have been modified even if accurate, complete, and current cost data had been submitted;

(ii) The FBI should have known that the cost data at issue were defective even though the carrier or subcontractor took no affirmative action to bring the character of the data to the attention of the FBI;

(iii) The carrier or subcontractor did not submit accurate cost data. Except as prohibited, an offset in an amount determined appropriate by the FBI based upon the facts shall be allowed against the cost reimbursement of an agreement amount reduction if the carrier certifies to the FBI that, to the best of the carrier's knowledge and belief, the carrier is entitled to the offset in the amount requested and the carrier proves that the cost data were available before the date of agreement on the cost of the agreement (or cost of the modification) and that the data were not submitted before such date. An offset shall not be allowed if the understated data were known by the carrier to be understated when the agreement was signed; or the Government proves that the facts demonstrate that the agreement amount would not have increased even if the available data had been submitted before the date of agreement on cost; or

(4) In the event of an overpayment, the carrier shall be liable to and shall pay the United States at that time such overpayment as was made, with simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the carrier to the date the Government is repaid by the carrier at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2).

§ 100.20 Confidentiality of trade secrets/ proprietary information.

With respect to any information provided to the FBI under this part that is identified as company proprietary information, it shall be treated as privileged and confidential and only shared within the government on a need-to-know basis. It shall not be disclosed outside the government for any reason inclusive of Freedom of Information requests, without the prior written approval of the company. Information provided will be used exclusively for the implementation of CALEA. This restriction does not limit the government's right to use the information provided if obtained from any other source without limitation.

§ 100.21 Alternative dispute resolution.

(a) If an impasse arises in negotiations between the FBI and the carrier which precludes the execution of a cooperative agreement, the FBI will consider using mediation with the goal of achieving, in a timely fashion, a consensual resolution of all outstanding issues through facilitated negotiations.

(b) Should the carrier agree to mediation, the costs of that mediation process shall be shared equally by the FBI and the carrier.

(c) Each mediation shall be governed by a separate mediation agreement prepared by the FBI and the carrier.

Dated: February 25, 1997.

Louis Freeh,

Director, Federal Bureau of Investigation, Department of Justice.

[FR Doc. 97–7035 Filed 3–19–97; 8:45 am]

BILLING CODE 4410–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NE 020–1020; FRL–5708–7]

Approval and Promulgation of Implementation Plans; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this document, the EPA is approving the Omaha lead emission control plan submitted by the state of Nebraska on August 28, 1996. This plan was submitted by the state to satisfy certain requirements under the Clean Air Act (the Act) to reduce lead emissions sufficient to bring portions of the Omaha area into attainment with the lead National Ambient Air Quality Standard (NAAQS).

DATES: This rule is effective on April 21, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

On January 6, 1992, the EPA designated portions of Omaha surrounding the Asarco, Incorporated primary lead refinery as nonattainment for the lead NAAQS. Specifically, the boundaries for the nonattainment area are: Avenue H and the Iowa-Nebraska border on the north, the Missouri River on the east, Eleventh Street on the west, and Jones Street on the south. Pursuant to the designation, the Act required the state of Nebraska to submit an attainment plan by July 6, 1993, which would bring the area into attainment by January 6, 1997.

On August 28, 1996, the state submitted a plan to the EPA which consists of Compliance Order (Case Number) 1520 and associated work practices. This plan meets the minimum requirements of sections 110 and 172 of the Act and in the ''Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748). The rationale regarding the EPA's approval of this plan can be found in the December 4, 1996, Federal Register document (61 FR 64304) proposing the EPA's action on Nebraska's plan and in the technical support document (TSD) for this action.

B. Response to Comments

The EPA received comments from only one commentor. On January 3, 1997, the state of Nebraska submitted the following two comments. The state identified a typographical error made by the EPA in its December 4, 1996, proposal in subsection III.f., ''Contingency Measures.'' Specifically, the EPA's discussion of Nebraska's prohibition on causing a violation of the lead ambient air quality standard should have referenced paragraph 19 of Compliance Order (Case Number) 1520, instead of paragraph 20.

The EPA agrees with this comment and wishes to make one additional correction. The EPA's discussion of street sweeping and production cuts in the same subsection should have referenced paragraph 18 of Compliance Order (Case Number) 1520, instead of paragraph 19.

The EPA has determined that the proposal notice adequately described the issues associated with the substance of the referenced paragraphs. Therefore, despite the incorrect references to paragraph numbers in the proposal, the EPA has determined that the proposal gives adequate notice of the rationale for the EPA's proposed action on the two paragraphs of the Compliance Order referenced above.

In its second comment, the state disagrees with the EPA's proposed nonaction on the provisions pertaining to the direct enforcement of the lead NAAQS contained in paragraph 19 of

the Compliance Order. In support of its comment, the state points to certain provisions of section 110 of the Act which authorize the Administrator to approve a broad spectrum of measures, means, or techniques contained in the state's plan to the extent that they are necessary and appropriate to meet the applicable requirements under the Act. Nebraska indicates that other states use similar provisions to achieve attainment. Nebraska also effectively describes the difficulty in addressing individual sources at a facility of this nature through its traditional regulatory process. Specifically, the large number and variety of sources, the variability of the emissions rates, the weather dependent nature of fugitive emissions, and the source's desire for operational flexibility make it difficult for the state to develop regulations for this source which are both protective of the NAAQS and which are sufficiently flexible to meet Asarco's needs. According to the state, paragraph 19 resolves this issue by protecting the NAAQS while allowing Asarco increased flexibility.

