

actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255–66 (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, 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 private sector, of \$100 million or more. Under Section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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 pre-existing requirements under State or local law, and imposes no new Federal 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 General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **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 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 August 18, 1997. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the director of the Federal Register on July 1, 1982.

Dated: June 4, 1997.

Felicia Marcus,
Regional Administrator.

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. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(202)(i)(C)(6) and (241)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(202) * * *
(i) * * *
(C) * * *

(6) Rule 69.3, adopted on September 27, 1994.

* * * * *

(241) * * *
(i) * * *

(B) Yolo-Solano Air Quality Management District.

(1) Rule 2.27, revised on August 14, 1996.

[FR Doc. 97–15846 Filed 6–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL127–1a; FRL–5841–1]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On May 5, 1995, and May 26, 1995, the State of Illinois submitted a

State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (EPA) for reactor processes and distillation operation processes in the Synthetic Organic Chemical Manufacturing Industry (SOCMI) as part of the State's control measures for Volatile Organic Material (VOM) emissions for the Chicago and Metro-East (East St. Louis) areas. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by EPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This plan was submitted to meet the Clean Air Act (Act) requirement for States to adopt Reasonably Available Control Technology (RACT) rules for sources that are covered by Control Techniques Guideline (CTG) documents. The control measures specified in this SOCMI SIP revision are not expected by Illinois to further reduce VOC (VOM) emissions in the Chicago area, or in the Metro-East area, because Illinois has identified only two sources which meet the applicability criteria, and Illinois states that the sources are already in compliance with the State's SOCMI rules. This rulemaking action only addresses compliance with the RACT requirement for one source, Stepan Company's Millsdale facility. The EPA is approving the State Implementation Plan (SIP) revision request submitted by the State of Illinois as it applies to Stepan Company's Millsdale Facility. Action on the revision request as it applies to other subject facilities, and on the overall revision request, will be taken at a future time.

EFFECTIVE DATE: The "direct final" approval shall be effective on August 18, 1997, unless EPA receives adverse or critical comments by July 17, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request and EPA's analysis are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental

Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
David Pohlman at (312) 886-3299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(2) of the Act requires all moderate and above ozone nonattainment areas to adopt RACT rules for sources that are located in moderate and above ozone nonattainment areas and covered by CTG documents, such as SOCMCI reactor processes and distillation operations processes. In Illinois, the Chicago area is classified as "severe" nonattainment for ozone, while the Metro-East area is classified as "moderate" nonattainment. See 40 CFR 81.314.

The Illinois Environmental Protection Agency (IEPA) held public hearings on the proposed SOCMCI rules on November 4, 1994, December 2, 1994, and December 16, 1994. The rules, which require compliance by March 15, 1996, were published in the Illinois Register on May 19, 1995. The rules became effective at the State level on May 5, 1995. The IEPA formally submitted the SOCMCI rules to EPA on May 5, 1995, and May 26, 1995, as a revision to the Illinois SIP for ozone. The submittal amends 35 Ill. Adm. Code Parts 211, 218 and 219, to include control measures for SOCMCI reactor processes and distillation operations.

The submittal includes the following new or revised rules:

Part 211: Definitions and General Provisions

Subpart B: Definitions

- 211.980 Chemical Manufacturing Process Unit
- 211.1780 Distillation Unit
- 211.2365 Flexible Operation Unit
- 211.5065 Primary Product

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant

- 218.431 Applicability
- 218.432 Control Requirements
- 218.433 Performance and Testing Requirements
- 218.434 Monitoring Requirements
- 218.435 Recordkeeping and Reporting Requirements
- 218.436 Compliance Date

Appendix G: TRE Index Measurement for SOCMCI Reactors and Distillation Units

Part 219: Organic Material Emission Standards and Limitations for the Metro East Area

Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant

- 219.431 Applicability
- 219.432 Control Requirements
- 219.433 Performance and Testing Requirements
- 219.434 Monitoring Requirements
- 219.435 Recordkeeping and Reporting Requirements
- 219.436 Compliance Date

Appendix G: TRE Index Measurement for SOCMCI Reactors and Distillation Units

The SOCMCI rules contained in Part 218 are identical to those in Part 219 except for the areas of applicability. Part 218 applies to the Chicago Area, while Part 219 applies to the Metro East area. Illinois' SOCMCI rules are based largely on EPA's final CTG for control of VOCs from SOCMCI reactor processes and distillation operations processes, which was issued on November 15, 1993 (58 FR 60197). This document contains the recommended presumptive norm for RACT for these sources.

