

**ENVIRONMENTAL PROTECTION AGENCY**

[3375-5]

**40 CFR Part 52****Approval and Promulgation of Implementation Plans; State of Kansas; Ozone Attainment Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rulemaking.

**SUMMARY:** Part D of the Clean Air Act, as amended, requires that a state revise its state implementation plan (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On February 20, 1985, EPA advised the Governor of Kansas that, based upon air quality, the ozone SIP for the Kansas City Metropolitan Area (KCMA) was substantially inadequate to attain the NAAQS.

On July 2, 1986, the state submitted a revised ozone SIP for Johnson and Wyandotte Counties, Kansas. On January 6, 1988, the state submitted revised regulations for the control of volatile organic compound emissions in the KCMA. Today's action takes final action to approve these revisions which, together, constitute a complete Kansas ozone SIP for the KCMA.

**DATES:** This action is effective June 17, 1988.

**ADDRESSES:** The state submittal and EPA's technical support document are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101; Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Larry A. Hacker, (913) 236-2893 or FTS 757-2893.

**SUPPLEMENTARY INFORMATION:**

On October 2, 1987, in two separate Federal Register notices, EPA proposed approval of revisions to the Kansas ozone SIP for the KCMA. The first notice (52 FR 36963) proposed approval of draft revisions to the state's regulations for the control of volatile organic compound (VOC) emissions. The second notice (52 FR 36965) proposed approval of all remaining elements of the revised plan. No public comments were received on either of these proposed rulemakings. For a detailed discussion of the VOC

regulations and the overall plan requirements, the reader is referred to the above referenced Federal Register notices.

After proper notice, the state held its public hearing for the VOC regulations on November 13, 1987. Subsequent to the hearing, minor clarifications were made to the compliance and recordkeeping provisions of Rule 28-19-74, Wool fiberglass manufacturing. The changes were nonsubstantive in that the degree of emission control, compliance determination method, and source applicability requirements were not changed. None of the remaining regulations were changed from their proposed versions.

On January 6, 1988, the Secretary of the Kansas Department of Health and Environment (KDHE) submitted both temporary and permanent versions of the final regulations. Both sets of regulations were approved by the Kansas Attorney General and the temporary versions became effective on December 16, 1987. As provided by state statute, the temporary regulations remain in effect through April 30, 1988; the permanent regulations become effective on May 1, 1988, unless modified by the state's legislature before that date. If any substantive changes occur in the permanent regulations prior to their effective date, EPA will initiate rulemaking action to withdraw this approval action. The temporary and permanent regulation packages are identical in content; therefore, only the permanent versions have been included with the state submittal materials.

In numerous instances, the revised Kansas regulations provide for departmental discretion to approve compliance plans and test methods which are alternatives to the EPA reference methods. EPA is approving these regulations with the understanding that all such alternative compliance plans and test methods must be submitted to EPA, and approved, as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP would be the emission limits or reduction requirements stated in the regulations. Also, the Kansas regulations contain provisions whereby testing is required when the facility intends to demonstrate compliance by improved operations or new emission controls, yet no test procedures are specified. Examples of such provisions are transfer efficiency (TE) and vapor processing systems. Test methods which are developed by the state must be approved by EPA before facilities may demonstrate compliance through alternative controls and/or TE.

On November 24, 1987, at 52 FR 45044, EPA proposed a policy for approval of post-1987 ozone plans for areas which would not attain the ambient standard by December 31, 1987. In that notice the Kansas City area appeared on a list of potential 1988 SIP call areas because preliminary air quality data for the period 1984-1986 indicated the area may still be exceeding the ozone standard. The NAAQS for ozone is attained when the number of expected exceedances is less than or equal to one per year when averaged over the three most recent years of record (see 40 CFR 50.9). EPA has now completed its review of the air quality data from January 1, 1985, through December 31, 1987, and the data show that the area is attaining the ozone standard. Consequently, EPA does not intend to issue a SIP call for this area in 1988.

**EPA Action**

In today's notice, EPA takes final action to approve the July 2, 1986, submittal of revisions to the Kansas ozone SIP for the KCMA. Also, EPA takes final action to approve the January 6, 1988, submittal of revised VOC regulations. These two submittals, together, constitute a complete ozone plan for the Kansas portion of the KCMA.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 18, 1988. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

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

Date: May 1, 1988.

Lee M. Thomas,  
Administrator.

**PART 52—[AMENDED]**

40 CFR Part 52, Subpart R, is amended as follows:

**Subpart R—Kansas**

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.870 is amended by adding paragraph (c)(20) as follows:

§ 52.870 Identification of plan.

(c) \* \* \*

(20) Revisions to the ozone attainment plan for the Kansas City metropolitan area were submitted by the Governor on July 2, 1986. Pursuant to this plan, revised regulations for the control of volatile organic compound emissions were submitted by the Secretary of the Kansas Department of Health and Environment on January 6, 1988. In numerous instances, the revised Kansas regulations provide for departmental discretion to approve compliance plans and test methods which are alternatives to the EPA reference methods. EPA approves these regulations with the understanding that all such alternative compliance plans and test methods must be submitted to EPA, and approved, as individual SIP revisions. In the absence of such approval, the enforceable requirements of the SIP shall be the emission limits or reduction requirements stated in the regulations. Also, the Kansas regulations contain provisions whereby testing is required when the facility intends to demonstrate compliance by improved operations or new emission controls, yet no test procedures are specified. Examples of such provisions are transfer efficiency (TE) and vapor processing systems. Test methods which are developed by the state must be approved by EPA before facilities may demonstrate compliance through alternative controls and/or TE.

(i) *Incorporation by reference.* (A) Revised regulations K.A.R. 28-19-8, Reporting required; K.A.R. 28-19-61, Definitions; K.A.R. 28-19-62, Testing procedures; K.A.R. 28-19-63, Automobile and light-duty truck surface coating; K.A.R. 28-19-64, Bulk gasoline terminals; K.A.R. 28-19-65, VOC liquid storage in permanent fixed roof type tanks; K.A.R. 28-19-66, VOC liquid storage in external floating roof tanks; K.A.R. 28-19-69, Cutback asphalt; K.A.R. 28-19-70, Leaks from gasoline delivery vessels and vapor collection systems; K.A.R. 28-19-71, Printing operations; K.A.R. 28-19-72, Gasoline dispensing facilities; K.A.R. 28-19-73, Surface coating of miscellaneous metal parts and products and metal furniture; K.A.R. 28-19-74, Wool fiberglass manufacturing; and K.A.R. 28-19-75, Solvent metal cleaning. Temporary versions of these regulations are effective December 16, 1987, through April 30, 1988. The permanent regulations are effective May 1, 1988.

(B) Letter of January 6, 1988, from the Secretary of the Kansas Department of

Health and Environment. This letter establishes the effective dates for the revised regulations referenced in subparagraph (20)(i)(A) above.

(ii) *Additional material.* (A) State of Kansas Implementation Plan, Part A—Kansas City Metropolitan Area, Ozone, dated June 1986, submitted by the Governor on July 2, 1986. The plan contains an attainment demonstration, emissions inventories, and a control strategy.

(B) Supplemental information, pursuant to the above referenced plan, was submitted on August 19, 1987.

(C) Negative declarations for certain VOC source categories were submitted on April 16 and August 18, 1987.

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40 CFR Part 180

[PP 5F3256/P953; FRL-3381-2]

Pesticide Tolerance for AC 222,293; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

**SUMMARY:** In the Federal Register of April 20, 1988 (53 FR 12943), EPA issued a final rule establishing tolerances for the herbicide AC 222,293 (40 CFR 180.437) and its metabolites in or on various raw agricultural commodities. Through a typographical error, the pesticide petition (PP) number in the bracketed heading of the document was inadvertently misstated as "PP 5F3256." The correct pesticide petition number is "PP 5F3265."

**EFFECTIVE DATE:** May 18, 1988.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Robert J. Taylor, Product Manager (PM) 25, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1800.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346(d)(2)).)

Dated: May 5, 1988

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-10994 Filed 5-17-88; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800 and 2880

[Circular No. 2607; AA-320-08-4830-02]

Amendment to the Appeals Provisions of the Regulations for Rights-of-Way, Principles and Procedures and Rights-of-Way Under the Mineral Leasing Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

**SUMMARY:** This final rulemaking amends §§ 2804.1(b) and 2884.1(b) to alleviate confusion by clarifying that petitions for stay of decisions relating to the issuance of rights-of-way and permits as well as rights-of-way and temporary use permits under the Mineral Leasing Act shall be filed in the Office of Hearings and Appeals, Department of the Interior.

**EFFECTIVE DATE:** May 18, 1988.

**ADDRESS:** Inquiries and suggestions should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Eleanor R. Schwartz, (202) 343-8735.

**SUPPLEMENTARY INFORMATION:** Under the current regulations pertaining to rights-of-way and rights-of-way under the Mineral Leasing Act there has been some confusion about where a request for a stay of a decision should be filed. Sections 2804.1(b) and 2884.1(b) of the regulations presently leave the public with the impression that petitions for stay of decisions could or may be filed with the Secretary of the Interior. However, authority to consider and decide appeals to the Secretary has been delegated to the Director, Office of Hearings and Appeals, if the appeals do not lie within the jurisdiction of an established Appeals Board. Therefore, this final rulemaking amends §§ 2804.1(b) and 2884.1(b) to clarify that petitions for the stay of a decision relating to rights-of-way and rights-of-way under the Mineral Leasing Act shall be filed with the Director, Office of Hearings and Appeals. This Office is part of the Office of the Secretary of the Interior.

The Department of the Interior has determined that, because this rulemaking changes only the location where petitions for stay of decisions are filed, it is a rule of organization, procedure, and practice and does not require notice and an opportunity for public comment under the