The EPA acknowledges the state's reasons for developing the provisions of paragraph 19. However, the EPA's concerns regarding this provision specifically relate to its general enforceability and its inconsistency with the criteria for contingency measures contained in section 172(c)(9) of the Act, and in the ''Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (58 FR 67748). Specifically, paragraph 19 does not require the source to implement specific measures which reduce ambient lead concentrations when a violation of the standard occurs. The state's remedy for a violation of this paragraph is to assess a penalty or to seek injunctive relief. Neither of these options has a direct impact on ambient lead concentrations. As noted in the proposal, other provisions of the Order which require specific emission reductions (if the NAAQS are violated) are sufficient to meet the contingency measure requirements in section 172(c)(9). Secondly, the state has not defined the methods by which it will demonstrate that Asarco is the sole source of the ambient violation. Without predefining such methods, successful enforcement of paragraph 19 will be difficult. For the reasons stated above, and as explained in more detail in the TSD for this action, the EPA will not take action on paragraph 19 of Compliance Order (Case Number) 1520 at this time.

II. Final Action

In this document, the EPA takes final action to approve the Nebraska Department of Environmental Quality's Compliance Order (Case Number) 1520, signed June 6, 1996, and Appendix A to that Compliance Order entitled, ''Work Practices Manual.'' Together, these documents, submitted to the EPA on August 28, 1996, comprise the enforceable portion of the Nebraska attainment plan. However, the EPA takes no action on paragraph 19 of Compliance Order (Case Number) 1520 for the reasons stated above.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

D. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 19, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 27, 1997.

U. Gale Hutton,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

Subpart CC—Nebraska

2. Section 52.1420 is amended by adding paragraph (c)(45) to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

(45) A revision to the Nebraska SIP to reduce lead emissions in the Omaha lead nonattainment area sufficient to bring that area back into attainment with the lead National Ambient Air Quality Standard.

(i) Incorporation by reference.

(A) Amended Complaint and Compliance Order Case No. 1520, signed June 6, 1996, except for paragraph 19 and accompanying work practice manual in Appendix A.

(ii) Additional material.

(A) Supplemental document entitled, ''Methods for Determining Compliance'' submitted by the state to provide additional detail regarding the compliance methods for this Order.

[FR Doc. 97–7097 Filed 3–19–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA59–7134a; FRL–5708-3]

Approval and Promulgation of Implementation Plans: Washington State

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving in part several minor revisions to the State of Washington Implementation Plan (SIP) and, at the same time, taking no action on one section of this revision which is unrelated to the purpose of the SIP. Pursuant to section 110(a) of the Clean Air Act (CAA), the Director of the Washington Department of Ecology (WDOE) submitted a request to EPA dated August 6, 1996 to revise certain regulations of a local air pollution control agency, namely, the Puget Sound Air Pollution Control Agency (PSAPCA).

DATES: This action is effective on May 19, 1997 unless adverse or critical comments are received by April 21, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the SIP revision request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101; and Washington State Department of Ecology, 300 Desmond Drive, Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Montel Livingston, Office of Air Quality, EPA, (206) 553-0180.

SUPPLEMENTARY INFORMATION:

I. Background

The August 6, 1996 submittal from WDOE consisted of minor amendments to PSAPCA Regulations I, II, and III. No action will be taken on Regulation I because it is unrelated to the purpose of the SIP and unassociated with criteria pollutants regulated under the SIP.

Regulation II, section 3.11, Coatings and Ink Manufacturing, is amended to maintain the stringency of the current standard, while allowing those operations consisting solely of manufacturing low vapor pressure coatings and inks to be exempt from regulation. Manufacturers of low vapor pressure coatings and inks contribute an insignificant quantity of air pollutants to the environment. This will have no adverse impact upon air quality and is approved as such. The amendments to Regulation II were adopted by PSAPCA on April 11, 1996 and became effective on May 16, 1996.

Regulation III is being amended to provide the regulated community with a simpler, more concise chromium electroplating and anodizing regulation while incorporating the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements. This amendment revises the format of the emission limit regulation and specifies operating and maintainance procedures, monitoring, recordkeeping, and reporting for chromium electroplating and anodizing facilities. The amendments to Regulation III were adopted by PSAPCA on June 13, 1996 and became effective on July 18, 1996.

The PSAPCA amendments submitted by WDOE as SIP revisions are local air pollution regulations which are at least as stringent as the statewide rules of WDOE. EPA has determined that these minor SIP revisions comply with all applicable requirements of the Clean Air Act Amendments of 1990.

II. Summary of Today's Action

EPA is, by today's action, approving the following revisions submitted by WDOE on August 6, 1996 as amendments to the regulations of PSAPCA and for inclusion into the SIP:

Regulation II, Section 3.11, Coatings and Ink Manufacturing.

Regulation III, section 3.01, Hard and Decorative Chromium Electroplating and Chromium Anodizing.

EPA is taking no action on Regulation I, section 3.03, General Regulatory Orders, because it is unrelated to the purpose of the SIP and unassociated with criteria pollutants regulated under the SIP.

The EPA is publishing this action without prior proposal because the Agency views this as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective May 19, 1997 unless, by April 21, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 19, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.