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 EPA to base its 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).

F. 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 annual 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 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. 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. 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).

H. 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 November 12, 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).)

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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Particulate matter.

Dated: August 26, 1999.

David P. Howekamp,

Acting Regional Administrator, 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 removing paragraph (c)(39)(ii)(D) and by adding paragraphs (b)(3)(ii) and (b)(4) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(b) * * *

(3) * * *

(ii) Previously approved on May 31, 1972 and now deleted without replacement Rule 4.13.

(4) San Bernardino County APCD.

(i) Previously approved on May 31, 1972 and now deleted without replacement Regulation VI, Rules 100 to 104, 109, 110, 120, and 130 to 137.

* * * * *

3. Section 52.228 is amended by removing paragraph (b)(1)(iv).

[FR Doc. 99–23588 Filed 9–10–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL193–1a; FRL–6435–6]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On July 9, 1999, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision revising Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) requirements for Sun Chemical Corporation (Sun) in Northlake, Illinois. The SIP revision exempts 17 resin storage tanks from bottom or submerged pipe fill requirements, subject to certain conditions. This rulemaking action approves, using the direct final process, the Illinois SIP revision request.

DATES: This rule is effective on November 12, 1999, unless EPA receives adverse written comments by October 13, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: 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. Copies of the revision request for this rulemaking action 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).

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA.

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I. Petitions for Judicial Review

I. What Is EPA Approving in This Rule?

We are approving, through the direct final process, a July 9, 1999, SIP revision request for the Sun facility in Northlake, Illinois. Sun is subject to VOC RACT requirements under section 182(b)(2) of the Clean Air Act (Act).[1] The SIP revision changes RACT as it applies to Sun by exempting 17 resin storage tanks from bottom or submerged pipe fill requirements, subject to certain conditions.

II. Who Is Affected by This SIP Revision?

This SIP revision only affects VOC control requirements at Sun's facility located in Northlake, Illinois. Sun's manufacturing operations consist primarily of batch processes involving the mixing or blending of resin, solvents, pigments, and varnishes to make finished inks and bases.

[1] It should be noted that under Illinois' regulations, the State uses the term ''Volatile Organic Material (VOM)'' rather than VOC, in referring to volatile organic emissions. The State's definition of VOM is equivalent to EPA's definition of VOC, and are interchan geable when discussing volatile organic emissions. For consistency with the Act and with EPA policy, we are using the term VOC in this rulemaking.

III. What Were Sun's Previous SIP Requirements?

Section 182(b)(2) of the Act requires States to adopt RACT rules covering ''major sources'' of VOC for all areas classified moderate nonattainment for ozone and above.[2] The Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County) is classified as ''severe'' nonattainment for ozone, and is subject to the Act's RACT requirement. Under section 182(d) of the Act, sources located in severe ozone nonattainment areas are considered ''major sources'' if they have the potential to emit 25 tons per year or more of VOC. Sun's Northlake facility has the potential to emit more than 25 tons of VOC per year, and, consequently, is subject to RACT requirements.

On September 9, 1994, we approved, as a revision to the Illinois SIP, several rules under 35 Ill. Adm. Code Parts 211 and 218 pertaining to VOC RACT for the Chicago severe ozone nonattainment area (59 FR 46562). The Illinois rules replaced the Chicago area Federal Implementation Plan (FIP), and the rules are generally patterned after the FIP's RACT requirements.

Included in part 218 is ''Subpart AA: Paint and Ink Manufacturing.'' Sun operates resin storage tanks which, with the adoption of subpart AA, became subject to the rule. Particularly, section 218.626(b), which is included under subpart AA, requires paint and ink manufacturers to equip their stationary Volatile Organic Liquid (VOL) storage containers with a submerged fill pipe or bottom fill pipe. Fill pipes are the conduits through which liquids enter the tanks. Containers with a capacity less than or equal to 946 liters (250 gallons) are exempt from the requirements. The intention behind the fill pipe requirement is to reduce VOC emissions from tanks by preventing splashing of volatile liquids as tanks are being filled.

IV. Why Is Sun Unable To Meet The Previous SIP Requirements?

Sun has 17 resin storage tanks which have been subject to subpart AA submerged or bottom fill pipe requirements, but still have overhead fill pipe systems. The tanks were installed in 1962, before emission control equipment on such tanks was contemplated. The tanks involved are in close proximity to each other, with some only a few feet apart, which Sun contends makes installing control equipment difficult and costly. Additionally, the substances stored in the tanks are thick and can not be pumped at normal temperatures. Because of this, Sun would have to install bottom fill rather than submerged fill pipes, since the raw materials would clog a submerged fill pipe and require frequent cleaning. Sun maintains that installing bottom fill pipes on these tanks would be more difficult and expensive than submerged pipe installation because they require fully cleaning out the tanks and cutting into the tanks.

The Illinois Environmental Protection Agency (IEPA) estimates that only 0.0203 tons per year of VOC is emitted from the 17 tanks at issue. The low VOC emissions is due to the fact that liquids stored in the tanks have a vapor pressure significantly less than 0.5 Pounds Per Square Inch Absolute (psia), and most of the materials stored in the tanks have vapor pressures less than 0.005 psia. Materials with a psia this low have low volatility, and hence are not subject to rapid vaporization and easy escape of vapors to the surrounding air.

