

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 May 11, 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.

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: February 2, 1998.

Felicia Marcus,

Regional Administrator, EPA, Region IX.

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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(6)(i)(C),

(c)(21)(vi)(C), (c)(121)(ii)(C), (c)(173)(i)(E), (c)(182)(i)(E), (c)(194)(i)(E)(2), (c)(244)(i)(B), and (c)(245)(i)(B), and adding and reserving paragraph (c)(21)(vi)(B), to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(6) * * *

(i) * * *

(C) Previously approved on September 22, 1972 and now deleted without replacement, Rules 12 and 13.

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(21) * * *

(vi) * * *

(B) [Reserved]

(C) Previously approved on May 11, 1977 and now deleted without replacement, Rule 55.

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(121) * * *

(ii) * * *

(C) Amended Rule 17, adopted on November 25, 1981.

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(173) * * *

(i) * * *

(E) San Diego County Air Pollution Control District.

(I) Amended Rules 61.7 and 61.8, adopted on January 13, 1987.

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(182) * * *

(i) * * *

(E) San Diego County Air Pollution Control District.

(I) Amended Rules 101, 102, 103, and 108, adopted March 27, 1990.

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(194) * * *

(i) * * *

(E) * * *

(2) Amended Rule 19, adopted April 6, 1993.

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(244) * * *

(i) * * *

(B) San Diego County Air Pollution Control District.

(I) Amended Rule 10, adopted July 25, 1995.

(245) * * *

(i) * * *

(B) San Diego County Air Pollution Control District.

(I) Amended Rule 21, adopted November 29, 1994.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX 62-1-7271a; FRL-5971-7]

Approval and Promulgation of Implementation Plan for Texas: General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the Texas State Implementation Plan (SIP) that contains regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. Specifically, Texas' adoption of the general conformity rules enables the Texas Natural Resource Conservation Commission (TNRCC) to review conformity of all Federal actions (see 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans) with the control strategy SIPs submitted for the nonattainment and maintenance areas in Texas. This approval action is intended to streamline the conformity process and allow direct consultation among agencies at the local levels. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The EPA approved the Texas transportation conformity SIP on November 8, 1995.

The EPA is approving this SIP revision under sections 110(k) and 176 of the Clean Air Act (the Act). The rationale for the approval and other information are provided in this document.

DATES: This action will become effective on May 11, 1998, unless notice is postmarked by April 10, 1998 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Region 6 address listed. Copies of the Texas General Conformity SIP and other relevant information are available for inspection during normal business

hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665-7214.

Air Policy and Regulations Division, Texas Natural Resource Conservation Commission, 12124 Park Circle, Austin, Texas 78753, Telephone: (512) 239-0800.

Documents which are incorporated by reference are available for public inspection at Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P. E., Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 665-7247.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity provisions first appeared in the Act, as amended, in 1977 (Pub. L. 95-95). Although these provisions did not define conformity, they provided that no Federal department could engage in, support in any way, or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP that has been approved or promulgated for the nonattainment or maintenance areas.

The 1990 Amendments of the Act expanded the scope and content of the conformity provisions by defining conformity to an implementation plan. Conformity is defined in section 176(c) of the Act as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) Cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Act requires EPA to promulgate criteria and procedures for determining conformity of all other Federal actions in the nonattainment or maintenance areas (actions other than those under Title 23 U.S.C. or the Federal Transit

Act) to a SIP. The criteria and procedures developed for this purpose are called "general conformity" rules. The rules pertaining to actions under Title 23 U.S.C. or the Federal Transit Act were published in a separate **Federal Register** notice on November 24, 1993 (see 58 FR 62188). The EPA published the final general conformity rules on November 30, 1993 (58 FR 63214) and codified them at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the EPA not later than November 30, 1994.

II. Evaluation of State's Submission

In response to the **Federal Register** notice of November 30, 1993, the Governor of Texas submitted a SIP revision which included the general conformity rules adopted by the TNRCC. The State general conformity rule is applicable to all nonattainment and maintenance classifications under the Act. The following paragraphs present the results of EPA's review and evaluation of the State's general conformity SIP revision.

On November 22, 1994, the Governor of Texas submitted a SIP revision in compliance with 40 CFR part 51, subpart W that contains the general conformity rules. The SIP revision was adopted by the commissioners on November 16, 1994, after appropriate public participation and interagency consultation. The EPA could not approve this revision based on the evaluation results described below.

The EPA's preliminary review indicated that sections 101.30(c)(3)(D), 101.30(c)(10), and 101.30(I)(2)(A)(ii) of the State rule were more stringent than the Federal rules. The general conformity rule, 40 CFR 51.851(b), requires the State conformity rule contain criteria and procedures that are no less stringent than the Federal rule. In addition, the conformity rule allows the State to establish more stringent conformity criteria and procedures only if they apply equally to non-Federal as well as Federal entities. The State had not selected this option and the State rule was only applicable to the Federal actions.

