatives of owners of small business stationary sources to represent the general public;
- (b) The head of the State air pollution agency responsible for issuing operating permits shall select one member to represent that agency;
- (c) The State legislature shall select four members who are owners or representatives of owners of small business stationary sources. In the case of a unicameral legislature, two members shall be selected by the majority leadership and two members selected by the minority leadership. In the case of a bicameral legislature, both the majority and minority leadership in the upper and lower houses of the legislature shall each appoint one member of the panel.

### 3.3.3 Implementation of the Compliance Advisory Panel

The Compliance Advisory Panel is an integral portion of a State PROGRAM to assist small businesses. The Panel independently oversees the SBAP and the Ombudsman, determines their effectiveness, reports its finding to EPA, and examines information disseminated to small businesses to ensure that it is understandable for non-technical persons. While the Panel is not specifically referenced in section 507(a) as an element of the PROGRAM, it is an integral portion of a State PROGRAM and will need to be involved in numerous activities carried out by the SBAP and the Ombudsman. Therefore, the independent requirements of *Subsection (1)* through *(7)* draw the Panel into the SIP submittal requirement. During the House debate, Congressman Wyden recognized the Panel's importance within the PROGRAM, stating "[t]he Compliance Advisory Panel... is an essential element of any State assistance program -- without a panel to provide guidance and feedback, it would be difficult to ensure that a program would adequately address the needs of small business stationary sources. The EPA should only approve State implementation plans that include compliance assistance panels." 136 Cong. Rec. H12884 (daily ed. Oct. 26, 1990) (statement of Rep. Wyden).

States should establish their Compliance Advisory Panel early on in the planning of the PROGRAM.  
The panel could initially serve as an advisory group for the development of the State PROGRAM.

## **APPENDIX A**

## EPA REGIONAL SMALL BUSINESS LIAISONS

The following are EPA Regional Office Small Business liaisons who may provide States with compliance and technical assistance.

<u>REGION</u>	<u>CONTACT</u>	<u>PHONE NUMBER</u>
I	Mr. Lester Sutton Small Business Liaison Region I - EPA John F. Kennedy Federal Building - WAA Boston, Massachusetts 02203	(617) 565-3617
II	Mr. Steven Riva Small Business Liaison Region II - EPA 26 Federal Plaza New York, New York 10278	(212) 264-4711
III	Ms. Evelyn MacKnight Small Business Liaison Region III - EPA 841 Chestnut Street Philadelphia, Pennsylvania 19107	(215) 597-9807
IV	Mr. Thomas L. Nessmith Small Business Liaison Region IV - EPA 345 Courtland Street, N.E. Atlanta, Georgia 30365	(404) 347-7109
V	Ms. Margaret McCue Small Business Liaison Region V - EPA 230 S. Dearborn Street Chicago, Illinois 60604	(312) 353-2073

VI	Mr. Phillip A. Charles Small Business Liaison Region VI - EPA 1445 Ross Avenue 12th Floor, Suite 1200 Dallas, Texas 75202	(214) 655-2200
VII	Mr. Charles Hensley Small Business Liaison Region VII - EPA 726 Minnesota Avenue Kansas City, Kansas 66101	(913) 551-5177
VIII	Mr. Charles Stevens Small Business Liaison Region VIII - EPA 999 - 10th Street, Suite 500 Denver, Colorado 80202-2405	(303) 294-1111
IX	Ms. Marsha Harris Small Business Liaison Region IX - EPA 75 Hawthorne Street San Francisco, California 94106	(415) 744-1635
X	Ms. Mary Neilson Small Business Liaison Region X - EPA 1200 Sixth Avenue Seattle, Washington 98101	(206) 553-4280

## **APPENDIX B**

## **MONITORING BY EPA ON THE EFFECTIVENESS OF THE PROGRAM**

The EPA will need to answer a variety of questions when examining the effectiveness of each State PROGRAM. Examples of potentially relevant questions are:

- (a) Have the States established and implemented a PROGRAM on a timely basis? Is the State Ombudsman's office independent from the State air pollution control agency (although this is not required by the Act)?
- (b) How effective have the State Compliance Advisory Panels been in evaluating their State SBAPs?
- (c) What problems were identified by the State Compliance Advisory Panels? What corrective action was taken?
- (d) What are the findings of the State Compliance Advisory Panels regarding the State's adhering to the intent of the provisions of the Paperwork Reduction Act, Regulatory Flexibility Act, and the Equal Access to Justice Act?
- (e) What has been the economic impact on small businesses as a result of the implementation of the Act?
- (f) Has there been adequate outreach/technical assistance to the affected small business community?
- (g) What improvements need to be made?
- (h) Is the State Ombudsman carrying out his/her role in providing oversight and in handling complaints and problems in a timely manner?



