

Dated: April 2, 1999.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL174-1a; FRL-6325-6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On June 29, 1990, USEPA promulgated Federal stationary source volatile organic compound (VOC) control measures representing reasonably available control technology (RACT) for certain emission sources located in six northeastern Illinois (Chicago area) counties. Subject sources included the miscellaneous organic chemical manufacturing processes at the Stepan Company (Stepan) Millsdale Plant manufacturing facility in Elwood, Illinois. At Stepan's request, USEPA agreed to reconsider its rule as it applied to Stepan and on October 1, 1993, proposed a site-specific rule for Stepan. USEPA subsequently approved, as revisions to the Illinois State Implementation Plan, three VOC rules submitted by the Illinois Environmental Protection Agency that are applicable to Stepan's VOC sources. USEPA is today revoking the Federally promulgated rules, as they apply to Stepan, and replacing them with the Illinois rules that have been previously approved and apply to Stepan.

USEPA is taking this action as a "direct final" rulemaking; the rationale for this approach is set forth below. Elsewhere in this **Federal Register**, USEPA is proposing this action and soliciting comment. If adverse written comments or a request for a public hearing are received, USEPA will withdraw the direct final rule and it will not take effect. USEPA will address the comments received in a new final rule. If no adverse comments are received, no further rulemaking will occur on this SIP revision.

DATES: This final rule is effective June 15, 1999, unless written adverse comments or a request for a public hearing are received by May 17, 1999. If adverse comment or a request for a public hearing is received, USEPA will publish a timely withdrawal of the direct final rule in the **Federal Register**

and inform the public the rule will not take effect.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Air and Radiation Division, U. S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

A public hearing may be requested, to be held in Chicago, Illinois. Requests for a hearing should be submitted to J. Elmer Bortzer. Interested persons may call Steven Rosenthal at (312) 886-6052 to see if a hearing will be held and the date and location of the hearing. Any hearing will be strictly limited to the subject matter of this action, the scope of which is discussed below.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR-18J) at (312) 886-6052.

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 1990 (55 FR 26814), USEPA promulgated a Federal Implementation Plan (FIP) which contained RACT regulations for stationary sources of VOC located in six northeastern Illinois (Chicago area) counties: Cook, DuPage, Kane, Lake, McHenry, and Will. This FIP included a rule (40 CFR 52.741(w)) requiring, among other things, 81 percent control of Stepan's "miscellaneous organic chemical manufacturing processes." Stepan's chemical manufacturing facility includes a number of batch and continuous process emission sources as well as associated storage tanks.

On August 28, 1990, Stepan filed a petition for review of USEPA's June 29, 1990, rulemaking in the United States Court of Appeals for the Seventh Circuit. By letter of October 22, 1990, Stepan requested that USEPA reconsider its rule as applicable to Stepan, on the basis that USEPA had not adequately responded to certain comments. USEPA agreed to do so.

On July 1, 1991, USEPA issued a three-month administrative stay pending reconsideration of the applicable FIP rules for Stepan. This stay was published on July 23, 1991, (56 FR 33712). On March 3, 1992, (57 FR 7549), USEPA published an extension of the stay, but only if and as long as necessary to complete reconsideration of the subject rules (including any appropriate regulatory action), pursuant to USEPA's authority to revise the Federal rules in Clean Air Act sections 110(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a)(1).

As a result of USEPA's decision to reconsider the federal rules as applied

to Stepan, USEPA proposed site-specific RACT requirements for Stepan's Millsdale facility on October 1, 1993 (58 FR 51279). As discussed further below, this proposed rule was not finalized pending USEPA's review of three Illinois rules that would collectively cover those Stepan VOC sources.

On November 30, 1994, the Illinois Environmental Protection Agency (IEPA) submitted to USEPA an adopted rule (35 Ill. Admin. Code Part 218, Subpart B (and related definitions and appendix)) and supporting information for the control of VOC emissions from Volatile Organic Liquid (VOL) storage facilities as a requested SIP revision. This rule is the Illinois RACT rule for the category of emission sources which includes Stepan's VOL storage facilities. On August 8, 1996, USEPA published a direct final rulemaking approving the Illinois VOL storage facilities rule which applies to Stepan's VOL storage facilities. (61 FR 41338). USEPA's approval became effective on October 7, 1996.

On May 23, 1995, and June 7, 1995, IEPA submitted to USEPA an adopted Illinois rule (35 Ill. Admin. Code Parts 218 and 219, Subpart V and related definitions and appendix)) and supporting information for the control of VOC emissions from batch processes as a requested SIP revision. This rule is the Illinois RACT rule for the category of emission sources which includes Stepan's batch processes. On April 2, 1996, USEPA published a direct final rulemaking approving the Illinois batch rule as a revision to the SIP. (61 FR 14,484). USEPA's approval became effective on June 1, 1996.

