Final Rulemaking Action

Because no public comments were received concerned USEPA's proposed rulemaking action to extend the stay beyond the three months provided in section 307(d)(7)(B) of the CAA (42 U.S.C. 7607(d)(7)(B)), USEPA announces an extension of the stay for Riverside Laboratories and Reynolds Metals Company, but only as long as necessary to complete reconsideration of the rules identified in the proposal.

At that time, USEPA will publish a rule in the **Federal Register** notifying the public of the withdrawal of this stay.

USEPA intends to complete its reconsideration of the rules and, following the notice and comment procedures of § 307(d) of the CAA, take appropriate action. If the reconsideration results in emission limitations and standards which are different than the otherwise applicable Federal Implementation Plan rules, USEPA will propose an appropriate compliance period following final adoption of the new emission limitations and standards. In essence, USEPA will seek to ensure that the affected parties are not unduly prejudiced by the Agency's reconsideration. Note that, like the rules themselves, any USEPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of CAA section 307(d).

USEPA recognizes the interests of the State of Wisconsin in this matter. The regulatory requirements that are affected by today's proposal were undertaken in the context of a settlement agreement between USEPA and the States of Wisconsin and Illinois. In recognition of those obligations, USEPA will reconsider the rules in question as expeditiously as practicable.

This stay will be effective immediately upon signature of the Administrator pursuant to the Administrative Procedure Act, 5 U.S.C. 533(d) (1) and (3) for good cause and because it relieves a restriction.

Correction

In the codification of a Stay affecting Viskase Corporation, Allsteel, Incorporated and General Motors Corporation which was published in the May 31, 1991, **Federal Register** (56 FR 24722) in the third column on page 24723, in § 52.741(z)(1) the date on which the stay was initiated was incorrectly listed as January 4, 1991. The correct date on which the stay was initiated is July 1, 1991. USEPA is correcting this error in today's **Federal Register**. USEPA regrets any inconvenience that this error has caused.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone.

Dated: June 12, 1992.

F. Henry Habicht II,

Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows;

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.741, is amended by revising paragraphs (z)(1) and (z)(4) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

* * * * *

(z) * * *

(1) The following rules are stayed from July 1, 1991, until USEPA completes its reconsideration as indicated:

(i) 40 CFR 52.741(e)(1)(i)(M)(*2*) and (*3*), and 40 CFR 52.741(e)(5);

(ii) 40 CFR 52.741(u) and (v), including 40 CFR 52.741(u)(4) and (v)(4) only as it applies to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park Illinois; and

(iii) 40 CFR 52.741(u), including 40 CFR 52.741(u)(4), only as applies to Allsteel Incorporated's adhesive lines at its metal furniture manufacturing operations in Kane County, Illinois.

When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the **Federal Register.**

* * * * *

(4) The following rules are stayed from June 12, 1992 until USEPA completes its reconsideration as indicated:

(i) 40 CFR 52.741(e) only as it applies to Riverside Laboratories Incorporated; and

(ii) 40 CFR 52.741(x) and (y) only as it applies to Reynolds Metals Company.

When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the **Federal Register.**

[FR Doc. 92–14607 Filed 6–22–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 52 and 81

[KS1–1–5439; FRL–4126–6]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's notice EPA is taking final action to approve revisions to the Kansas State Implementation Plan (SIP). The revision includes the Kansas ozone maintenance plan for the Kansas City area and related Kansas rule revisions. EPA is also approving the state's request to redesignate Johnson and Wyandotte Counties (the Kansas portion of the Kansas City nonattainment area) to attainment with respect to the ozone National Ambient Air Quality Standard (NAAQS). In a separate **Federal Register** notice published today, EPA is taking a concurrent final action regarding the Missouri maintenance plan and redesignation request for the Missouri portions of the Kansas City nonattainment area.

EFFECTIVE DATE: This rule will become effective on July 23, 1992.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; the Kansas Department of Health and Environment, Forbes Field, Building 740, Topeka, Kansas 66620, and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 551–7602 (FTS 276–7602).

SUPPLEMENTARY INFORMATION: .

I. Background

Three years of quality assured ambient air quality data, for the period 1989 through 1991, indicate that the Kansas City ozone nonattainment area has attained the NAAQS for ozone. Therefore, in accordance with the Clean Air Act (CAA), as amended, and to ensure continued attainment of the standard with an adequate margin of

safety, the state of Kansas has submitted an ozone maintenance plan which projects continued attainment of the ozone standard in the Kansas City area.

Both the Kansas and Missouri plans meet all the applicable requirements of the CAA, as amended. The Kansas submittal complies with section 175A of the Act which sets forth maintenance plan requirements for areas seeking redesignation from nonattainment to attainment. The state's demonstration of continued attainment relies in part on EPA's Phase II gasoline volatility requirements. The plan demonstrates continued attainment of the applicable NAAQS for at least ten years after the area is redesignated.

Eight years after the redesignation, the state commits to submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. And, in the event of future NAAQS violations, the maintenance plan contains contingency measures adequate to ensure prompt correction of the air quality problem.

Accompanying the maintenance plan are new state rules which control certain categories of sources which emit volatile organic compounds (VOC) emissions.

Finally, the state submittal also includes a redesignation request in which the state demonstrates that the area has fulfilled the redesignation requirements of the amended Act pursuant to section 107(d)(3)(e).

On January 15, 1992, in the **Federal Register** (57 FR 1705), EPA proposed to approve the state's maintenance plan and Reasonably Available Control Technology (RACT) rules and to promulgate the redesignation. (In a separate notice published the same day, EPA proposed to approve an analogous maintenance plan and redesignation request submitted by the state of Missouri.) The reader should consult EPA's proposed rulemaking and technical support document for a detailed discussion of the state's submission, the relevant requirements of the Act, and EPA's proposed action.

II. Response to Comments

EPA received 71 letters commenting on the proposed rulemaking. All commenters supported the proposed action except one (Phillips Petroleum Company, Bartlesville, Oklahoma). Phillips requested that EPA disapprove the maintenance plan based on four arguments. Phillips' comments consist of three technical issues concerning the demonstration included by Kansas and Missouri to show that the area would continue to maintain the ozone standard, and one policy issue concerning the appropriate mix of controls necessary to maintain the standard. A summary of Phillips' comments, and EPA's response to them, follow.

Comment: Phillips alleges that the methodology that Kansas used in plan development is unable to quantitatively determine the types of ozone precursor control needed and the extent to which precursor emissions reductions (including NO_x) may be required to maintain the ozone standard. Phillips alleges that EPA should require urban grid-based air quality modeling.

Response: In the 1990 Amendments to the Act, Congress specifically added section 175A which specifies the requirements for maintenance plans. There is no requirement in section 175A, or in other applicable provisions of the Act, for photochemical grid modeling to demonstrate maintenance of the ozone standard in areas like Kansas City, which have attained the standard. Such modeling is only required for certain areas which have not attained the standard. The requirement for such modeling applies to those areas with the more serious or complex ozone nonattainment problems (e.g., section 182(c)(2)(A), which requires modeling for areas classified as "serious"). EPA believes the lack of such a requirement for maintenance plans was intended to give EPA and the states flexibility in demonstrating maintenance of the standard. Accordingly, for maintenance demonstrations, EPA believes that states may make the demonstration through one of two alternatives:

(1) A demonstration that the future emission inventory will not exceed the inventory that existed at the time of the request for redesignation, or (2) an appropriate modeling analysis which shows that the future mix of sources and emission rates, when combined with the control strategy for the area, will not cause any violations of the ambient standards. Of these two choices, the state elected to base its maintenance demonstration on the emission inventory analysis. EPA believes that the projection and analysis of future emissions meet the requirements of section 175A, and that the state's emission inventory methodology is consistent with EPA guidance, as discussed in the proposed rulemaking.

Phillips also suggested that NO_x emissions should be examined using the photochemical grid model because an increase in NO_x emissions could result in violations of the ozone standard without an increase in VOC emissions. EPA agrees that violations caused by increased NO_x emissions are theoretically possible, although the exact relationship between NO_x emissions and the formation of ozone is not certain. However, in the case of the Kansas City maintenance plan, EPA performed an analysis of projected NO_x emissions for the metropolitan area. EPA's analysis showed no increase in NO_x emissions through the year 2005. Coupled with the projection that VOC emissions will be below the level existing at the time of the redesignation request, EPA concludes that there is an adequate technical basis in the plan to demonstrate that the ozone standard will be maintained.

EPA also notes that historically VOC control has been successful in bringing the Kansas City area into attainment of the ozone standard, which is another basis for the conclusion that maintenance of both VOC and NO_x emissions levels will result in continued attainment.

For the foregoing reasons, EPA does not agree that photochemical grid modeling is legally required or technically necessary to show maintenance of the standard. The methodology used by the state to demonstrate continued maintenance of the standard is adequate to meet the requirements of section 175A.

Comment: Phillips argues that due to the lack of a "quantitative analysis" through urban grid modeling, there is no basis for establishing the "margin of safety" included in the plan.

Response: The comment assumes that photochemical grid modeling is necessary to demonstrate maintenance of the ozone standard. As discussed above, EPA believes that the demonstration included in the maintenance plan is adequate in the absence of such modeling.

The need for a margin of safety is clearly demonstrated in the Kansas City maintenance plan. That margin, provided primarily through the delivery of gasoline with a Reid Vapor Pressure (RVP) limit of 7.8 psi, is essential due to the marginal nature of ozone attainment in the area. Since 1990, exceedances of the ozone standard have occurred when RVP levels were between 8.5 and 9.0 psi. There were two exceedances of the standard in 1990 and two in 1991. Because these exceedances did not occur at the same monitor site, they did not constitute violations of the NAAQS. However, these exceedances do indicate that the standard will likely be jeopardized without further control measures. RVP control is the only measure that can provide immediate VOC reduction and the desired margin of safety during the next several ozone

seasons, since other control measures, as discussed below, require a much longer implementation period.

Section 211(h)(2) of the CAA allows EPA to impose an RVP requirement "lower than 9.0 psi in any area, formerly an ozone nonattainment area, which has been redesignated an attainment area." EPA discusses this authority in the context of areas newly redesignated to attainment in its federal fuel volatility regulations (56 FR 64704, December 12, 1991). In that rulemaking, EPA provided that an area which is redesignated to attainment must remain subject to the 7.8 psi RVP requirement unless it shows through a maintenance plan demonstration that it is no longer needed (56 FR at 64706). In the latter case, EPA could raise the volatility level to 9.0 psi. The Kansas City maintenance plan does not support such a change and, in fact, relies on the lower limit of 7.8 psi to maintain the standard. Only if the state had been able to implement other control measures with equivalent emission reductions to ensure maintenance of the standard would EPA have the option of relaxing the Phase II volatility controls.

EPA believes that the margin of safety is based on a demonstrated need. EPA also believes the plan fully supports the continued enforcement of Phase II volatility levels.

Comment: The plan does not account for the effects of more stringent motor vehicle emission standards mandated by the CAA, as amended, and revisions to EPA's MOBILE model. These effects are significant to the determination of the type and extent of control needed to maintain attainment.

Response: At the time Missouri and Kansas developed their maintenance plans, the applicable version of EPA's mobile source emissions model was MOBILE4.0. Since that time, MOBILE4.1 has become available. MOBILE4.1 was used by EPA prior to the proposed approval of the maintenance plan to determine what effect, if any, the new model would have on the demonstration of continued attainment of the ozone standard. For any given year, MOBILE4.1 predicted lower VOC emissions than MOBILE4.0; however, the level of VOC emissions necessary to maintain the ozone standard is also reduced correspondingly. Thus, the net effect on the margin of safety is insignificant.

EPA also notes that the new tailpipe standards will not become effective until 1994. Because these standards apply only to new vehicles, it will take several years for the emission reductions to occur as new vehicles are added to the total vehicle population. For these reasons, the new tailpipe standards are not adequate to demonstrate near-term maintenance of the standard. When the state submits its revised maintenance plan (which is required in eight years), the effect of the new tailpipe standards, as well as other changes in emission inventory methodology, will be considered. Prior to that time, the tailpipe emission standards are not sufficient to demonstrate maintenance of the ozone standard.

Comment: The plan places the burden for future growth in the Kansas City area entirely on the petroleum industry. A mix of cost effective measures, including enhanced inspection and maintenance (I/M) for motor vehicles, should be identified to accommodate future growth.

Response: EPA believes that the states properly considered an appropriate range of measures and their cost effectiveness. EPA believes that the state's selection of RVP controls demonstrate maintenance of the ozone standard in Kansas City.

The maintenance plan submitted by the state includes an analysis of the cost effectiveness of various control measures, including an I/M program, Stage II vapor recovery, and additional RACT controls on minor sources, in addition to gasoline volatility controls. This information shows that RVP control is the most cost-effective measure per ton of VOC controlled. Information submitted by the Missouri Department of Natural Resources (MDNR) during the comment period states that the RVP restriction costs approximately $500 per ton of emissions controlled, an amount half as expensive as the next most cost effective strategy for the area (Stage II). MDNR comments that reductions may be possible by requiring both Stage II vapor recovery and I/M, but MDNR's analysis indicates that the cost would be higher per ton of VOC controlled for these measures. Stage II would also be a cost borne primarily by the petroleum industry. MDNR also comments that the amount of VOC emissions controlled by the RVP program is second only to RACT—if RACT is imposed on smaller, 25 tons/year sources—but that the cost of RACT is also greater. In addition, the state concluded that I/M, Stage II, and RACT would take time to implement due to the legislative and administrative lead times required, whereas RVP control is already in place. RVP reduction is the only measure that achieves immediate VOC reductions. Finally, RVP control and costs are incurred only during the ozone season, and thus are not annual costs as are the other measures.

EPA also rejects Phillips' argument that the petroleum industry is bearing the burden for future growth. EPA notes that the states have adopted many regulations over the years in an effort to attain and maintain the ozone standard. These have included RACT regulations for all of the major stationary sources in the area. Furthermore, the Federal Motor Vehicle Emission Standards have also been, and will continue to be, effective in lowering VOC emissions. EPA believes the states have, in fact, adopted and implemented, in conjunction with EPA, a wide range of measures to address the ozone problem. Ultimately, the CAA places the responsibility on the states to select the appropriate control strategy necessary to attain and maintain the NAAQS.

Although EPA has determined that the states' selection of RVP is appropriate, this selection should not be considered as setting a precedent for other areas requesting redesignation to attainment. Each area should consider the cost effectiveness and feasibility of appropriate measures when developing the required maintenance plans for areas within the state.

For the foregoing reasons, and for the additional reasons stated in EPA's proposed approval at 57 FR 1705, January 15, 1992, EPA has determined that the Kansas City maintenance plan meets the requirements of section 175A.

EPA ACTION: In today's notice EPA is approving revisions to the Kansas SIP. This includes approving the Kansas City ozone maintenance plan, because it meets the requirements of section 175A of the Act, and approving the RACT rule submittals as meeting the RACT requirements of the Act. In addition, EPA is approving the redesignation request for the Kansas City area because the state has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation, as discussed in detail in the above referenced proposed rulemaking.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 1992. 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

40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: May 12, 1992.

William K. Reilly,

Administrator.

40 CFR part 52, subpart R is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart R—Kansas

2. Section 52.870 is amended by adding paragraph (c)(26) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(26) Revisions to the state implementation plan for the Kansas City metropolitan area were submitted by the Governor on October 23, 1991. Revisions include a maintenance plan which demonstrates continued attainment of the NAAQS for ozone through the year 2002. Rule revisions were also submitted on October 23, 1991.

(i) Incorporation by reference,

(A) Article 19—Ambient Air Quality Standards and Air Pollution Control, revised Kansas Administrative Regulations (K.A.R.) 28–19–61, Definitions, and K.A.R. 28–19–62, Testing procedures; and new rules K.A.R. 28–19–76, Lithography printing facilities, and K.A.R. 28–19–77, Chemical processing facilities that operate alcohol plants or liquid detergent plants. These rules were published August 22, 1991, and became effective October 7, 1991.

(ii) Additional material

(A) State of Kansas Implementation Plan, Kansas City Metropolitan Area Maintenance Provisions, October 1991.

3. Section 52.873 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 52.873 Approval status.

* * * * *

(b) The Kansas portion of the Kansas City metropolitan area was designated as nonattainment for ozone in 40 CFR part 81. Therefore, the Administrator approves continuation of the 7.8 RVP limit as federally enforceable in the Kansas City metropolitan area, even after the area is redesignated to attainment, because of its nonattainment designation effective January 6, 1992. Also, the requirement for 7.8 psi RVP volatility is deemed necessary to ensure attainment and maintenance of the ozone standard as demonstrated by the emissions inventory projections (based on use of 7.8 psi RVP) in Kansas' ozone maintenance plan for the Kansas City metropolitan area.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 is revised to read as follows:

Authority: 42 U.S.C. 7407, 7501–7515, 7601.

2. In § 81.317 the designation table for ozone is amended by revising the entries for Johnson and Wyandotte Counties to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kansas City Area:				
Johnson County	July 23, 1992.	Unclassifiable/Attainment		
Wyandotte County	July 23, 1992.	Unclassifiable/Attainment		

* * * * * * *

[1] This date if November 15, 1990, unless otherwise noted.

[FR Doc. 92–14594 Filed 6–22–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 52 and 81

[Mo11–1–5440; FRL–4140–7]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's notice EPA is taking final action to approve revisions to the Missouri State Implementation Plan (SIP). The revision includes the Missouri ozone maintenance plan for the Kansas City area and related Missouri rule revisions. EPA is also approving the state's request to redesignate Clay, Platte, and Jackson Counties, Missouri, to attainment with respect to the ozone National Ambient Air Quality Standard (NAAQS). In a separate **Federal Register** notice published today, EPA is taking a concurrent final action regarding the Kansas maintenance plan and redesignation request for the Kansas portions of the Kansas City nonattainment area.

EFFECTIVE DATE: This rule will become effective on July 23, 1992.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; the Missouri Department of Natural Resources, Air Pollution Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 551–7602 (FTS 276–7602).

SUPPLEMENTARY INFORMATION:

I. Background

Three years of quality assured ambient air quality data, for the period 1989 through 1991, indicate that the Kansas City ozone nonattainment area has attained the NAAQS for ozone. Therefore, in accordance with the Clean Air Act (CAA), and to ensure continued attainment of the standard with an