

LIST OF STATE RULES—Continued

State rules	Title
28–19–717	Control of volatile organic compound emissions from commercial bakery ovens in Johnson and Wyandotte Counties.
28–19–719	Fuel volatility.

In addition, the plan relies upon the Federal motor vehicle emissions control program in effect as of June 21, 2002. That program includes such rules as the following that limit emissions from vehicles and set certain fuel parameters:

- Tier 0 emission limits rule for model year (MY) 1980 and 1981 vehicles,
- Tier I starting with MY 1994,
- Tier II starting with MY 2004,
- National Low Emission Vehicles program (MY–97 for the northeast area and MY–2001 for the rest of the USA),
- On-board refueling vapor recovery starting with MY 1998,
- Heavy duty (HD) diesel rule starting with MY 1991,
- HD diesel rule starting with MY 2004, and
- HD diesel rule starting with MY 2007.

2. Contingency Measures

As required by the CAA, contingency provisions are provided in the plan. The state committed to reduce the total VOC emissions identified in the combined Johnson and Wyandotte County inventory by five percent in response to a future violation of the ozone standard. Prior to implementation, the Kansas Department of Health and Environment (KDHE) will review the latest applicable emissions inventory data, perform a comprehensive evaluation of control strategies and select those control measures that provide the greatest benefit and most cost-effective response to achieve the needed VOC emissions reduction. Control measures to be considered will include but will not be limited to the following measures:

- Stationary source controls (NO_x and VOC), including offsets,
- Review and evaluation of existing VOC regulations for the Kansas City metropolitan area to identify opportunities for additional reductions through amendment of these regulations as appropriate,
- Transportation control measures (TCMs) (to the extent that VOC emissions reductions from these TCMs can be accurately defined and confirmed),
- Stage II vapor recovery, and
- Enhanced vehicle emissions reduction programs.

Once a violation of the NAAQS has been validated, the evaluation of control strategies will be completed within 180 days. Selection of the appropriate control measures will be done within 90 days of the completion of the evaluation. The state intends to implement any necessary contingency measures within 24 months after a violation of the 1-hour ozone standard subject to KDHE's administrative regulation procedures, legislative approval, and the mandatory public participation process.

The SIP contains a statement that funding must be provided by EPA to the state for the study of control measures once the NAAQS has been violated. Under section 175A of the CAA, states are obligated to identify and implement contingency measures for the prompt correction of any violation of the standard, regardless of whether funding is available.

In the response to comments, KDHE states, "The statement [relating to funding] is not meant to limit the State's commitment, but does necessarily reflect the inherent limits on the State executive branch to commit future resources without legislative authorization. While funding may be presumed for planning purposes, failure by the agency [KDHE] to recognize this lack of spending powers risks challenges that could upset the SIP process in the future. The lack of authority in the State agency is even more compelling where the need for funding from a Federal agency is involved." We believe that the state has recognized its obligation under the CAA and has made the appropriate commitment to implement contingency measures within a reasonable time period of 24 months, if necessary. Therefore, we believe the SIP has fulfilled the requirement for including contingency measures in the plan as required in the CAA. Any failure by the state to implement contingency measures to address a violation of the 1-hour standard, within the 24-month time frame in the plan, would be a failure to implement the SIP.

3. Ambient Air Quality Monitoring

The current ambient air quality monitoring network consisting of six monitors operating in the Kansas City area is described. Two monitors are located in Liberty and Watkins Mill Park and are considered to be downwind monitors; two are placed in populated areas at Rocky Creek, previously located at Worlds of Fun and the Kansas City International Airport; one is placed upwind at Richards Gebaur Airport; and one is located

downtown in Kansas City, Kansas. The state did commit to continue monitoring the air quality for the next ten years.

The ambient air quality is also described. During the initial ten-year period, the data indicates that a number of exceedances of the standard did occur from time to time. However, only two violations of the standard occurred during the time periods of 1993 through 1995 and again in 1995 through 1997. The state implemented contingency measures to address these violations. Note that no excursion nor violation occurred during 1999, and no 1-hour violations have occurred since 1997.

A review of the design values also shows a decrease from the early nonattainment designation through the end of the first ten-year maintenance period from 0.14 parts per million (ppm) to 0.12 ppm. Although there was some fluctuation in the design value during the first ten-year maintenance period (1992–2002), the value was fairly stable ranging from 0.11 ppm to 0.13 ppm. From 1996 through September 30, 2001, the design values were below the value established in the Act for classifying the area as a marginal nonattainment area under section 181 of the Act.

As required, air quality in the metropolitan area has been monitored during the past ten-year period and the state has committed to continuing monitoring the air quality for the next ten-year maintenance period.

4. Tracking the Progress of the Plan

Continued maintenance of the ozone standard depends, in part, upon the state's efforts toward tracking air quality and VOC and NO_x emissions. As noted above, the state has committed to measuring air quality for the next ten-year period. In addition, the state has committed to updating the emissions inventory for the Kansas portion of the Kansas City maintenance area every three years. This inventory will include point, area, mobile and biogenic emissions sources. The state will compare future emission inventory levels to the 1999 emission inventory level. Thus the state and EPA will utilize several methods for tracking the progress of the maintenance plan.

5. Emissions Inventory and Motor Vehicle Emissions Budgets

An emissions inventory was prepared for the Kansas City area for the base year of 1999 following EPA's procedures as provided in the Emissions Inventory Improvement Program. The year 1999 year was selected for the inventory as no excursion nor violations of the standard occurred. Emissions were then projected