

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 October 9, 2007. 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 27, 2007.

**John B. Askew,**  
Regional Administrator, Region 7.

■ 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 *et seq.*

**Subpart AA—Missouri**

■ 2. In § 52.1320(e) the table is amended by adding an entry in numerical order to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(53) Maintenance Plan for the 8-hour ozone standard in the Missouri portion of the Kansas City area.	Kansas City .....	5/23/07	8/9/07 [ <i>insert FR page number where the document begins</i> ].	This plan replaces numbers (46) and (50).

[FR Doc. E7-15264 Filed 8-8-07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R07-OAR-2007-0620; FRL-8450-5]

**Approval and Promulgation of Implementation Plans; State of Kansas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the Kansas State Implementation Plan (SIP) prepared by Kansas to maintain the 8-hour national ambient air quality standard (NAAQS) for ozone in the Kansas portion of the Kansas City area. The Kansas City area is designated attainment for the ozone NAAQS. This revision is required by the Clean Air Act. A similar final rulemaking pertaining to the Missouri portion of the Kansas City maintenance area is being done in conjunction with this rulemaking. The effect of this approval is to ensure Federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved SIP.

**DATES:** This direct final rule will be effective October 9, 2007, without

further notice, unless EPA receives adverse comment by September 10, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-0620, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. *E-mail:* [algie-eakin.amy@epa.gov](mailto:algie-eakin.amy@epa.gov).
3. *Mail:* Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. Hand Delivery or Courier. Deliver your comments to Amy Algie-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to Docket ID No. EPA-R07-OAR-2007-0620. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:**

Amy Algoe-Eakin at (913) 551-7942, or by e-mail at [algoe-eakin.amy@epa.gov](mailto:algoe-eakin.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a Section 110(a)(1) maintenance plan?

What are the components of a Section 110(a)(1) 8-hour ozone maintenance plan?

How has the state addressed the components of a Section 110(a)(1) 8-hour ozone maintenance plan? What action is EPA taking?

**What is a Section 110(a)(1) maintenance plan?**

Section 110(a)(1) of the Clean Air Act (CAA or Act) requires, in part, that states submit to EPA plans to maintain any NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS but attainment for the 8-hour ozone NAAQS submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS. EPA established June 15, 2007, three years after the effective date of the initial 8-hour ozone designations, as the deadline for submission of plans for these areas. Kansas's Section 110(a)(1) maintenance plan was received by EPA on May 23, 2007.

**What are the components of a Section 110(a)(1) 8-hour ozone maintenance plan?**

On May 20, 2005, EPA issued guidance that applies, in part, to areas that are designated attainment/unclassifiable for the 8-hour ozone standard and that had an approved 1-hour ozone maintenance plan. The purpose of the guidance, referred to as Section 110(a)(1) guidance, is to assist

the states in the development of a SIP which addresses the maintenance requirements found in Section 110(a)(1) of the CAA. There are five components of the Section 110(a)(1) maintenance plan which are: (1) An attainment inventory, which is based on actual typical summer day emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO<sub>x</sub>) for a ten-year period from a base year as chosen by the state; (2) a maintenance demonstration which shows how the area will remain in compliance with the 8-hour ozone standard for 10 years after the effective date of designations (June 15, 2004); (3) a commitment to continue to operate air quality monitors; (4) a contingency plan that will ensure that a violation of the 8-hour ozone NAAQS is promptly addressed; and (5) an explanation of how the state will track the progress of the maintenance plan.

**How has the state addressed the components of a Section 110(a)(1) 8-hour ozone maintenance plan?**

The Kansas Department of Health and Environment's (KDHE) 8-hour ozone maintenance plan addresses the components of the Section 110(a)(1) 8-hour ozone maintenance plan as outlined in EPA's May 20, 2005, guidance. Kansas has requested that the Section 110(a)(1) 8-hour ozone maintenance plan replace the existing Section 175A 1-hour ozone maintenance plan.

