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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[NE 1418; A-7-FRL-2768-3]

**Approval and Promulgation of the Nebraska State Implementation Plan for Lead****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rulemaking on Nebraska Lead SIP.

**SUMMARY:** EPA is today taking final action to approve most portions of the Nebraska State Implementation Plan (SIP) for lead which were not previously approved. Certain portions of the Nebraska lead SIP were approved on November 29, 1983 (48 FR 53697). No action was taken at that time on the plan as it pertained to Omaha. Based upon additional submissions by the State, EPA proposed to approve the lead SIP for Omaha, except for the demonstration of attainment and control measures which were proposed to be disapproved (48 FR 57323, December 29, 1983). After the State developed the demonstration of attainment and control measures for the Omaha lead SIP, they were proposed to be approved on June 12, 1984 (49 FR 24149). The proposal indicated that final approval of the control measures was dependent on the State submitting an enforceable schedule for implementing the measures and more concrete descriptions of those measures. The State has submitted an Administrative Order which contains enforceable schedules for implementing the control measures. However, because the engineering designs for some of the control measures have not been completed, detailed descriptions of the measures have not been submitted. The State of Nebraska has committed to submit more detailed descriptions of the control measures for the Omaha lead SIP by April 1, 1985. By this action, EPA approves the Omaha lead SIP except for control measures to be applied at the ASARCO lead refinery. EPA is withholding action on approval of the control measures pending submission of detailed descriptions of the measures on April 1, 1985.

**EFFECTIVE DATE:** March 4, 1985.

**ADDRESSES:** Copies of this revision to the Nebraska SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. Copies of the Nebraska submission and EPA's technical support document are available for review during normal

business hours at the following locations:

Environmental Protection Agency,  
Region VII, Air Branch, 324 East 11th  
Street, Room 1410, Kansas City,  
Missouri

Department of Environmental Control,  
301 Centennial Mall, Lincoln,  
Nebraska

Public Information Reference Unit,  
Environmental Protection Agency  
(PM-211A), 401 M Street, SW,  
Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**  
Dwayne E. Durst at (816) 374-3791, FTS  
758-3791.

**SUPPLEMENTARY INFORMATION:****Background**

Background information describing Nebraska's lead SIP submissions and EPA's prior actions on those submissions are contained in the following Federal Register notices and need not be repeated here: (1) 48 FR 39084, dated August 29, 1983, proposal to approve Nebraska lead SIP, except for Omaha; (2) 48 FR 53697, dated November 29, 1983, final action to approve Nebraska lead SIP, except for Omaha; (3) 48 FR 57323 dated December 29, 1983, proposal to approve lead SIP for Omaha, except for the demonstration of attainment and control measures which was proposed to be disapproved; and (4) 49 FR 24149 dated June 12, 1984, proposal to approve the demonstration of attainment and control strategy for Omaha.

**Proposals to approve/disapprove Omaha lead SIP**

The December 29, 1983, notice proposed to approve all items in the Omaha lead SIP, except for the demonstration of attainment and control measures which were proposed to be disapproved. The reason EPA proposed to disapprove these two items was because Nebraska had not developed an acceptable control strategy for Omaha in time for EPA to meet the deadline for publishing a proposed action on the State's submission. The deadline was established in a July 26, 1983 Federal District Court Order adopting a Settlement Agreement and schedule signed by EPA and the Natural Resources Defense Council, Inc. (NRDC) in litigation under the Clean Air Act concerning the completion of lead implementation plans for a number of States, [*NRDC v. Ruckelshaus*, (D.D.C.) No. 82-2137].

Subsequent to publication of the December 29, 1983, proposed disapproval, Nebraska developed and submitted additional draft material

which contained a demonstration of attainment for Omaha and control measures for the ASARCO lead refinery, the major cause of lead standard violations in Omaha. A hearing was held on April 13, 1984, before the Nebraska Environmental Control Council to receive comments on the control strategy. The Council adopted the control strategy as a revision to the Nebraska lead SIP for Omaha. Because some of the control measures in the strategy were not clearly specified and because there did not appear to be an enforcement mechanism for requiring the control measures to be implemented, EPA requested certain additions and clarifications of the control strategy. These items are identified in the proposed rulemaking dated June 12, 1984 (49 FR 24149).

One comment letter was received on the December 29, 1983, proposal from the State of Iowa. The letter contained lead monitoring data which Iowa contends reflected the influence of lead emitting sources in Nebraska on air quality in Iowa. The State of Iowa operates a lead monitoring station at Dodge Park in Council Bluffs, Iowa. The station is directly across the Missouri River from the ASARCO primary lead refinery.

Iowa's concern was that the control strategy for Omaha be designed to insure attainment of the lead standard in Iowa as well as Nebraska. EPA has determined that the control strategy developed by Nebraska does provide emission reductions which will insure attainment of the lead standard at all receptors in Iowa.

No comments were received on the June 12, 1984, proposal to approve the attainment demonstration and control measures.