On May 5, 1995 and May 26, 1995, IEPA submitted to USEPA an adopted rule (35 Ill. Admin. Code Part 218, Subpart Q (and related definitions and appendix)) and supporting information for the control of VOC emissions from continuous reactor and distillation processes as a requested SIP revision. This rule is the Illinois RACT rule for the category of emission sources which includes Stepan's continuous reactor and distillation processes. On June 17, 1997, (62 FR 32694), USEPA published a direct final rulemaking approving the Illinois continuous reactor and distillation processes rule for Stepan's continuous processes, while deferring action on the rule as it applies to other Illinois facilities. USEPA's approval became effective on August 18, 1997.

As stated above, USEPA has approved appropriate RACT rules for all the categories of Stepan's emission sources which would have been covered by 40 CFR 52.741(w) of the FIP (were it not for the appeal and resulting stays). Because

of these SIP approvals, the FIP, as it applies to Stepan, and the site-specific rule that was proposed on October 1, 1993, are no longer necessary.

II. Final Action

Stepan's VOL storage facilities, batch processes and continuous reactor and distillation processes are covered by 35 Ill. Admin. Code Part 218, Subpart B, Subpart V, and Subpart Q, respectively. These rules have been approved into the SIP and represent RACT for VOC.

USEPA is therefore revoking the June 29, 1990, FIP as it applies to Stepan and replacing it with Illinois' VOL storage, batch process, and continuous reactor and distillation process rules.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing this action should adverse written comments be filed or a request for a hearing be received. This action will become effective without further notice unless the USEPA receives relevant adverse comments or a request for a hearing on this action by May 17, 1999. Should the USEPA request such comments or a request for a hearing, it will withdraw this final rule and publish a document informing the public that this action will not take effect. 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 June 15, 1999.

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.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under Executive Order 12875, USEPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance

costs incurred by those governments, or USEPA consults with those governments. If USEPA complies by consulting, Executive Order 12875 requires USEPA to provide to the Office of Management and Budget a description of the extent of USEPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires USEPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that USEPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, USEPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or USEPA consults with those governments. If USEPA complies by consulting, Executive Order 13084 requires USEPA to provide to the Office of Management and Budget, in a

separately identified section of the preamble to the rule, a description of the extent of USEPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires USEPA to develop an effective process permitting elected officials and other representatives of tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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 because SIP approvals under section 110 and subchapter I, part D of the Clean Air 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 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 Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co., versus U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal

governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, USEPA 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 USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual 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.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, OMB must approve all "collections of information" by EPA. The Act defines "collection of information" as a requirement for "answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *" 44 U.S.C. 3502(3)(A). Because this rulemaking action only applies to one company, the Paperwork Reduction Act does not apply.

H. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of NTTAA, Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary standards. This rulemaking action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this rulemaking action under section 801 because this is a rule of particular applicability.

J. 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 June 15, 1999. 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, Intergovernmental relations, Ozone, Reporting and record keeping requirements.

Dated: April 9, 1999.

Carol M. Browner,
Administrator.

40 CFR part 52 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

3. Section 52.726 is amended by adding paragraph (t) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(t) The Illinois volatile organic compound (VOC) rules that apply to the Stepan Company Millsdale Plant for volatile organic liquid storage (35 Ill. Admin. Code Part 218, Subpart B), batch processing (35 Ill. Admin. Code Parts 218 and 219, Subpart V) and continuous

reactor and distillation processes (35 Ill. Admin. Code Part 218, Subpart Q) were approved by the United States Environmental Protection Agency (USEPA) on August 8, 1996, April 2, 1996, and June 17, 1997, respectively. Because these rules have been approved into the State Implementation Plan and represent reasonably available control technology for VOC, USEPA revokes the June 29, 1990 Federal Implementation Plan as it applies to Stepan and replaces it with Illinois' volatile organic liquid storage, batch process, and continuous reactor and distillation process rules.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 114-4085; FRL-6325-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Revision to the 1990 Baseyear Inventory for Rockwell Heavy Vehicles, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Pennsylvania State Implementation Plan (SIP) submitted by the Pennsylvania Department of Environmental Protection (PADEP) on April 8, 1998. This revision consists of including the carbon monoxide (CO), volatile organic compounds (VOC) and nitrogen oxides (NO_x) emissions from Rockwell Heavy Vehicles, Inc., New Castle Forge Plant, in Lawrence County (Rockwell) in the point source portion of Pennsylvania's 1990 baseyear emission inventory. The intended effect of this action is to grant approval of the revision to the 1990 baseyear inventory and in so doing to render Rockwell's emissions eligible for consideration as emission reduction credits (ERCs) in accordance with the Pennsylvania SIP.

DATES: This direct final rule is effective on June 15, 1999, without further notice, unless EPA receives adverse comments by May 17, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental