



BILLING CODE 4830-01-C

(ii) The uniform seal may be used by any office of internal revenue set forth in paragraphs (a) (3) through (8) of this section, and any other office designated by the Commissioner to use a seal, including the following internal revenue offices resulting from a reorganization of the IRS that will be implemented beginning October 1, 1995:

- Office of Regional Commissioner for:
 - Midstates Region (Dallas)
 - Northeast Region (Manhattan)
 - Southeast Region (Atlanta)
 - Western Region (San Francisco)
- Office of District Director for:
 - Arkansas-Oklahoma District (Oklahoma City)
 - Brooklyn District
 - Central California District (San Jose)
 - Connecticut-Rhode Island District (Hartford)
 - Delaware-Maryland District (Baltimore)
 - Georgia District (Atlanta)
 - Gulf Coast District (New Orleans)
 - Houston District
 - Illinois District (Chicago)
 - Indiana District (Indianapolis)
 - Kansas-Missouri District (St. Louis)
 - Kentucky-Tennessee District (Nashville)
 - Los Angeles District
 - Manhattan District
 - Michigan District (Detroit)
 - Midwest District (Milwaukee)
 - New Jersey District (Newark)
 - New England District (Boston)
 - North Central District (St. Paul)
 - North Florida District (Jacksonville)
 - North-South Carolina District (Greensboro)
 - North Texas District (Dallas)
 - Northern California District (Oakland)
 - Ohio District (Cincinnati)
 - Pacific-Northwest District (Seattle)

- Pennsylvania District (Philadelphia)
- Rocky Mountain District (Denver)
- South Florida District (Fort Lauderdale)
- South Texas District (Austin)
- Southern California District (Laguna Niguel)
- Southwest District (Phoenix)
- Upstate New York District (Buffalo)
- Virginia-West Virginia District (Richmond)
- Office of Director of Computing Centers in:
 - Detroit
 - Memphis
 - Martinsburg
- Office of Director of Submission Processing Centers in:
 - Austin
 - Cincinnati
 - Memphis
 - Kansas City
 - Ogden
- Office of Director of Customer Service Centers in:
 - Andover
 - Atlanta
 - Austin
 - Baltimore
 - Brookhaven
 - Buffalo
 - Cincinnati
 - Cleveland
 - Dallas
 - Denver
 - Fresno
 - Indianapolis
 - Jacksonville
 - Kansas City
 - Memphis
 - Nashville
 - Ogden
 - Philadelphia
 - Pittsburgh
 - Portland, OR
 - Richmond
 - St. Louis

Seattle.
 * * * * *
 Margaret Milner Richardson,
Commissioner of Internal Revenue.
 Approved: October 10, 1995.
 Leslie Samuels,
Assistant Secretary of the Treasury.
 [FR Doc. 95-26630 Filed 10-26-95; 8:45 am]
BILLING CODE 4830-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH70-1-6780a; FRL-5302-6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving the plan revision that Ohio submitted to address high lead concentrations measured near the Master Metals secondary lead smelter in central Cleveland. This revision subjects this smelter to strict emissions limits and operating restrictions and will ensure that lead concentrations in this area are reduced sufficiently to meet the health-based air quality standard.

DATES: This action is effective December 26, 1995 unless adverse or critical comments are received by November 27, 1995. If the effective date is delayed,

timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision and USEPA's analysis are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102) Room M1500, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Regulation Development Branch (AE-17J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6067.

SUPPLEMENTARY INFORMATION:

I. Review of State Submittal

On October 28, 1992, the United States Environmental Protection Agency (USEPA) notified the Governor of the State of Ohio that its State Implementation Plan (SIP) for lead for the unclassified portion of Cuyahoga County was inadequate. This SIP call was based on monitoring in the area showing quarterly average concentrations as high as 28 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), well above the quarterly average air quality standard of $1.5 \mu\text{g}/\text{m}^3$. Announcement of the notification of SIP inadequacy and accompanying call for a SIP revision ("SIP call") was published in the Federal Register on March 2, 1993, at 58 FR 11967. The remainder of Cuyahoga County has no significant sources of lead, has no designation, and has an adequate SIP.

Ohio submitted the required SIP revision on October 7, 1994. USEPA notified Ohio that this was a complete submittal on November 17, 1994.

The primary cause of the high monitored concentrations is a secondary lead smelter owned by Master Metals, Inc. This is the only significant source of emissions in this area; other emissions are appropriate to address as background contributors. On October 14, 1992, the Ohio Environmental Protection Agency ("Ohio") issued an order to Master Metals providing that

the facility would be shut down unless various specified improvements in emissions control were implemented at the facility. Master Metals failed to implement these improvements. Therefore, on August 5, 1993, Ohio required an immediate shutdown of the facility, and stated that no further operations were to occur at the facility until the required improvements were made. This facility remains shut down at this time. Therefore, the rules adopted by Ohio will have practical effect only if the present owner or a future owner elects to make the improvements demanded by Ohio.

Summary of Submittal

Attached to the cover letter of Ohio's submittal are eight attachments. The first and most important of these attachments is the adopted set of rules that limit lead emissions. Five attachments pertain to the modeled demonstration that these limits assure attainment. Specifically, the attachments include a summary of the modeling analysis, documentation of the estimation of allowable emissions and stack parameters, documentation of the analysis of background concentrations, a copy of the model inputs, and copies of the model outputs. Finally, the last two attachments address administrative requirements, specifically a completed completeness checklist and materials relating to the public hearing on the issue.

Ohio submitted four of the rules in Chapter 3745-71 of the Ohio Administrative Code, a chapter of rules entitled "Lead Emissions." The first rule is Rule 3745-71-01, entitled "Definitions," which now defines lead to include gaseous as well as solid lead and defines calendar quarter. The second rule is Rule 3745-71-03, entitled "Methods of ambient air measurement," which specifies the monitoring method to be used to assess whether the ambient air quality standard is being attained. The third rule is Rule 3745-71-05, entitled "Emissions test methods and procedures and reporting requirements for new and existing sources." This rule provides that stack tests for lead emissions are to be based on Method 12 in Appendix A of Title 40 Code of Federal Regulations Part 60 (40 CFR part 60), and establishes various reporting requirements and test methods that accompany limitations established in Rule 3745-71-06 for the Master Metals smelter. The fourth rule is Rule 3745-71-06, entitled "Source specific emission limits," which provides numerous emission and operational limitations and currently exclusively

addresses the Master Metals smelter. Specifically, the rule sets emission limits for the rotary furnaces, pot furnaces, and casting shop, requires enclosing all these operations within a building maintained at "negative pressure" (i.e. less than ambient pressure), requires venting these sources such that their emissions pass through a secondary control system, sets a limit on emissions from the secondary control system, requires no visible emissions from materials handling, requires a specified road dust suppression program, sets a status quo-based quarterly production cap, and sets a five percent opacity limit on stack emissions. Although Ohio also previously adopted Rule 3745-71-02 (setting the national ambient air quality standard as a State standard as well) and Rule 3745-71-04 (setting a 1981 attainment deadline), these rules were not included in this submittal nor approved previously by USEPA.

The rules adopted and submitted by Ohio provide clear and enforceable limitations on emissions from the Master Metals secondary lead smelter. Stack emissions are subject to specific emissions limitations, to be measured by the method delineated and recommended by USEPA in 40 CFR part 60, appendix A. The requirement for building enclosure is straightforward. Although USEPA has not recommended test methods for assessing reduced pressure inside enclosed space, Ohio has included an appropriate method with its rule, and so the rule should provide enforceable assurances that the specified operations are indeed enclosed and that their emissions in fact pass through the secondary control device. The road dust suppression program is adequately specific, given the moderate control efficiency which the program is designed to achieve. In summary, the rules satisfy the criteria for the rules to be enforceable.

A second criterion that the rules must satisfy is that they limit emissions sufficiently to assure attainment of the lead standard. As noted above, Ohio submitted a modeling analysis assessing the adequacy of its rules for assuring attainment. USEPA requires such analyses to satisfy modeling guidance given in Appendix W of 40 CFR part 51.

Since lead has a quarterly average standard, Ohio used the Long Term version of the Industrial Source Complex model (Version 2, known as ISCLT2), run in regulatory default mode. Receptors were placed at a spacing of 50 to 75 meters apart along the facility's fence line, 100 meters apart on a rectangular grid out to about 500 meters in the four main compass

directions from the facility, and an additional set of points 250 meters further out. For meteorological data, Ohio used quarterly stability array (STAR) data from the Cleveland weather station for each quarter from 1987 to 1991. Ohio developed a background concentration by averaging concentrations for those days and monitors determined to represent concentrations upwind of the Master Metals smelter, thereby concluding that the background concentration was 0.222 ($\mu\text{g}/\text{m}^3$).

Ohio's attainment demonstration necessarily reflects assumptions about hypothetical emission rates and emission release characteristics that would be expected were the facility to recommence operations. Ohio of course assumed that resumption of operations would involve resumed use of the existing two rotary furnaces, the existing two pot furnaces, and the existing casting shop. Rule 3745-71-06 specifies limits both on emissions per ton of lead product and on maximum total hourly emissions from each of these sources and specifies a maximum quarterly lead production rate reflecting historic production levels. Ohio's attainment demonstration reflects a quarterly average allowable emission rate based on the allowable emissions per ton of lead product and the allowable quarterly production rate, and uses historic emission release characteristics. Similarly, the analysis includes emissions for the secondary control device based on its hourly emissions limit. More speculative are the emissions release characteristics of this required but currently nonexistent device, which Ohio based on a supplier's proposed design. The attainment demonstration further reflects historic levels of emissions from facility roadways, using the equation in AP-42 for estimating particulate matter emissions, assuming the particulate matter emissions are 100 percent lead, and assuming 34 percent control for the sweeping program mandated in Rule 3745-71-06.