**Demonstration of Attainment and Control Measures for the Omaha lead SIP**

The control measures contained in the Omaha lead SIP require reduction of process fugitive emissions from the smelting and refining operations at the ASARCO lead refinery as well as control of windblown and resuspended dust from on-plant vehicular traffic. Also, the strategy calls for improved baghouse dust handling practices and modification of the baghouse stacks to provide good engineering practice design. Lead emissions from a secondary lead smelter which was operated by Gould, Incorporated, were not included in the Omaha control strategy analysis. The State of Nebraska considers the secondary smelter to be permanently closed. However, because

the plant has not been dismantled, the State issued an Administrative Order to Gould which prohibits the plant from starting up without a permit. The permit will not be issued unless it is demonstrated that lead emissions from the plant will not cause or contribute to violations of the lead standard in Omaha. More detailed information on the control measures is contained in a technical support document<sup>1</sup> which was prepared prior to publication of this rulemaking.

The control strategy as originally developed contained a number of control measures for the ASARCO lead refinery which were only marginally specified, and some relied on future evaluation of effectiveness or feasibility or were to be implemented only if necessary. EPA notified the State that the control strategy had to contain measures which were more concretely specified so that it could be determined that the strategy contained sufficient enforceable control measures to provide for attainment of the air quality standard. The specific legal mechanism for insuring that the control measures would be implemented was also lacking in the State's original submission. Because there are no lead emission regulations in the control strategy, some other enforcement procedure is required.

In response to these comments the Nebraska Department of Environmental Control issued an Administrative Order to ASARCO (Case No. 753, Administrative Order dated June 12, 1984). The Order lists the control measures which are to be implemented and sets final compliance dates for each measure with interim dates specified. The Order specifies dates when selection of alternative control measures will be made so that there is sufficient time to complete the alternative which is selected by the final compliance date. The Order meets the requirements of 40 CFR 51.15, Compliance Schedules.

Because the detailed designs for the control measures were not developed at the time the State submitted their lead SIP for Omaha, these were not included as part of their submission. As stated above, EPA informed the State that this information must be included in the SIP. In most cases, detailed designs for the control equipment and other control measures are not available at the time of SIP approval. These are developed subsequent to EPA approval of the control strategy. The measures are designed to meet specific emission

regulations which are approved as an enforceable portion of the SIP. However, in this case, the State has not adopted lead emission regulations to support the control strategy for Omaha. Instead, they have used the Administrative Order as the enforceable instrument in their SIP. Thus, EPA must have sufficient details describing the control measures for Omaha in order to determine that the measures will provide for the lead emissions reductions claimed in the attainment demonstration. Because these details are not yet available, EPA cannot approve the control measures as meeting the requirements of 40 CFR Part 51.87. The State has committed to submit the additional information by April 1, 1985. In the meantime, EPA is temporarily withholding final action on the control measures in the Omaha lead SIP pending submission of the detailed control measures for the ASARCO lead refinery.

The Omaha lead SIP contains a provision which provides for revision of the control strategy if air quality data measured at a new lead monitoring station does not agree with the modeled design value for the control strategy. The exact methods to be used to test whether there is agreement between the modeled and monitored values have not been established. Simply comparing the 1984 air quality data from the one newly established station with the maximum quarterly concentration predicted by modeling will not be acceptable as a basis for revising the control strategy. Consideration must also be given to the representativeness of the 1984 data. Any revision in the control strategy which results from the reevaluation must be submitted as a revision to the Nebraska lead SIP and until the revision is approved by EPA, the previously approved portion of the strategy will remain in effect. ACTION: EPA has evaluated the submittals from the State of Nebraska concerning the lead SIP for Omaha and has determined that they meet all requirements of section 110 of the Clean Air Act as amended and EPA regulations in 40 CFR Part 51, except for 40 CFR Part 51.87, Control Measures. EPA is withholding action on the enforceable control measures contained in the Omaha lead SIP until after April 1, 1985, when the State of Nebraska is committed to submit detailed descriptions of the control measures. This approval action also approves the following two Administrative Orders issued by the Nebraska Department of Environmental Control which support the lead control strategy for Omaha: (1) Case No. 677, Amended Administrative

Order, dated November 9, 1983, issued to Gould, Incorporated, and (2) Case No. 753, Administrative Order, dated June 12, 1984, issued to ASARCO, Incorporated.

On July 26, 1983, EPA reached an agreement with the Natural Resources Defense Council on a schedule for completion of certain lead SIPs. The lead SIP for Omaha is covered by that schedule.

The schedule called for final approval or disapproval of the Omaha lead SIP by August 1, 1984, and if EPA's action was to disapprove the SIP, publication of a proposed federal implementation plan by October 1, 1984. Even though this notice was not published by that date, the State of Nebraska is proceeding to implement the plan as though it had been approved on that date.

In the meantime, EPA and NRDC have been discussing a modification of the current court ordered schedule for completion of the lead SIP for Omaha as well as several other states. Any changes agreed to by the parties to the lead SIP litigation, however, must be submitted to the Federal District Court for review and approval. Thus, while EPA and Nebraska have agreed to a schedule for the State to complete the Omaha lead SIP and submit it to EPA, the schedule may be subject to change depending on the conclusion of the discussions with NRDC and a further Order revising the schedule by the Federal District Court.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days of today. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

#### List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nebraska was approved by the Director of the Office of the Federal Register on July 1, 1982.

<sup>1</sup> Technical Support Document for Proposal to Approve the Demonstration of Attainment and Control Measures for the Nebraska Lead SIP for Omaha dated December 10, 1984.

This rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: January 24, 1985.  
 Lee M. Thomas,  
 Administrator.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52 is amended as follows:

1. Section 52.1420 is amended by adding a new paragraph (c)(30) to read as follows:

**§ 52.1420 Identification of Plan.**

(c) \* \* \*  
 (30) On July 24, 1984, Nebraska submitted a lead SIP for Omaha. Additional portions of the Omaha lead SIP were submitted by the State on November 17, 1983, and August 1, 1984. EPA withheld action on the enforceable control measures contained in the Omaha lead SIP, but approved all other portions.

2. Section 52.1425(a) is amended by adding at the end of the table the following:

**§ 52.1425 Compliance schedules.**

(a) \* \* \*

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
ASARCO, Inc. ....	Omaha .....	Nebraska DEC administrative order, case No. 753.	6/12/84 .....	Not applicable.	August 1987.

[FR Doc. 85-2486 Filed 1-30-85; 8:45 am]  
 BILLING CODE 6560-50-M

**40 CFR Part 65**

[A-4-FRL-2763-4]

**Delayed Compliance Orders; Approval of a Delayed Compliance Order Issued by the Memphis-Shelby County Health Department (MSCHD) to Bryce Corporation**

**AGENCY:** Environmental Protection Agency, EPA.  
**ACTION:** Final rule.

**SUMMARY:** The Administrator of EPA hereby approves a Delayed Compliance Order issued by the MSCHD to Bryce Corporation. The Order requires Bryce Corporation to bring air emissions from its papercoating lines and flexographic printing presses at its Memphis, Tennessee, plant into compliance with Section 3-22 of the Memphis City Code (MCC) air pollution control regulations contained in the federally approved Tennessee State Implementation Plan (SIP). Because of the Administrator's approval, Bryce Corporation's compliance with the Order will preclude suits under the federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the Order during the period the Order is in effect.

**EFFECTIVE DATE:** This rule takes effect on January 31, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mr. Floyd Ledbetter, Chief, Northern Compliance Unit, Air Compliance

Section, Air Management Branch, Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Georgia 30365, Telephone: (404) 881-3433.

**ADDRESSES:** A copy of the State Delayed Compliance Order, any supporting material, and any comments received in response to a prior Federal Register notice proposing approval of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air, Pesticides, and Toxics Management Division, Air Management Branch, 345 Courtland Street NE, Atlanta, Georgia 30365.

**SUPPLEMENTARY INFORMATION:** On September 20, 1984, the Regional Administrator of EPA's Region IV Office published in the Federal Register, Volume 49, Number 184 at Page 36879, a notice proposing approval of a Delayed Compliance Order issued by the MSCHD to Bryce Corporation. The notice asked for public comments by October 22, 1984, on EPA's proposed approval of the Order. No public comments were received in response to the proposal notice. Therefore, the Delayed Compliance Order issued to Bryce Corporation is approved by the

Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Bryce Corporation on a schedule to bring its papercoating lines and flexographic printing presses into compliance as expeditiously as practicable with part of the federally approved Tennessee State Implementation Plan. The Order also imposes interim emission requirements as follows:

... VOC's from the rotogravure and flexographic printing presses shall not exceed 2.01 pounds of VOC per ream on a daily basis between January 1985, and December 30, 1985. The laminators were emitting no more than 1.73 pounds of VOC per ream as of August 1, 1984. There are no interim opacity limits.

If the conditions of the Order are met, it will permit Bryce Corporation to delay compliance with the SIP regulations covered by the Order until December 31, 1985. The facility is unable to comply with these regulations.

EPA has determined that its approval of the Order shall be effective upon publication of this notice because of the immediate need to place Bryce Corporation on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) in the Tennessee State Implementation Plan.

**List of Subjects in 40 CFR Part 65**

Air pollution control.  
 (42 U.S.C. 7413(d), 7601)  
 Dated: January 23, 1985.

Lee M. Thomas,  
 Acting Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

**PART 65—DELAYED COMPLIANCE ORDERS**

Section 65.471 is amended by inserting the following in the Table:

**§ 65.471 EPA approval of state Delayed Compliance Orders issued to major stationary sources.**

\* \* \* \* \*

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
Bryce Corp .....	Memphis .....	84-0321-0420-1	MCC—§ 3-22, Ref. TAQA, 1200-3-18.06, 1203-3-18.29.	Sept. 20, 1984 .....	Dec. 31, 1985.

[FR Doc. 85-2566 Filed 1-30-85; 8:45 am]  
 BILLING CODE 6560-50-M