*Emissions Inventory:* An emissions inventory is an itemized list of emission estimates for sources of air pollution in a given area for a specified time period. KDHE has provided a comprehensive and current emissions inventory for ozone precursors (NO<sub>x</sub>, and VOCs) in the area. KDHE has chosen to use 2002 as the base year from which they project emissions. The maintenance plan also includes an explanation of the methodology used for determining the anthropogenic (point, area, and mobile sources) emissions in the maintenance area. The inventory is based on emissions for a typical ozone season day. The term "typical" refers to emissions expected on a typical weekday during the months where ozone concentrations are typically the highest. For Kansas City, these months are June through August.

*Maintenance Demonstration and Tracking Progress:* With regard to demonstrating continued maintenance of the 8-hour ozone standard, Kansas projects that the total emissions from the entire Kansas City Maintenance Area (KCMA) will decrease during the ten-year maintenance period. KDHE has projected emissions for 10 years from

the effective date of initial designations, or 2014. In 2002, the total anthropogenic emissions in the entire KCMA were 226.42 tons/ozone season day for VOCs and 316.09 tons/ozone season day for NO<sub>x</sub>. The projected 2014 anthropogenic emissions from the entire KCMA are 181.07 tons/ozone season day for VOCs and 180.08 tons/ozone season day for NO<sub>x</sub>. As such, the plan demonstrates that, from an emissions projections standpoint, emissions are projected to decrease.

It is important to note that the formation of ozone is dependent on a number of variables which cannot be estimated through emissions growth and reduction calculations. A few of these variables include weather and the transport of ozone precursors from outside the maintenance area. In the Section 110(a)(1) maintenance plan, KDHE has indicated that the state will track the progress of the maintenance plan by updating the emissions inventory for the KCMA approximately every three years. The years of 2005, 2008, and 2011 were chosen as the years in which emissions will be reviewed. A review of the 2005 emissions inventory is underway. The emissions inventory update will include point, area, and onroad and offroad emissions. Information from these future updates will be compared with the projected growth estimates for the 2002 base inventory data to track maintenance of the standard.

*Ambient Monitoring:* With regard to the ambient air monitoring component of the maintenance plan, Kansas's plan describes the ozone monitoring network in Kansas City and explains that states and local air agencies are responsible for the operation, maintenance and data collection at these monitoring sites. KDHE commits to continue operating air quality monitors in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard. If any changes to the monitoring locations become necessary, KDHE commits to working with EPA to ensure that the adequacy of the monitoring network is maintained.

*Contingency Measures:* EPA interprets Section 110(a)(1) of the CAA to require that the state develop a contingency plan which will ensure that any violation of an NAAQS is promptly corrected. The purposes of the contingency measures, outlined in KDHE's maintenance plan, are to achieve sufficient VOC and/or NO<sub>x</sub> emissions to reduce ozone monitored concentrations. Kansas and Missouri worked to design a two-phased approach for the contingency measure portion of the maintenance plan. The approach includes specific triggers for

each phase. The triggers are the same for both states, although the measures vary slightly. For Phase 1, the Kansas plan provides that a violation of the 8-hour ozone standard, once quality assured, would trigger two control measures, which are, (1) reduction in NO<sub>x</sub> emission from point sources greater than 1000 tons of actual annual emissions from the entire facility averaged over the last three years of complete, quality-assured inventory data in Wyandotte and Johnson Counties. This would be accomplished through either NO<sub>x</sub> Reasonable Available Control Technology (RACT) rules or signed agreements with affected sources, and (2) diesel idle reduction in Wyandotte and Johnson Counties through administrative regulations or local ordinances. If this measure is implemented, KDHE would develop the enforcement mechanism through contracts with local agencies.

