

of process for the Department of the Air Force.

M. S. Healy,
OSD Federal Register Liaison Officer,
Department of Defense.

January 6, 1984.

[FR Doc. 84-832 Filed 1-11-84; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA No. 866; A-7-FRL 2504-5]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On October 9, 1981, the State of Kansas submitted draft regulations to revise portions of the new source permitting regulations and to adopt a regulation controlling volatile organic compound (VOC) emissions from tank trucks serving bulk terminals. A notice of receipt was published in the Federal Register on March 26, 1982 (47 FR 12965). Final regulations were adopted and submitted to EPA on June 15, 1982. These regulations were adopted to satisfy conditions placed on the state's Part D plan revision (46 FR 20164, April 3, 1981). The State of Kansas included in the June 15, 1982 submittal certain regulatory revisions which were not required by the SIP conditions. EPA proposed to approve most of these regulations on March 10, 1983 (48 FR 10081).

The purpose of today's action is to approve most of the revised new source permitting regulations and the regulation controlling VOC emissions from tank trucks and remove the conditions of April 3, 1981 (46 FR 20164). Action on the regulatory changes related to the definition of source will be deferred to a later date for reasons discussed below.

EFFECTIVE DATE: This action is effective March 12, 1984.

ADDRESSES: Copies of the state submission are available during normal business hours at the following locations:

Environmental Protection Agency,
Region VII, Air Branch, 324 East 11th
Street, Room 1415, Kansas City, MO
64106.

Environmental Protection Agency,
Public Information Reference Unit, 401
M Street, SW., Washington, D.C.
20460.

The Office of the Federal Register, 1100
L St., NW., Room 8401, Washington,
D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Robert J. Chanslor, Environmental
Protection Agency, 324 East 11th Street,
Kansas City MO 64108 at (816) 374-3791,
(FTS 758-3791).

SUPPLEMENTARY INFORMATION: On April 3, 1981, EPA conditionally approved certain portions of the Kansas SIP with regard to the requirements of Part D of the Clean Air Act, as amended. The conditions were specific regarding section 172(b)(2), section 172(b)(10), and section 173(3). A detailed discussion of that action may be found in the Federal Register published on that date (46 FR 20164). Today's action removes the remaining conditions from that action, codified at 40 CFR 52.875.

To satisfy one of the conditions, the State adopted amendments revising its new source permitting regulations to comply with section 173(3) of the Act. The condition required that the state adopt statutory amendments by April 30, 1981, file the revised regulations as temporary amendments with the Revisor of Statutes by July 1, 1981, and adopt the revised regulations as permanent amendments to the Kansas air quality regulations by May 1, 1982. The state satisfied this condition.

In order to satisfy the two remaining conditions, the state adopted and filed with the Revisor of Statutes a regulation controlling VOC emissions from tank trucks serving bulk petroleum terminals by July 1, 1981, and adopted the revised regulations as permanent regulations by May 1, 1982. The state's submittal of June 15, 1982, satisfied these conditions.

Today's action approves regulations 28-19-70 and 28-19-62 which are applicable to VOC emissions from tank trucks. The EPA has received no comments on the March 10, 1983, proposal to approve these regulations.

The March 10, 1983, proposed rulemaking proposed approval of K.A.R. 28-16-61h. This was a typographical error. The regulation which should have been referenced is K.A.R. 28-19-16h. That regulation is among those discussed below on which action is being deferred.

In addition to the regulations discussed above, the State of Kansas submitted certain other revisions not required by the April 3, 1981, conditions. These regulations are 28-19-16 and definitions in 28-19-16a, 28-19-16b, 28-19-16c, 28-19-16f, 28-19-16g, 28-19-16h, and 28-19-16i. The March 10, 1983, Federal Register publication proposed to approve portions of the above regulations and defer action on the

remainder. Some of the Kansas revisions were made to be consistent with the EPA regulatory revision that eliminated the dual source definition [see 40 CFR 51.18(j)(1) (i) and (ii)]. The remainder of the revisions in 28-19-16 were made for the purpose of clarification and style.

On August 7, 1980 (45 FR 52676), EPA defined "source" as it would apply under certain circumstances to new source review in nonattainment areas as both an industrial plant and each individual piece of process equipment. The major effect of this "dual source" definition was to subject each new piece of process equipment that emitted certain levels of pollutants to new source review. For sources locating in attainment areas, the prevention of significant deterioration (PSD) regulations defined source as an entire plant or related operations. The "plant-wide" definition used in the PSD regulations allows sources to avoid new source review by balancing emission increases and decreases so that net plant-wide emissions do not increase. This option was not available in nonattainment areas.

On October 14, 1981 (46 FR 50763), EPA deleted the dual source definition and defined "source" as only an entire industrial plant consistent with the PSD definition. Under this new definition, the new source review requirements could be avoided for an individual piece of process equipment if a counterbalancing decrease in emissions occurred elsewhere in a plant. Under the October 14, 1981 source definition, more modifications to major existing sources could avoid new source procedures if there were commensurate emissions reductions over the entire plant. In the October 14, 1981, rulemaking, EPA deleted the reconstruction rule that required new source review procedures where reconstruction costs were 50 percent or more of the original cost of the facility.

On August 17, 1982, in *NRDC vs. Gorsuch*, No. 81-2203, the Circuit Court for the District of Columbia vacated the EPA revised source definition and deletion of the reconstruction rule. Subsequently EPA made a commitment to the court that it would not approve any SIP revision containing those provisions. The affected Kansas regulatory revisions are:

1. Regulation 28-19-16a(d) which defines Building, Structure, Facility, or Installation;
2. Deletion of Regulation 28-19-16a(v) "Reconstruction;"
3. Deletion of the term Reconstruction in Regulations 28-19-16, 28-19-16b, 28-

19-16c, 28-19-16f, 28-19-16h, and 28-19-16i; and

4. Deletion of Regulation 28-19-16a(o) which defines "Installation".

The language of 28-19-16a(x) defining "Stationary Source", has not been explicitly revised, but the definition of "Installation" has been revised by deleting the old definition at 28-19-16a(o) and adding the term to Regulation 28-19-16a(d). Because the terms "Building", "Structure", "Facility", or "Installation", are used in the definition of "Stationary Source", the effect is to alter the Kansas source definition for new source review in nonattainment areas.

Today's rulemaking approves those regulations which are not affected by the *NRDC vs. Gorsuch* ruling. EPA defers action on those affected revisions. EPA approves the revision of Regulation 28-19-16a(g) which defines contemporaneous in a manner consistent with the EPA approved definition in comparable Missouri regulations.

Other changes that are approved appear at 28-19-16a(a), 28-19-16a(b), 28-19-16a(c), 28-19-16a(d), 28-19-16a(e), 28-19-16a(k), and 28-19-16a(o). These changes were made for the purpose of clarification and style.

EPA also approves renumbering of subsections from 28-19-16a(o) through 28-19-16a(x); the title change of 28-19-16g; deletion of old paragraph (a) and addition of new paragraphs (a) through (c). EPA approves deletion of Regulation 28-19-51 regarding fugitive dust.

Comments Received

The Natural Resources Defence Council (NRDC) submitted the only public comment on the March 10, 1983 proposed rulemaking by letter of March 22, 1983. The comment was limited to the EPA proposal to defer action on the revised Kansas source definition. The letter states that deferral is an inadequate response to the court action in *NRDC vs. Gorsuch*; and that EPA should promptly disapprove the change in the Kansas source definition so that Kansas can promptly get on with the job of revising the SIP to conform the "source" definition and the "reconstruction" rule to the requirements of the law.

Response to Comments

As EPA explained in the proposed rulemaking, the existing approved Kansas SIP contains provisions conforming to the "dual definition". The effect of EPA's deferral of action on the Kansas plant-wide source definition revision is to retain that existing definition. Therefore, the Kansas SIP

conforms to the Circuit Court ruling. The effect on the SIP would be the same were EPA to disapprove the revised Kansas rule. EPA does not agree that it is necessary to disapprove the rule to be consistent with the court's opinion. Finally, EPA has appealed the Circuit Court ruling to the Supreme Court. EPA will take final action on the revised Kansas source definition after the Supreme Court has ruled on the appeal.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

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 (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

This notice of final rulemaking is issued under authority of section 110 and Part D of the Clean Air Act, as amended.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons; Intergovernmental relations.

Dated: January 4, 1984.
William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. Section 52.870 is amended by adding a new paragraph (c)(15) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(15) New regulations 28-19-70 and 28-19-62 applicable to tank trucks operating at bulk gasoline terminals were submitted by the Kansas Department of Health and Environment on June 15, 1982. State regulation 28-19-51 is revoked. Revised regulations 28-19-16, 28-19-16a, 28-19-16b, 28-19-16c, 28-19-16f, 28-19-16g, 28-19-16h, and 28-19-16i, applicable to new sources in nonattainment areas were included with the June 15, 1982 submittal. Action is deferred on the following regulations: 28-19-16a(d), 28-19-16a(v), 28-19-16, 28-19-16b, 28-19-16c, 28-19-16f, 28-19-

16h, 28-19-16i, and 28-19-16a(o). The remainder of the provisions are approved.

§ 52.875 [Removed]

2. Section 52.875 is removed.

§ 52.870 [Removed]

3. Section 52.870 currently contains two paragraphs designated as (c)(13). This document corrects § 52.870 by redesignating the second (c)(13), which reads in part, "(13) Letter and supporting documents submitted on September 15, 1981 * * *" as new paragraph "(c)(14)".

[FR Doc. 84-801 Filed 1-11-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of