## **APPENDIX C**

## EPA REGIONAL POLLUTION PREVENTION CONTACTS

The following EPA Regional contacts may provide assistance to States pertaining to pollution prevention programs for small businesses.

<u>REGION 1</u>	<u>CONTACT</u>	<u>PHONE NUMBER</u>
I	Abby Swaine EPA - Region I Mail Code: 9111 JFK Federal Building One Congress Street Boston, Massachusetts 02203	(617) 565-4523
II	Janet Sapadin EPA - Region II - Mail Code: 9243 26 Federal Plaza New York, New York 10278	(212) 264-1925
III	Roy Denmark EPA - Region III - Mail Code: 3ES43 841 Chestnut Building Philadelphia, Pennsylvania 19107	(215) 597-8327
IV	Carol Monell EPA - Region IV - Mail Code: EPA9420 345 Courtland Street, N.E. Atlanta, Georgia 30365	(404) 347-7109
V	Linda Glass EPA - Region V - Mail Code: 5MA-14 230 South Dearborn Street Chicago, Illinois 60604	(312) 886-1019
VI	Laura Townsend EPA - Region VI-Mail Code:6M-P 1445 Ross Avenue 12th Floor, Suite 1200 Dallas, Texas 75202	(214) 655-6444

VII	Alan Wehmeyer EPA - Region VII - Mail Code: EPAA9670 726 Minnesota Avenue Kansas City, Kansas 66101	(913) 551-7339
VIII	Don Patton EPA - Region VIII - Mail Code: EPA9840 909 18th Street - Suite 500 Denver, Colorado 80202-2405	(303) 293-1456
IX	Alisa Greene EPA - Region IX - Mail Code: H-1-B 75 Hawthorne Street San Francisco, California 94105	(415) 744-2190
X	Carolyn Gangmark EPA - Region X - Mail Code: 100 1200 Sixth Avenue Seattle, Washington 98101	(206) 442-4072

## **APPENDIX D**

**EPA REGIONAL ACCIDENTAL RELEASE PREVENTION AND DETECTION  
PREPAREDNESS CONTACTS**

The following EPA Regional Chemical Emergency Preparedness and Prevention (CEPP) Coordinators may provide States with answers to specific questions regarding (1) requirements under the accidental release provisions of the Amendments; and (2) complementary and closely related requirements under the Emergency Planning and Community Right-to-Know Act of 1986 or SARA Title III.

<b><u>REGION</u></b>	<b><u>CONTACT</u></b>	<b><u>PHONE NUMBER</u></b>
I	Ray DiNardo, EPA - Region I Mail Code: EEE-LEX New England Regional Laboratory 60 Westview Street Lexington, Massachusetts 02173	(617) 860-4300
II	John Ulshoefer EPA - Region II Mail Code:211 2890 Woodbridge Avenue Edison, New Jersey 08837-3679	(201) 321-6620
III	Dave Wright EPA - Region III Mail Code:3HW34 841 Chestnut Street Philadelphia, Pennsylvania 19107	(215) 597-6006
IV	Henry Hudson EPA - Region IV 345 Courtland Street, Northeast Atlanta, Georgia 30365	(404) 347-1033
V	Mark Horwitz EPA - Region V Mail Code: 5HS-TUB-6 230 South Dearborn Chicago, Illinois 60604	(312) 886-1964
VI	Jim Staves EPA - Region VI Mail Code: 6E-E Interstate Bank Tower 1445 Ross Avenue Dallas, Texas 75202-2733	(214) 655-2270

VII	Ron Ritter EPA - Region VII 726 Minnesota Avenue Kansas City, Kansas 66101	(913) 551-7308
VIII	Cheryl Crisler EPA - Region VIII Mail Code: 8HWM-ERB One Denver Place 999 - 18th Street Suite 500 Denver, Colorado 80202-2405	(303) 293-1723
IX	Kathleen Shimmin Office of Health and Emergency Planning M-1-2 EPA - Region IX 75 Hawthorne Street San Francisco, California 94105	(415) 744-2100
X	Walt Jaspers EPA - Region X Mail Code: HW-093 1200 6th Avenue Seattle, Washington 98101	(206) 553-4349