

public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated local air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).

(2) *Topeka-Shawnee County Health Department.* (i) Authority to make emission data available to the public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).

(3) *Wichita-Sedgwick County Health Department.* (i) Authority to make emission data available to the public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated local air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).

(c) The requirements of § 51.230(d) of this chapter are not met since statutory authority to prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which indirectly results or may result in emissions of any air pollutant at any location which will prevent the maintenance of a national air quality standard is not adequate.

[37 FR 10867, May 31, 1972, as amended at 39 FR 7281, Feb. 25, 1974; 51 FR 40676, Nov. 7, 1986]

§ 52.875 Original identification of plan section.

(a) This section identifies the original "Air Quality Implementation Plan for the State of Kansas" and all revisions submitted by Kansas that were Federally approved prior to July 1, 1998.

(b) The plan was officially submitted on January 31, 1972.

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

(1) Various comments on the plan in response to the Regions review were submitted on March 24, 1972, by the State Department of Health. (Non-regulatory)

(2) The Emergency Episode Operations/Communications Manual for the Kansas City Interstate AQCR was submitted on April 6, 1972, by the State Department of Health. (Non-regulatory)

(3) Emergency Episode Operations/Communications Manual for all Kansas Intrastate AQCR's was submitted on February 15, 1973, by the State Department of Health. (Non-regulatory)

(4) Revisions of sections 28-19-6 through 15, 20-24, 30-32, 40-47, 50-52 and 55-58 of the State air pollution control regulations were submitted by the State Department of Health on April 17, 1973.

(5) Letter from the Governor, dated May 29, 1973, concerning the attainment of CO emission standards. (Non-regulatory)

(6) An amendment to the State air quality control law, Senate Bill No. 30, dealing with public access to emission data was submitted on July 27, 1973, by the Governor.

(7) Revisions of sections 28-19-8, 9, 14, 22, 25 and 47 of the State air pollution control regulations were submitted on February 6, 1974, by the Governor.

(8) Copy of the State's analysis and recommendations concerning the designation of Air Quality Maintenance Areas was submitted by letter from the State Department of Health on February 28, 1974. (Non-regulatory)

(9) Kansas submitted State Implementation Plan (SIP) revisions to attain the National Ambient Air Quality Standards on September 17, 1979 for Wyandotte and Johnson Counties, on October 22, 1979 for Douglas County, and on March 10, 1980 for Kansas City of the state designated nonattainment areas under section 107 of the Clean Air Act as amended in 1977. On September 22 and 25, 1980, the state submitted revised regulations on the control of volatile organic compounds and a regulation on the new source permit review program. Included in the plan are the following approved state air pollution control regulations:

(i) The VOC regulations which EPA approved as RACT: 28-19-61 Definitions, 28-19-62 Testing Procedures, 28-19-63 Automobile and Light Duty Trunk Surface Coating, 28-19-65 Petroleum Liquid Storage Tanks, 28-19-66 Petroleum Liquid Storage in External Floating Roof Tanks, 28-19-67 Petroleum Refineries, 28-19-68 Leaks from Petroleum Refinery Equipment, 28-19-69 Cutback Asphalt.

(ii) The New Source Permit Review regulation 28-19-16 through 16m which EPA conditionally approved as meeting the requirements of sections 172(b)(6); 172(b)(11)(A), and 173.

(iii) The Kansas City-Wyandotte County air pollution control regulations which have been adopted by both the Kansas City, Kansas Board of City Commissioners and the Wyandotte County Board of County Commissioners:

2A-1 Jurisdiction, 2A-2 Purpose, 2A-3 Definitions, 2A-4 Powers of the Board, 2A-5 Facts and Circumstances Pertinent to Orders of Joint Board, 2A-6 Right of Entry for Inspection, 2A-7 Time for Compliance Schedule, 2A-8 Variance, 2A-9 Circumvention of Chapter or Regulations, 2A-10 Air Pollution Nuisances Prohibited; Additional Emission Restrictions; Interference with the Enjoyment of Life and Property, 2A-11 Reserved, 2A-12 Confidential Information, 2A-13 Registration and Permit System; Exemptions, 2A-14 Review of New or Altered Sources, 2A-15 Public Hearings, 2A-16 Installations in which Fuel is Burned, 2A-17 Restriction of Emission of Particulate Matter from Industrial Processes, 2A-18 Open Burning Prohibition, 2A-19 Opacity Requirements, 2A-20 Exceptions Due to Breakdowns or Scheduled Maintenance, 2A-21 Preventing Particulate Matter from Becoming Air-Borne, 2A-22 Measurement of Emissions, 2A-23 Restriction of Emission of Odors, 2A-24 Sulfur Compound Emissions, 2A-24.1 Hydrocarbon Emissions; Stationary Sources, 2A-25 Control of Carbon Monoxide Emissions, 2A-26 Control of Nitrogen Oxide Emissions, 2A-26.1 Incinerators, 2A-27 Air Pollution Emergencies—General Provisions, 2A-28 Air Pollution Emergencies—Episode Criteria, 2A-29 Emission Reduction Requirements, 2A-30 Emergency Episode Plans, 2A-31 Penalties for Violation of Chapter or Air Pollution Control Regulations, and 2A-32 Conflict of Ordinances, Effect Partial Invalidity.

(10) The Kansas State Implementation Plan for lead was submitted on February 17, 1981, by the Governor of Kansas, along with a submittal letter which provided additional information concerning the Kansas State Implementation Plan for lead.

(11) Kansas submitted SIP revisions to attain and maintain the National Ambient Air Quality Standards for carbon monoxide on April 16, 1981, for the South Central Kansas Interstate Air Quality Control Region, Wichita non-attainment area. The plan included commitments to complete transpor-

tation control measures for the reduction of carbon monoxide from transportation related sources for the attainment of the national standards by December 31, 1982.

(12) A plan revision which makes modifications to the existing Kansas air quality surveillance network was submitted by the Kansas Department of Health and Environment on October 16, 1981.

(13) Additional information to correct two plan deficiencies was submitted by the Kansas Department of Health and Environment on May 12, 1981.

(14) Letter and supporting documents submitted on September 15, 1981, from the Director of Air Quality and Occupational Health relating to reasonably available control technology for certain particulate matter sources in the Kansas City, Kansas area.

(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.

(16) New regulations K.A.R. 28-19-17 through K.A.R. 28-19-171 applicable to stationary sources subject to prevention of significant deterioration (PSD) permit requirements were submitted on May 5, 1983. Regulation K.A.R. 28-19-171 pertaining to the use of innovative control technology is not approved. By letter dated June 20, 1984, the State of Kansas agrees to follow the EPA interim stack height policy for each PSD permit issued until such time as EPA revises its general stack height regulations.

(17) Revised regulation K.A.R. 28-19-69, applicable to the use of cutback asphalt, was submitted by the Secretary of the Kansas Department of Health and Environment on February 21, 1986.

(i) *Incorporation by reference.* (A) Revised regulation K.A.R. 28-19-69 as approved by the Kansas Attorney General on December 5, 1985.

(18) Revised regulations K.A.R. 28-19-63 applicable to automobile and light-duty truck surface coating; K.A.R. 28-19-64 applicable to bulk gasoline terminals; K.A.R. 28-19-67 applicable to petroleum refineries; and K.A.R. 28-19-68 applicable to leaks at petroleum refineries, were submitted by the Secretary of the Kansas Department of Health and Environment on February 21, 1986.

(i) *Incorporation by reference.* (A) Revised regulations K.A.R. 28-19-63, K.A.R. 28-19-64, K.A.R. 28-19-67, and K.A.R. 28-19-68 as approved by the Kansas Attorney General on October 30, 1985.

(19) Revised Kansas regulations pertaining to fees for permits to construct and operate were submitted by the Kansas Department of Health and Environment on March 27, 1986.

(i) *Incorporation by reference.* (A) Kansas Administrative Regulations (KAR) 28-19-7, 28-19-8, 28-19-9, 28-19-14, 14(a) and 14(b), 28-19-31, 28-19-45, which became effective on May 1, 1986.

(B) Letter of March 27, 1986 to EPA from the State of Kansas Department of Health and Environment.

(C) Letter of September 15, 1987 to EPA from the State of Kansas Department of Health and Environment.

(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 stat-

ed 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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(21) Revised Kansas regulations applicable to air quality models and definitions were submitted by the Kansas Department of Health and Environment on January 6, 1988.

(i) *Incorporation by reference.* (A) Kansas Administrative Regulations (K.A.R.) 28-19-17(f) and 28-19-7 (a) through (f) and (h) through (w) which became effective December 16, 1987. EPA is deferring action on 28-19-7(g), *Emission Limitation and Standard*.

(22) On March 1, 1985, the Governor of Kansas submitted a revised carbon monoxide state implementation plan for Wichita, Kansas. On September 3, 1987, the Kansas Department of Health and Environment submitted two new transportation control measures as part of the revised Wichita carbon monoxide control plan.

(i) *Incorporation by reference.* (A) Letter of September 3, 1987, from the Kansas Department of Health and Environment and attached transportation control measures adopted August 18, 1987.