Phase 2 contingency measures would be triggered by the occurrences of either of the following two events: (1) A three-year design value for the area equaling or exceeding 0.089 parts per million (ppm) which would become active one year following the end of the ozone season that triggered the Phase 1 contingency measures or (2) three consecutive years following the Phase 1 trigger year with a design value greater than 0.084 ppm. Either of these events would implement the selection of control measures of Phase 2. Following the implementation of Phase 1, if any one year has a three-year design value equaling or exceeding 0.085 ppm, an evaluation to determine appropriate action will be undertaken by KDHE. The purpose of delaying the potential implementation of Phase 2 control measures for a period of time following the implementation of Phase 1 is to allow for Phase 1 controls to be initiated and have an effect on air quality in the region before Phase 2 is implemented. It also allows for further evaluation of the various control measures that could be implemented under Phase 2. Below are a few of the control options being considered for Phase 2:

- Reductions in NO<sub>x</sub> emissions from point sources that exceed 100 tons of actual annual emissions from the entire facility averaged over the last three years of complete, quality-assured inventory data in Wyandotte and Johnson Counties. This would be accomplished through either NO<sub>x</sub> RACT rules or signed agreements with affected sources.

- Reductions in NO<sub>x</sub> emissions from point sources greater than 1000 tons of actual annual emissions from the entire facility averaged over the last three

years of complete, quality-assured inventory data in areas located south of and outside the KCMA (Miami and Linn Counties). Based on current emissions inventory, this would affect two sources. Reductions would be accomplished through either a regional NO<sub>x</sub> administrative regulation or signed agreements with affected sources.

- Open burning restrictions in Wyandotte and Johnson Counties.

- Lower threshold for major sources of VOC to 75 tons per year (tpy) in Wyandotte and Johnson Counties. The KDHE would evaluate remaining large VOC emitters subject to existing VOC RACT rules to determine if further reductions could be achieved (VOC RACT rules).

- VOC control for 46 Architectural and Industrial Maintenance Coatings, including traffic coatings in Wyandotte and Johnson Counties.

- Diesel Engine Chip Re-Flashing regulations in Wyandotte and Johnson Counties.

If triggered, the Phase 2 measures will be selected based on emission reduction benefits, cost effectiveness and timeframe for implementation. KDHE also would consider additional potential measures if other beneficial emission reduction methods are determined to be useful to the air quality in the KCMA.

#### What action is EPA taking?

Kansas has addressed the components of a maintenance plan pursuant to EPA's May 20, 2005, guidance. The section 110(a)(1) 8-hour ozone Kansas City maintenance plan approved in this action will replace the existing section 175A 1-hour ozone maintenance plan. Kansas has committed to continue implementation of the VOC control measures in the 1-hour maintenance plan. Kansas has also committed to implementing the contingency measures no later than 24 months after the trigger date and will take action to maintain the standard in the event the contingency measures are triggered.

We are processing this action as a direct final action because we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not

subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 October 9, 2007. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 27, 2007.

**John B. Askew,**  
Regional Administrator, Region 7.

■ 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 et seq.

**Subpart R—Kansas**

■ 2. In § 52.870(e) the table is amended by adding an entry at the end of the table to read as follows:

**§ 52.870 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED KANSAS NONREGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
(31) Maintenance Plan for the 8-hour ozone standard in the Kansas portion of the Kansas City area.	Kansas City	5/23/07	8/9/07 [insert FR page number where the document begins].	This plan replaces numbers (28) and (29).

[FR Doc. E7-15251 Filed 8-8-07; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R05-OAR-2007-0001; FRL-8451-9]

**Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Redesignation of the Toledo Area 8-Hour Ozone Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Ohio Environmental Protection Agency (Ohio EPA) submitted a request on December 22, 2006, and supplemented it on March 9, 2007, for redesignation of the Toledo, Ohio area (Lucas and Wood Counties) to attainment for the 8-hour ozone

standard. The submission also includes a maintenance plan that provides for continued attainment through 2018. On June 12, 2007, EPA proposed to approve this submission. EPA provided a 30-day review and comment period. One comment, from BP Products, North America Inc., was received supporting EPA’s proposal. Today, EPA is approving Ohio’s request and corresponding State Implementation Plan (SIP) revision. In so doing, EPA is making a determination that the Toledo, Ohio area has attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2004–2006 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the area. Preliminary 2007 air quality data show that the area continues to attain the 8-hour ozone standard. EPA is approving the maintenance plan for this area and is redesignating the area to attainment. Finally, EPA is approving, for purposes of transportation conformity, the motor

vehicle emission budgets (MVEBs) for the years 2009 and 2018.

**DATES:** This final rule is effective on August 9, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2007-0001. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael