

prosecution for the making of false statements or the concealing of material facts.

(h) Instructional guidelines to assist in the submission of applications for EPA certification are available from EPA or a certifying State.

[42 FR 8083, Feb. 8, 1977, as amended at 62 FR 1833, Jan. 14, 1997]

#### § 21.4 Review of application.

(a) The Regional Administrator or his designee will conduct a review of the application. This review will consist of a general assessment of the adequacy of the proposed alterations, additions, or methods of operation. The review will corroborate that the proposed alterations, additions, or methods of operation are required by an applicable standard. The review will identify any proposed alterations, additions, or methods of operation that are not required by an applicable standard, or that are extraneous to the achievement of an applicable standard.

(b) The assessment of adequacy will be conducted to ensure that the proposed additions, alterations, or methods of operation are sufficient to meet one or more applicable standards whether alone or in conjunction with other plans. The assessment will not generally examine whether other alternatives exist or would be more meritorious from a cost-effective, efficiency, or technological standpoint.

(c) An application which proposes alterations, alterations, or methods of operation whose design, in anticipation of a future requirement, will achieve a level of performance above the requirements imposed by a presently applicable standard shall be reviewed and approved by EPA or a State without prejudice. The amount of financial assistance for such an application will be determined by SBA.

(d) The Regional Administrator shall retain one copy of the application and a summary of the action taken on it. Upon completion of his review, the Regional Administrator shall return the original application along with any other supporting documents or information provided to the applicant along with a copy to the appropriate SBA district office for processing.

#### § 21.5 Issuance of statements.

(a) Upon application by a small business concern pursuant to § 21.3 the Regional Administrator will, if he finds that the additions, alterations, or methods of operation covered by the application are adequate and necessary to comply with an applicable standard, issue a written statement to the applicant to that effect, within 45 working days following receipt of the application, or within 45 working days following receipt of all information required to be submitted pursuant to § 21.3(c), whichever is later. Such a written statement shall be classified as a full approval. If an application is deficient in any respect, with regard to the specifications for submission listed in § 21.3(c), the Regional Administrator shall promptly, but in no event later than 30 working days following receipt of the application, notify the applicant of such deficiency.

(b)(1) If an application contains proposed alterations, additions, or methods of operation that are adequate and necessary to comply with an applicable standard but also contains proposed alterations, additions, or methods of operation that are not necessary to comply with an applicable standard, the Regional Administrator shall conditionally approve the application within the time limit specified in paragraph (a) of this section, and shall also identify in the approval those alterations, additions, or methods of operation that he determines are not necessary.

(2) Conditional approvals as contained in a statement will satisfy the requirements for approval by EPA for those alterations, additions, or methods of operation determined to be necessary and adequate. Such conditional approvals may be submitted to SBA in satisfaction of the requirements of section 7(g)(2)(B) of the Small Business Act.

(3) Conditional approvals will not satisfy the requirements for approval by EPA for those alterations, additions, or methods of operation included in the application that are determined not to be necessary. Unnecessary alterations, additions, or methods of operation are those which are extraneous to the achievement of an applicable standard.