Ohio used the dispersion model recommended for this situation in USEPA guidance that was current at the time of its submittal. Although USEPA has more recently modified its guidance to recommend a revised version of ISC known as ISC3, USEPA's grandfathering policy clearly provides that the use of ISC2 in this case is approvable. Ohio has used emission inputs, meteorological inputs, and modeling procedures that are also in accordance with USEPA guidance. This modeling shows a maximum concentration of 0.430 ($\mu\text{g}/\text{m}^3$), at a receptor

approximately 100 meters from Master Metals' lead smelter. Concentration estimates are lower at receptors farther from the smelter. Therefore, Ohio has suitably demonstrated that its rules assure attainment throughout the area of concern.

A third criterion that Ohio's submittal must satisfy is that proper procedures were followed in adopting the rules such that they will withstand legal challenge. Ohio's submittal includes materials demonstrating that the public had suitable opportunity to comment on draft rules and that other procedural requirements for State rule adoption were also followed. This criterion has been satisfied.

II. Rulemaking Action

The regulations in Ohio's submittal impose strict limits on the types of emissions that caused the previous high monitored concentrations of lead. These regulations are enforceable, and Ohio has demonstrated that these regulations assure attainment of the lead standard in the area. Therefore, USEPA is approving Ohio's submittal, and is concluding that Ohio's SIP for lead is no longer inadequate.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in today's Federal Register, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on December 26, 1995, unless USEPA receives adverse or critical comments by November 27, 1995. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will publish a Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document.

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

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993

memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act 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, I certify 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA has determined that the approval action promulgated today 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 pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26,

1995. 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

Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: September 13, 1995.

David A. Ullrich,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, 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 KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(106) On October 7, 1994, Ohio submitted four rules in Chapter 3745–71 of the Ohio Administrative Code, entitled “Lead Emissions,” and submitted a modeling demonstration that the limitations in these rules assure attainment of the lead standard in central Cleveland.

(i) Incorporation by reference. Rules 3745–71–01, 3745–71–03, 3745–71–05, and 3745–71–06, all adopted September 22, 1994, and effective October 4, 1994.

(ii) Additional material. A submittal letter from the Director of the Ohio Environmental Protection Agency, with attachments documenting a modeling analysis of lead concentrations near the Master Metals secondary lead smelter.

[FR Doc. 95–26656 Filed 10–26–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 372

[OPPTS–400097; FRL–4970–6]

2,2-Dibromo-3-nitropropionamide; Toxic Chemical Release Reporting; Community Right-to-Know; Stay of Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative stay; request for comment on petition to delist.

SUMMARY: EPA is granting a request submitted by the Dow Chemical Co. for an administrative stay of the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA), for 2,2-dibromo-3-nitropropionamide (DBNPA)(Chemical Abstracts Service (CAS) No. 10222–01–2). This chemical was added to the 40 CFR part 372 Subpart D list of toxic chemicals in a final rule published in the Federal Register of November 30, 1994. Since promulgation of the final rule, the Agency has preliminarily determined that it categorized certain effects that supported the listing decision incorrectly. The effect of this stay is to suspend reporting on this chemical while the Agency completes its reassessment of the data for this chemical. The Agency has also received a petition to delist DBNPA based on new information. The Agency is making this information available for public comment and is seeking comment on whether DBNPA should remain on the EPCRA section 313 list of toxic chemicals. After evaluating public comment, the Agency will issue a final decision on the delisting petition which will either delete or retain this chemical on the section 313 list. In either case, the Agency’s decision on the petition to delist will serve to dissolve this administrative stay. This action affects only EPCRA section 313 and PPA section 6607 toxic chemical reporting for DBNPA.

DATES: The administrative stay is effective October 27, 1995. Written comments on the petition to delist must be received by November 27, 1995.

ADDRESSES: Written comments should be submitted in triplicate to : OPPT Docket Clerk (7407), TSCA Nonconfidential Information Center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to:

ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–400097. No confidential business information (CBI) should be submitted through e-mail. Electronic comments on the information presented in this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VII. of this document. Comments should include the docket control number for this document, OPPTS–400097.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Project Manager, 202–260–9592, e-mail: doa.maria@epamail.epa.gov for specific information on this action. For general information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Background

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11023 (EPCRA) requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (42 U.S.C. 13106). Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add to or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition has been denied.

EPA issued a statement of petition policy and guidance in the Federal