

(b) *Notification.* Commander, Eleventh Coast Guard District, will cause notice of the activation of this safety/security zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public, including publication in the **Federal Register** as practicable, in accordance with the provisions of 33 CFR 165.7(a); such means of announcement may include, but are not limited to, Broadcast Notice to Mariners. The Coast Guard will issue a Broadcast Notice to Mariners notifying the public when nuclear materials cargo handling has been completed.

(c) *Effective Period.* The safety/security zone will be effective commencing at the time any vessel described in paragraph (a)(1) of this section enters the zone described in paragraph (a)(1) of this section and will remain in effect until all spent nuclear materials cargo handling operations have been completed at Weapons Support Facility Seal Beach Detachment Concord.

(d) *Regulations.* The general regulations governing safety and security zones contained in both 33 CFR 165.23 in 33 CFR 165.33 apply. Entry into, transit through, or anchoring within this moving safety/security zone is prohibited unless authorized by Commander, Eleventh Coast Guard District, or his designated representative.

Dated: July 7, 1998.

**R.D. Sirois,**

*Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District Acting.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MO 050-1050; FRL-6124-7]

### Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving new Missouri rule 10 CSR 10-2.360, "Emission Restrictions for Bakeries," as a revision to the Missouri State Implementation Plan (SIP). This rule restricts volatile organic compound (VOC) emissions from large commercial bakery operations in the Kansas City ozone maintenance area.

**DATES:** This rule is effective on August 19, 1998.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Joshua A. Tapp at (913) 551-7606.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act (CAA) requires states to apply reasonably available control technology (RACT) to sources of VOCs in ozone nonattainment areas to reduce such emissions. For the Kansas City area, the Act required RACT for sources not covered by a control techniques guideline emitting more than 100 tons per year. RACT is defined as the lowest emissions limit that a particular source is capable of meeting by the application of control technology that is both reasonably available, as well as technologically and economically feasible.

Kansas City is currently an ozone maintenance area. It was redesignated to attainment on June 23, 1992, with the assumption that all existing major sources had RACT controls. Recently, the Missouri Department of Natural Resources discovered a major, uncontrolled commercial bakery located in Kansas City with a potential to emit greater than 100 tons per year of VOCs. This source sector should have been addressed prior to redesignation. However, this rule now addresses such sources consistent with the EPA's Alternative Control Technology Document on commercial bakery emission controls. Specifically, Missouri's rule requires a minimum of 80 percent VOC destruction and contains provisions addressing compliance determinations and recordkeeping. Rules such as this will aid Kansas City in its efforts to maintain air quality to meet the national ambient air quality standards. For more background information, the reader is referred to the proposal for this rulemaking published on August 5, 1996, at 61 FR 40591.

On September 3, 1996, the EPA received one comment from the American Bakers Association (ABA). The ABA opposes the capture efficiency language contained in subsection (4)(C) of the rule. The ABA's position is that bakery ovens operate under negative pressure and, therefore, should not be subject to capture efficiency

requirements. The ABA further comments that if the language addressing capture efficiency in subsection (4)(C) is not changed, at a minimum the language referencing section 20 of rule 10 CSR 10-6.030 as a compliance method should be deleted so that the rule is consistent with the St. Louis bakery rule.

The EPA's response to these comments is that, as written, the rule is consistent with the Clean Air Act in that it addresses emissions from major sources of VOCs in an ozone maintenance area. The rule contains enforceable limitations, the requirements for compliance are clear, and the methods for determining compliance have been provided. Therefore, because this rule meets the minimum SIP approval criteria under the ACT, the EPA is approving it as a revision to the Missouri SIP.

In addition, the EPA does not have authority to revise language contained in a state rule. Such concerns are more appropriately conveyed at the time that the state holds a public hearing on such rules. In any event, under the Missouri rule the Director may approve an alternative compliance method, including a method which accounts for operation of a source under negative pressure, as long as such method has been approved by the EPA. Therefore, the rule provides the Director with the flexibility to address the ABA's concerns on a case-by-case basis.

This response to comments is also documented in an addendum to the Technical Support Document for this rulemaking.

### I. Final Action

In this document, the EPA takes final action to approve Missouri rule 10 CSR 10-2.360, submitted on March 13, 1996, as a revision to the Missouri SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

### II. Administrative Requirements

#### A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an

"economically significant" action under Executive Order 12866.

### B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*), 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2)).

### C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements

under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

### D. Submission to Congress and the Comptroller General

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. The 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### E. Petitions for Judicial Review

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 September 18, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 29, 1998

**Dennis Grams, P.E.,**

*Regional Administrator, Region VII.*

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 AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(107) to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(107) New regulation for control of volatile organic emissions from Kansas City commercial bakeries submitted by the Missouri Department of Natural Resources March 13, 1996.

(i) Incorporation by reference.

(A) Rule 10 CSR 10-2.360 entitled "Control of Emissions from Bakery Ovens," effective December 30, 1995.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 136

#### Guidelines Establishing Test Procedures for the Analysis of Pollutants

##### CFR Correction

In Title 40 of the Code of Federal Regulations, parts 136 to 149, revised as of July 1, 1997, page 26, § 136.3(e) is corrected in Table II by correcting the entry in the fourth column "Maximum holding time" under "metals" for "Mercury" to read "28 days".

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

#### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM*