VI. Administrative Requirements

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 Clean Air Act. 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 February 11, 2002. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 25, 2001.

David A. Ullrich,

Deputy Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(160) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(160) On March 21, 2001, Illinois submitted revisions to volatile organic compound rules for Formel Industries, Incorporated in Cook County, Illinois. The revisions consist of a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a),(b) and (c): AS 00–13 (Adjusted Standard Air). This Opinion and Order grants Formel Industries, Incorporated an adjusted standard to the Flexographic Printing Rule. The adjusted standard requirements include participation in a market-based emissions trading system, maintaining daily records, conducting trials of compliant inks, and reviewing alternate control technologies.

(i) Incorporation by reference.

Volatile organic compound emissions limits contained in a January 18, 2001 Opinion and Order of the Illinois Pollution Control Board in the Matter of: Petition of Formel Industries, Inc. for an Adjusted Standard from 35 ILL. ADM. CODE 218.401(a), (b) and (c): AS 00–13 (Adjusted Standard-Air). This Opinion and Order was adopted by the Illinois Pollution Control Board on January 18, 2001. It became effective under State law on January 18, 2001.

[FR Doc. 01–30581 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 0140–1140a; FRL–7116–3]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve the Kansas rule, ''Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens

in Johnson and Wyandotte Counties,'' as a revision to the Kansas State Implementation Plan (SIP). This rule restricts VOC emissions from large commercial bakery operations in the Kansas City area. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

In addition, EPA is making corrections to the Kansas table of SIP approved rules.

DATES: This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are 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: Comments may be mailed to Lynn M. Slugantz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. 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: Lynn M. Slugantz at (913) 551–7883.

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 SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean To Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

A. Kansas Bakery Rule

The Kansas Department of Health and Environment (KDHE) has adopted K.A.R. 28–19–717 to control emission of VOCs from commercial bakery ovens, located within the Kansas portion of the Kansas City Metropolitan Ozone Area (KCMA), specifically Johnson and Wyandotte Counties, that have the potential-to-emit greater than 100 tons of VOCs. KDHE, in a continuing effort to maintain good air quality and to strengthen its SIP, has adopted these control regulations for existing major sources not currently limited by regulations. This rule is projected to reduce emissions of VOCs from affected existing bakery facilities in the Kansas portion of the KCMA by 90 tons per year, based on information provided by the existing source affected by this regulation. The new regulation was adopted by the Kansas Secretary of Health and Environment on November 27, 2000, and became effective December 22, 2000. Today, EPA is taking final action to approve rule K.A.R. 28–19–717, ''Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens in Johnson and Wyandotte Counties'', as an amendment to the Kansas SIP.

B. Corrections to a Prior Federal Register Notice

On January 11, 2000 (65 FR 1545), EPA published a direct final rule approving a variety of revisions to the Kansas SIP. In the narrative portion of that rulemaking, we explained the need to remove K.A.R. 28–19–52 because it had been revoked by the State. The opacity-related regulations previously set forth at K.A.R. 28–19–52 are now found at K.A.R. 28–19–650. However, at the end of the notice where EPA listed the amendments to 40 CFR 52.870(c), the EPA-approved Kansas regulations, EPA inadvertently failed to list the removal of ''K.A.R. 28–19–52''. Also, in that same rulemaking, EPA published an incorrect State effective date for K.A.R. 28–19–650. The correct State effective date for K.A.R. 28–19–650 is January 29, 1999. We are making these corrections in this document.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, 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.

Administrative Requirements

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 (Public Law 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 is not economically significant.

In reviewing SIP 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP 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. section 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. section 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 February 11, 2002. 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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 28, 2001.

William Rice,

Acting 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 the table in paragraph (c) is amended by:

a. Removing the entry ''K.A.R. 28–19–52'' and the heading ''Opacity Restrictions'';

b. Revising the entry for ''K.A.R. 28–19–650'' under the heading ''Open Burning Restrictions''.

c. Adding in numerical order an entry for ''K.A.R. 28–19–717'' with a new table heading, ''Volatile Organic Compound Emissions.''

The revisions and addition read as follows:

§ 52.870 Identification of Plan

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Comments
* * *	* * *	*	*	*
	Open Burning Restrictions			
* * *	* * *	*	*	*
K.A.R. 28–19–650 Emissions Opacity Limits.	1/29/99	1/11/00, 65 FR 1548	New rule. Replaces K.A.R. 28–19–50 and 28–19–52.	
* * *	* * *	*	*	*
	Volatile Organic Compound Emissions			
K.A.R. 28–19–717	Control of Volatile Organic Compound Emissions (VOC) from Commercial Bakery Ovens in Johnson and Wyandotte Counties.	12/22/00	12/12/01	

* * * * *

[FR Doc. 01–30579 Filed 12–11–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IA 0144–1144a; FRL–7117–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state of Iowa's section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators (HMIWI). The state revised its existing plan to specify certain applicability and compliance dates. Approval of the revised state plan will ensure that it is consistent with the Federal regulations and is Federally enforceable.

DATES: This direct final rule will be effective February 11, 2002 unless EPA receives adverse comments by January 11, 2002. If adverse comments are 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: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. 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: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Information regarding this action is presented in the following order:

What Is a 111(d) Plan?

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

What Are the Regulatory Requirements for HMIWIs?

Standards and guidelines for new and existing HMIWIs were promulgated under the authority of sections 111 and 129 of the Clean Air Act on September 15, 1997 (62 FR 48374). These standards are 40 CFR part 60, subpart Ec for new sources, and 40 CFR part 60, subpart Ce for existing sources.

The subpart Ce EG is not a direct Federal regulation but is a ''guideline'' for states to use in regulating existing HMIWIs. The EG requires states to submit for EPA approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

Why Is This Action Necessary?

This action will ensure consistency between the state plan and the approved Federal plan, and ensure Federal enforceability of the current state plan.

What Changes Did the State Make to its 111(d) Plan?

We originally approved the state's HMIWI 111(d) plan on June 17, 1999 (64 FR 32425), and it became effective on August 16, 1999.

The state's 111(d) plan requirements for HMIWIs are contained in state rule 23.1(5)''b''. The state rule, which incorporates the requirements of the EG, makes reference in several places to dates which are tied to EPA's approval of the state's 111(d) plan. Since EPA has subsequently approved the state's 111(d) plan, there is now a fixed date for these rule requirements. Consequently, the state has revised its rules to cite a fixed date for these requirements.

In a rule making action which was effective on March 14, 2001, the state revised rule 23.1(5)''b,'' subparagraphs (4), (5), (6), (12), and (13) by deleting the reference to EPA's approval date and inserting the appropriate fixed date. The fixed dates refer to requirements for operator training and qualification requirements, waste management requirements, inspection requirements, and compliance times for facilities planning to retrofit or shut down.

In a second state rule making action for HMIWIs which was effective on July 21, 1999, the state corrected a typographical error in rule 23.1(5)''b'', subparagraph (1), in the definition of the