

related rule because it is exempt from notice and comment rulemaking under section 553(a)(2) of the Administrative Procedure Act (5 U.S.C. 553(a)(2)), and therefore is not subject to the analytical requirements of sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

C. Paperwork Reduction Act

The information collection activities associated with the administrative requirements of assistance programs have already been approved under the provisions of the Paperwork Reduction Act at 44 U.S.C. 3501 *et seq* and have been assigned OMB control number 2030-0020.

The collection of information associated with the administrative requirements of assistance programs to state and local government agencies is estimated to have a public reporting burden averaging 25 hours annually. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The interim final regulation will cause a modest increase in information collection activity for some respondents above that associated with the normal administrative requirements of assistance programs. This is primarily attributable to the financial demonstration of need required for the approval of a waiver. Approximately 11 to 15 State and local agencies are anticipated to request a waiver.

D. Unfunded Federal Mandates: Enhancing the Intergovernmental Partnership, Executive Order 12875

We believe this regulation will provide relief to State and local governments negatively impacted by the transfer of program activities and resources in compliance with section 502(b) of the Act. While additional funds are not being provided, this rule allows state and local agencies to request waivers of the Act's cost-sharing requirements. The Office of Management and Budget was provided information and documents concerning consultations with state and local governments made directly, and indirectly through state and local groups. Affected state and local officials were also provided the means to participate in the development of this rulemaking through surveys, conference discussions, information papers, formal and informal comments, and communications with a variety of state and local associations.

We also believe, by including provisions for the cost-sharing

requirements to be waived (as discussed above), the rulemaking increases the "flexibility for state and local waivers." Furthermore, in accordance with the Act's requirements, the term "implementing" is being defined to encompass all grant activities in lieu of separately-based cost-share percentages for planning, developing, establishing, or improving programs and program maintenance.

We do not anticipate that these regulations will impose any burdensome effects on the national economy. Indeed, this rule is intended to provide administrative and fiscal relief to affected state and local agencies.

List of Subjects in 40 CFR Part 35

Accounting, Administrative practice and procedures, Environmental protection, Grant programs, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 23, 1994.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 35, subpart A is amended as follows:

PART 35— STATE AND LOCAL ASSISTANCE

1. The authority citation for part 35, subpart A, continues to read as follows:

Authority: Secs. 105 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7405 and 7601(a)); secs. 106, 205(g), 205(j), 208, 319, 501(a), and 518 of the Clean Water Act, as amended (33 U.S.C. 1256, 1285(g), 1285(j), 1288, 1361(a) and 1377); secs. 1443, 1450, and 1451 of the Safe Drinking Water Act (42 U.S.C. 300j-2, 300j-9 and 300j-11); secs. 2002(a) and 3011 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6912(a), 6931, 6947, and 6949); and secs. 4, 23, and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136(b), 136(u), and 136w(a)).

2. Section 35.105 is amended by revising the definition of "Recurrent expenditures" to read as follows:

§35.105 Definitions.

* * * * *

Recurrent expenditures, except for the purposes of section 105 of the Clean Air Act (See §35.201), means those expenditures associated with the activities of a continuing environmental program. All expenditures, except those for equipment purchases with a unit acquisition cost of \$5,000 or more, are considered recurrent unless justified by

the applicant as unique and approved as such by the Regional Administrator in the assistance award.

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3. In §35.115 paragraph (a) is amended by revising the last sentence to read as follows:

§35.115 State allotments and reserves.

* * * * *

(a) * * * However, no state shall have made available to it for application an allotment of less than one-half of 1 percent nor more than 10 percent of the annual appropriation for section 105 grants.

* * * * *

4. A new §35.201 is added to read as follows:

§35.201 Definitions applicable to Section 105.

For purposes of section 105 of the Clean Air Act the following definitions are to be used in addition to the definitions in §35.105; except that the definition of "Recurrent expenditures" has the meaning set forth below:

Implementing means, within the context of section 105 of the Clean Air Act, as amended, any activity related to planning, developing, establishing, carrying-out, improving, or maintaining programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.

Nonrecurrent expenditures means those expenditures which are shown by the recipient to be of a nonrepetitive, unusual, or singular nature such as would not reasonably be expected to recur in the foreseeable future. Costs categorized as nonrecurrent must be approved in the assistance agreement or an amendment thereto. All other approved project costs are deemed to be recurrent.

Recurrent expenditures means those expenses associated with the activities of a continuing environmental program. All expenditures are considered recurrent unless justified by the applicant as nonrecurrent and approved in the assistance award or an amendment thereto.

5. Section 35.205 is revised to read as follows:

§35.205 Maximum Federal share.

(a) The Regional Administrator may provide state, local, interstate, or intermunicipal agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution or implementing national primary and secondary ambient air quality standards. Air pollution control agencies currently