The applicability measure for RACT is dependent upon the facilities' calculated Total Resource Effectiveness (TRE) index. The TRE index is a measure of the cost per unit of VOC emission reduction and is normalized so that the decision point has a defined value of 1.0. It considers variables such as the emission stream characteristics (i.e., heat value, flow rate, VOC emission rate) and a maximum cost effectiveness. A TRE index value of less than or equal to 1.0, calculated by using the specific stream characteristics, ensures that the stream could be effectively controlled further by a combustion device without an unreasonable cost burden. The use of the TRE index applicability measure provides an incentive for pollution prevention by letting a facility consider alternatives to installing add-on control devices. Facilities can choose to improve product recovery so that the calculated TRE index falls above the cutoff value of 1.0.

The technology underlying RACT for SOCMCI reactor processes and distillation operations processes is combustion via either thermal incineration or flaring. These control techniques generally achieve the highest emission reduction among demonstrated VOC technologies. The EPA believes that a thermal incinerator

that is well operated and maintained according to manufacturer's specifications can achieve at least 98 percent control efficiency, by weight. Likewise, flares that conform with the design and operating specifications set forth in 40 CFR 60.18, can achieve at least 98 percent control, by weight, of VOC emissions.

II. Analysis of State Submittal

The Illinois SOCMCI rules affect vent streams associated with continuous reactor and distillation operation processes that manufacture a SOCMCI chemical, as listed in Appendix A of Illinois' Rules and Regulations for Air Pollution Control (35 IAC 218 and 219), if the chemical is a "primary product." The rules exclude any reactor or distillation unit that (1) is part of a polymer manufacturing operation, (2) is included in a batch operation, (3) has a total design capacity of less than 1,100 tons per year for the "primary product", (4) has a primary product not listed in Appendix A, (5) has a vent stream VOC concentration of less than 500 parts per million by volume or a flow rate of less than 0.0085 standard cubic meter per minute, or (6) is included in the hazardous air pollutants early reduction program, as specified in 40 CFR Part 63 and published at 50 FR 60970 on October 22, 1993. Any other process vent stream from a reactor process or distillation operations process in SOCMCI that does not satisfy the above exclusion criteria must perform a TRE determination. If the TRE index value, calculated at a point immediately after the associated recovery device, is less than or equal to 1.0, then VOC emissions (less methane and ethane) must be reduced by 98 percent by weight or to 20 parts per million by volume, on a dry basis, corrected to 3 percent oxygen. The compliance date in the Illinois rule is March 15, 1996.

While Illinois' SOCMCI reactor and distillation rules generally require RACT level control efficiencies, the rules' applicability provision is significantly less stringent than RACT for two reasons. The first is the concept of "primary product" as defined in the State rules, and the second is the list of SOCMCI chemicals provided in the State rules.

"Primary product," as defined in at 35 IAC 211.5065, means the "product with the greatest annual design capacity on a mass basis"; or in the case of a flexible operation unit, the product which is produced for the greatest annual operating time. Section 218/219.431(a)(1) of the Illinois rules states that sources are only subject if one of the listed chemicals is produced as the

primary product. RACT, as specified in the CTG, requires sources to comply if they produce one or more SOCMCI chemicals as *intermediates or final products*. Illinois' rule is less stringent than RACT because the production of SOCMCI chemicals as intermediates does not contribute to applicability. Stepan Company's Millsdale facility is an exception to this provision. Section 218.431(a)(2) states that all continuous distillation and reactor process emission units at Stepan Company's Millsdale facility are subject, unless they are already subject to the State's Air Oxidation Processes rules.

The place where the "primary product" concept makes the applicability of the Illinois rules less stringent than that of RACT is in Section 218/219.431(b)(4) of the Illinois rules. This section exempts units that have a design capacity of less than 1100 tons per year of the primary product, and exempts units, no matter how large, if the primary product is not a SOCMCI chemical. The CTG calls for this exemption to apply to units with a design capacity of less than 1100 tons per year of all chemicals produced within the unit. Because of this language, the State rules could exempt sources that would be covered under RACT, as specified in the CTG. For example, if a source were producing 1500 tons per year of chemicals, but only 1000 tons of the primary product, the source would be exempt under the State rule but would not be exempt under RACT level rules. Also, if a source produced 4,000 tons of a SOCMCI chemical, it could still be exempted from the Illinois rules if it also produced 5,000 tons of a non-SOCMI primary product.

The concept of "primary product" can also be found other places in the State rule. The definition of "Chemical Manufacturing Process Unit" (Section 211.980) states that "a chemical manufacturing process unit is identified by its primary product." This definition further clarifies the rule's intent that units producing SOCMCI chemicals, but not as the primary product, be exempt from control requirements.

The second problem with the State rules is the list of SOCMCI chemicals contained in 35 IAC 218, Appendix A. The list of chemicals in this appendix is referenced in the State SOCMCI reactor and distillation rules for applicability purposes. In other words, for a unit to be covered under the State rules, its primary product must be a chemical listed in Appendix A. The problem is that the list in Appendix A does not match the list in the CTG. The result is that a large percentage of the chemicals

which would be covered under RACT are not covered by the Illinois rules. (Note that 35 IAC 218, Appendix A, is not part of this rulemaking action. It was previously approved by the EPA on September 9, 1994, at 59 FR 46562.)

It is not totally clear how these deviations from RACT will affect the general applicability of the Illinois rule, as compared to a RACT-level rule. However, documentation submitted by the IEPA and by Stepan Company show that, for Stepan Company's Millsdale Facility, the Illinois SOCMCI reactor and distillation rule is as stringent as RACT. All units at this facility which would be covered by a RACT-level rule are covered by the Illinois rule.

III. Final Rulemaking Action

The EPA approves, solely as it relates to Stepan Company's Millsdale facility, the plan revision submitted to EPA by the State of Illinois on May 5, 1995, and May 26, 1995, for reactor processes and distillation operations processes in SOCMCI. While the limits contained in the rule are generally of RACT stringency, the rule's applicability is extremely limited and may not apply to all sources which should be covered by RACT rules. Illinois has shown, however, that the rule applies to all sources at Stepan Company's Millsdale facility which would be covered by a RACT rule, and is thus approvable. The EPA will take action on other aspects of the submittal at a later date.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on August 18, 1997 unless, by July 17, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 18, 1997.

Nothing in this action should be construed as permitting, 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.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 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, signed into law on March 22, 1995, EPA must undertake various actions in association with 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. This Federal action approves pre-existing requirements under state or

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

D. Petitions for Judicial 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 August 18, 1997. 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.

Dated: May 9, 1997.

Valdas V. Adamkus,
Regional Administrator.

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. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(134) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(134) On May 5, 1995, and May 26, 1995, the State of Illinois submitted a State Implementation Plan revision request to the United States Environmental Protection Agency for reactor processes and distillation operation processes in the Synthetic Organic Chemical Manufacturing Industry as part of the State's control measures for Volatile Organic Material (VOM) emissions for the Chicago and Metro-East (East St. Louis) areas. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by EPA. This plan was submitted to meet the Clean Air Act requirement for States to adopt Reasonably Available Control

Technology rules for sources that are covered by Control Techniques Guideline documents. The EPA approves the State Implementation Plan revision request as it applies to Stepan Company's Millsdale Facility.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 211: Definitions and General Provisions, Subpart B: Definitions, 211.980 Chemical Manufacturing Process Unit, 211.1780 Distillation Unit, 211.2365 Flexible Operation Unit, 211.5065 Primary Product.

(B) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart Q: Synthetic Organic Chemical and Polymer Manufacturing Plant, Sections 218.431 Applicability, 218.432 Control Requirements, 218.433 Performance and Testing Requirements, 218.434 Monitoring Requirements, 218.435 Recordkeeping and Reporting Requirements, 218.436 Compliance Date, 218 Appendix G, TRE Index Measurement for SOCMR Reactors and Distillation Units, amended at 19 Ill. Reg. 6848, effective May 9, 1995.

[FR Doc. 97-15848 Filed 6-16-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 060397D]

Atlantic Tuna Fisheries; Recreational Fishery Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishery reopening.

SUMMARY: NMFS reopens the Angling category fishery for school, large school, and small medium Atlantic bluefin tuna (ABT) for all areas. The Angling category fishery for school, large school, and small medium ABT will open beginning June 13, 1997. The Angling category fishery for large school and small medium ABT will close on June 27, 1997 at 11:30 p.m. local time in the southern area (Delaware and states south) only. The northern Angling category fishery for large school and

small medium ABT, and the Angling category fishery for school ABT in all areas, will remain open until further notice. The daily catch limit for the reopening remains at one ABT per vessel. This action is being taken to extend scientific data collection on ABT and to further domestic management objectives for the Atlantic tuna fisheries, while preventing overharvest of the regional Angling category subquotas.

DATES: The Angling category fishery for school, large school, and small medium ABT will open beginning June 13, 1997. The Angling category fishery for large school and small medium ABT will close in the southern area only (Delaware and states south) on June 27, 1997, at 11:30 p.m. local time. The northern Angling category fishery for large school and small medium ABT, and the Angling category fishery for school ABT in all areas, will remain open until the effective date of a closure, which will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347, or Mark Murray-Brown, 508-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

On February 21, 1997, NMFS amended the regulations governing the Atlantic bluefin tuna (ABT) fisheries to provide authority for NMFS to close and/or reopen all or part of the Angling category in order to provide for further distribution of fishing opportunities throughout the species range (62 FR 8634, February 26, 1997). The regulatory amendments were necessary to increase the geographic and temporal scope of data collection from the scientific monitoring quota established for the United States. Additionally, the authority for interim closures facilitates a more equitable geographic and temporal distribution of fishing opportunities for all fishermen in the Angling category, thus furthering