Section 101.30(c)(3)(D) allowed exemption of individual actions which implement a decision to conduct or carry out a program that has been found to conform to the SIP (such as prescribed burning actions which are consistent with a conforming land management plan) only if such land

management plan has been found to conform within the past five years. In contrast, EPA's regulation (see 40 CFR 51.853(c)(4)) does not place a time limit on the conformity determination for the project unless the conformity determination on the plan lapses as a result of a continuous program not having been implemented within a reasonable time.

Section 101.30(c)(10) contained a phrase that made the State rule inconsistent with the Federal rule because the Federal rule did not include any additional qualifying phrase concerning the presumed de minimis requirements. Inclusion of this phrase made this section contradictory to other sections.

Section 101.30(I)(2)(A)(ii) allowed conformity analyses (for which the analysis was begun during the grace period or no more than three years before the **Federal Register** notice of availability of the latest emission model) to continue to use the previous version of the model specified by EPA only if a final conformity determination was made within three years of such analysis. EPA's rule, 40 CFR 51.859(b)(1)(ii), does not include a time limit on the use of the model analyses begun during or just before the grace period.

Since the State's rule is only applicable to the Federal actions, EPA could not approve the State's general conformity SIP as submitted by the Governor on November 22, 1994, because the State's rule was more stringent than the Federal requirements. After EPA's consultation with the State, the State of Texas has reconsidered its original SIP submission and agreed with the EPA's assessment as discussed above. Subsequently, the Governor of Texas submitted a revised SIP on August 21, 1997, which removed the inconsistencies described above. The revised SIP was adopted by the TNRCC on July 9, 1997. The SIP revisions, submitted on November 22, 1994, and August 21, 1997, adopt the Federal general conformity rules verbatim with the exception of limited changes and additional definitions, where necessary, to create consistency with the local processes, procedures, and area specific terms or names. These minor modifications and additional clarifications do not in any way alter the effect, implementation and enforcement of the Federal conformity requirements in the State. The EPA has determined that Texas' general conformity rule, as submitted by the Governor on November 22, 1994, and August 21, 1997, meets the Federal requirements

and therefore, EPA is approving this SIP revision.

III. Final Action

The EPA is approving a revision to the State of Texas SIP which contains general conformity regulations as submitted by the Governor of Texas on November 22, 1994 and August 21, 1997. The State general conformity rule is applicable to all nonattainment and maintenance classifications in the State. The EPA has evaluated these SIP revisions and has determined that TNRCC has fully adopted the provisions of the Federal general conformity rules in accordance with 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of these rules by the TNRCC at the local level.

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment 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 May 11, 1998, unless adverse or critical comments concerning this action are submitted and postmarked by April 10, 1998. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received concerning this action will then 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 on this action, the public is advised that this action will be effective May 11, 1998.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (see 5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial

number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

The 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, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a 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.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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 pre-existing 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 General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 1998. Filing a petition for reconsideration of this final rule by the Regional Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. 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, Carbon monoxide, General conformity, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 9, 1998.

Jerry Clifford,

Acting Regional Administrator, Region 6.

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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(106) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(106) A revision to the Texas State Implementation Plan: Regulation 30 TAC Chapter 101 "General Rules", Section 101.30 "Conformity of General and State Actions to State

Implementation Plans" as adopted by the Texas Natural Resource Conservation Commission (TNRCC) on November 16, 1994, and July 9, 1997, was submitted by the Governor on November 22, 1994, and August 21, 1997, respectively.

(i) Incorporation by reference.

(A) The Texas Natural Resource Conservation Commission (TNRCC) Regulation 30, TAC Chapter 101 "General Rules", Section 101.30 "Conformity of General and State Actions to State Implementation Plans" as adopted by TNRCC on November 16, 1994, and July 9, 1997.

(B) TNRCC orders Docket No. 94-0709-SIP and 97-0143-RUL as passed and approved on November 16, 1994, and July 9, 1997, respectively.

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[FR Doc. 98-5847 Filed 3-10-98; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL166-1a; FRL-5975-3]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

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 EPA regarding rules for controlling Volatile Organic Material (VOM) emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) reactor processes and distillation operations in 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 an air pollutant which combines with nitrogen oxides in the atmosphere 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. This rulemaking action only addresses compliance with the RACT requirement for one source, Monsanto Chemical Group's Sauget Facility. The EPA is approving the State Implementation

Plan (SIP) revision request submitted by the State of Illinois as it applies to Monsanto Chemical Group's Sauget Facility.

DATES: The "direct final" approval is effective on May 11, 1998, unless EPA receives adverse or critical written comments by April 10, 1998. If the effective date is delayed timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the revision request 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 Mark J. Palermo at (312) 886-6082 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: Mark J. Palermo, Environmental Protection Specialist, at (312) 886-6082.

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 SOCMI reactor processes and distillation operations. 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 SOCMI 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 9, 1995. The IEPA formally submitted the SOCMI rules to EPA on May 5, 1995, and May 26, 1995, as a revision to the Illinois SIP for ozone. The submittal amends 35 Illinois Administrative Code (Ill. Adm. Code) Parts 211, 218 and 219, to include control measures for SOCMI 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 SOCMI 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 SOCMI Reactors and Distillation Units

The SOCMI 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' SOCMI rules are based largely on EPA's final CTG for control of VOCs from SOCMI reactor processes and distillation operations, 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 a facility's 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