(B) Revision of the Wichita-Sedgwick County Portion of the Kansas State Implementation Plan for Carbon Monoxide submitted by the Governor on March 1, 1985. The plan contains an attainment demonstration, emissions inventory, and a control strategy.

(23) Kansas Administrative Regulations (K.A.R.) 28-19-19(a) through 28-19-19(o) pertaining to continuous emission monitoring at certain stationary sources were submitted on January 6, 1988, by the Kansas Department of Health and Environment. K.A.R. 28-19-19(o) allows for departmental discretion on use of different but equivalent procedures than those specified in 28-19-19(a) through 28-19-19(n). EPA approves this rule with the understanding that all such equivalent procedures and requirements must be submitted to EPA as individual SIP revisions. In the absence of such approval, the enforceable provisions of K.A.R. 28-19-19(a) through 28-19-19(n) shall be applicable.

(i) *Incorporation by reference.* (A) K.A.R. 28-19-19(a) through 28-19-19(o), continuous emission monitoring, as submitted by the Secretary of the Kansas Department of Health and Environment. These regulations became effective on 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 date for the revised regulations referenced in paragraph (23)(i)(A) of this section.

(24) Revised regulations K.A.R. 28-19-7(g), K.A.R. 28-19-16, and K.A.R. 28-19-17 pertaining to new source permit requirements, were submitted by the Secretary of the Kansas Department of Health and Environment on March 27, 1986. Revised regulation K.A.R. 28-19-18 pertaining to stack heights was submitted by the Secretary of the Kansas Department of Health and Environment on January 6, 1988.

(i) *Incorporation by reference.* (A) Revised regulations, K.A.R. 28-19-16, 28-19-16b, 28-19-16d, 28-19-16g, 28-19-16i, 28-19-16l, 28-19-17, 28-19-17a, and 28-19-17b, which became effective on May 1, 1986.

(B) Revised regulations K.A.R. 28-19-7(g), and K.A.R. 28-19-18 through 28-19-18f. The temporary regulations became effective December 16, 1987, and became permanently effective on May 1, 1988.

(ii) *Additional material.* (A) KDHE letter of March 27, 1986, to EPA pertaining to new source permit regulations.

(B) KDHE letter of January 6, 1988, and June 9, 1988, to EPA pertaining to stack height regulations.

(C) KDHE letters of December 7, 1987, and December 23, 1987, pertaining to the state's stack heights analysis and negative declarations.

(25) Revised Kansas Administrative Regulations (K.A.R.) pertaining to PM₁₀ regulations and the PM₁₀ committal SIP were submitted by Kansas on October 5, 1989.

(i) *Incorporation by reference.* (A) Revised regulations Article 19—Ambient Air Quality Standards and Air Pollution Control, K.A.R. 28-19-7, 28-19-8, 28-19-14, 28-19-16a, 28-19-17a, 28-19-17b, 28-19-17c, 28-19-17g, 28-19-17i, 28-19-20, 28-19-21, and 28-19-56, published August 31, 1989, effective October 16, 1989.

(ii) *Additional material.* (A) Letter of October 5, 1989, from the Secretary of the Kansas Department of Health and Environment (KDHE).

(B) Memorandum of October 16, 1989, from the Secretary of State (Kansas) to Stanley Grant (KDHE).

(C) Revised Air Quality Surveillance Monitoring Plan—Section E.

(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.

(27) On September 15, 1992, the Secretary of KDHE submitted rule revisions to K.A.R. 28-19-17, the PSD rule; to K.A.R. 28-19-19, the CEM rule; and to K.A.R. 28-19-73, a surface coating rule. These rule revisions were adopted by KDHE on April 3, 1992.

(i) *Incorporation by reference.* (A) Revised regulations K.A.R. 28-19-17 through 28-19-171, K.A.R. 28-19-19 and K.A.R. 28-19-73, and new regulations K.A.R. 28-19-17m through 28-19-17q, effective June 8, 1992.

(ii) *Additional material.* (A) Letter and attachment from KDHE dated September 15, 1992 pertaining to PSD NO_x requirements.

(28) A plan for implementation of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program was submitted by the Kansas Department of Health and Environment as a revision to the Kansas State Implementation Plan (SIP) on January 25, 1994.

(i) *Incorporation by reference.* (A) Kansas SIP, Small Business Stationary Source Technical and Environmental Compliance Assistance Program, dated November 15, 1993.

(29) On May 16, 1994 the Secretary of KDHE submitted revisions to rules K.A.R. 28-19-31, 28-19-32, 28-19-63, and

operating permits #20090048 (BPU Quindaro station) and #20090049 (BPU Kaw station).

(i) *Incorporation by reference.* (A) Revised regulations K.A.R. 28-19-31, K.A.R. 28-19-32, K.A.R. 28-19-63, effective November 8, 1993.

(B) Operating permits; Kansas City, Kansas, Board of Public Utilities Quindaro permit #20090048, and Kaw permit #20090049, effective October 20, 1993.

(ii) *Additional material.* (A) Letter from BPU to KDHE dated December 11, 1992, regarding compliance verification methods and schedules.

(30) On February 17, 1995, the Secretary of the Kansas Department of Health and Environment (KDHE) submitted for approval numerous rule revisions which add and revise definitions, revise the Kansas construction permit program, and create a class II operating permit program.

(i) *Incorporation by reference.* (A) Revised rules K.A.R. 28-19-7 effective November 22, 1993; K.A.R. 28-19-8 effective January 23, 1995; K.A.R. 28-19-14 effective January 24, 1994; and the revocation of K.A.R. 28-19-14a effective January 23, 1995; and the revocation of K.A.R. 28-19-14b effective January 24, 1994.

(B) New rules K.A.R. 28-19-204, 212, 300, 301, 302, 303, 304, 400, 401, 402, 403, 404, 500, 501, 502, 540, 541, 542, 543, 544, 545, 546, 561, 562, and 563 effective January 23, 1995.

(31) On May 11, 1995, the Kansas Department of Health and Environment submitted an emissions inventory update to the Kansas City maintenance plan approved by EPA on June 23, 1992. The submittal also establishes a motor vehicle emissions budget for the purpose of fulfilling the requirements of the Federal Transportation Conformity rule.

(i) *Incorporation by reference.* (A) Kansas City Ozone Maintenance State Implementation Plan Revision: Emissions Inventories and Motor Vehicle Emissions Budgets for the Kansas City Metropolitan Area, adopted on May 11, 1995.

(32) A Plan revision was submitted by the Kansas Department of Health and Environment (KDHE) on June 6, 1996, which incorporates by reference the

EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans, and which revokes old and adopts new open burning regulations.

(i) *Incorporation by reference.* (A) Regulation K.A.R. 28-19-800, adopted by the Secretary of the KDHE on February 21, 1996, effective March 15, 1996.

(B) Regulations K.A.R. 28-19-645 to K.A.R. 28-19-648, adopted by the Secretary of KDHE on February 6, 1996, effective March 1, 1996.

(C) Regulations K.A.R. 28-19-45 to K.A.R. 28-19-47, revoked by the Secretary of KDHE on February 6, 1996, effective March 1, 1996.

(33) A revision to the Kansas SIP was submitted by the Kansas Department of Health and Environment on May 23, 1997, pertaining to fuel volatility.

(i) *Incorporation by reference.* (A) K.A.R. 28-19-79, Fuel Volatility, effective May 2, 1997.

(d) Plan revisions were submitted on April 17, 1974, and February 17, 1974.

[37 FR 10867, May 31, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 52.875, see the List of CFR Sections Affected, which appears in the Finding Aids sections of the printed volume and on GPO Access.

§ 52.876 Compliance schedules.

(a) The requirements of § 51.260 and of § 51.15(a)(2) of this chapter as of September 19, 1976 (40 FR 43216), are not met since the plan does not contain legally enforceable compliance schedules setting forth the dates by which all stationary sources or categories of such sources must be in compliance with applicable portions of the control strategy. Paragraphs C and D of Kansas Regulation 28-19-9 specify that all sources not in compliance must submit an acceptable compliance schedule within 120 days after receiving notification from the State. There are no assurances that all sources will be notified by the State in a timely manner, therefore, paragraphs C and D of Regulation 28-19-9 are disapproved.

(b) *Federal compliance schedule.* (1) Except as provided in paragraph (2) of this paragraph (b), the owner or operator of any stationary source subject to any emission regulation which is part of

the approved plan shall be in compliance on or before January 31, 1974.

(i) Any owner or operator in compliance with any such applicable regulation on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator who achieves compliance with any such applicable regulation after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) An owner or operator of a stationary source subject to any emission regulation approved by the Administrator may no later than December 31, 1972, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with such regulation as expeditiously as practicable, but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress toward compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Letting of necessary contracts for construction or process changes, if applicable; initiation of construction; completion and startup of control systems; performance tests; and submittal of performance test analysis and results.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(c) *State compliance schedules.* (1) [Reserved]

(2) The compliance schedules identified below are disapproved as not meeting the requirements of § 51.102 or subpart N of this chapter. All regulations cited are air pollution control regulations of the state, unless otherwise noted.