The IEPA cost figures for installing bottom fill pipes on the 17 tanks is approximately $285,960 to $298,510. The IEPA estimates the cost per ton of VOC emissions reduced by complying with section 218.626(b) is $1,452,338.31 per ton of VOC reduced.

V. What Are the Changes to Sun's SIP Requirements?

On May 20, 1999, the Illinois Pollution Control Board (IPCB) adopted Adjusted Standard 99–4, which provides that section 218.626(b) shall not apply to the 17 storage tanks at Sun's Northlake, Illinois facility. These tanks are identified as tanks no. 26, 27, 35, 36, 37, 42, 43, 44, 47, 48, 49, 53, 54, 55, 59, 60, and 67 in Sun's petition for adjusted standard, and in the IEPA's January 29, 1999, response.

The adjusted standard will remain in effect so long as (a) no odor nuisance exists at the Sun's Northlake facility, and (b) the vapor pressures of materials stored in the 17 identified tanks remain less than 0.5 psia at 70 degrees Fahrenheit. Under the adjusted standard, Sun must keep all records necessary to establish that the vapor pressures of the materials stored in the 17 identified tanks are less than 0.5 psia at 70 degrees Fahrenheit. Each record

[2] A definition of RACT is cited in a General Preamble-Supplement published at 44 FR 53761 (September 17, 1979). RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

shall be retained at the facility for a period of no less than 3 years.

This adjusted standard exempts Sun only from the requirements of section 218.626(b) for the 17 storage tanks listed in the adjusted standard, and not from any other requirements under part 218. Sun must continue to comply with all other applicable regulations of part 218, and any existing or new storage tanks not explicitly listed in the adjusted standard order are not exempted by the adjusted standard from section 218.626(b). Sun is subject to the test methods of part 218, including section 218.109 ''Vapor Pressure of Volatile Organic Liquids,'' which will ensure that the vapor pressure of VOL loaded into the 17 tanks are less than 0.5 psia at 70 degrees Fahrenheit. Section 218.109 was incorporated into the SIP on September 9, 1994 (59 FR 46562).

VI. What Is the Procedural History of This SIP Revision?

On October 22, 1998, Sun filed a petition for an adjusted standard with the IPCB. The IPCB held a public hearing on the adjusted standard on April 15, 1999, in Chicago, Illinois. On May 20, 1999, the IPCB adopted a Final Opinion and Order granting the adjusted standard. On July 9, 1999, IEPA submitted the adjusted standard as a SIP revision request to EPA. On July 28, 1999, we sent a letter to IEPA which deemed the SIP revision submittal administratively complete.

VII. What Is the Justification for Approving This SIP Revision?

IEPA indicates that Sun based its adjusted standard petition on section 218.122 of the Chicago area RACT rules. This section contains the State's general VOL storage tank loading requirements. This rule requires that stationary tanks with a storage capacity of greater than 946 liters (250 gallons) must be equipped with a permanent submerged load pipe or equivalent control device, unless no odor nuisance exists and the vapor pressure of the VOL loaded is less than or equal to 17.24 kilopascals (2.5 psia) at 294.3 degrees Kelvin (70 degrees Fahrenheit). Because of the high cost in installing bottom fill tanks on the 17 tanks, and the negligible emission benefit installing such pipes would achieve, IEPA believes that RACT for the storage tanks should be the level of control represented under the adjusted standard.

We agree that bottom fill or submerged fill pipe controls for the 17 tanks at the Sun facility are not technically and economically feasible. Further, we have issued no Control Techniques Guideline (CTG) justifying bottom fill or submerged fill pipe controls for Sun's tanks.[3] We are not aware of any paint or ink manufacturing facilities with storage tanks having similar design and holding similar materials as the tanks operated by Sun, which have replaced overhead fill pipes with bottom or submerged fill pipes in a manner that is less costly than what IEPA expects such replacement to cost Sun. Given that the vapor pressure limitation will prevent emissions to significantly increase from the current low emission levels, we find that the adjusted standard constitutes RACT for Sun's 17 tanks.

VIII. Final Rulemaking Action

In this rulemaking action, we are approving the July 9, 1999, Illinois SIP revision submittal of an adjusted standard for Sun's Northlake facility, which was granted by the IPCB on May 20, 1999. We are publishing this action without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless we receive relevant adverse written comment by October 13, 1999. Should we receive such comments, we will publish a final rule 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 on November 12, 1999.

IX. 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 E.O. 12875, EPA 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. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation.

In addition, E.O. 12875 requires EPA 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 E.O. 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 EPA 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 E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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. If the mandate is unfunded, EPA must 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 EPA'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

[3] CTGs are documents published by EPA which contain information on available air pollution control techniques and provide recommendations on what the EPA considers the ''presumptive norm'' for RACT.

regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian 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 E.O. 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 EPA to base its 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).

F. 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 annual 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 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. 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.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. 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 November 12, 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, Incorporation by reference, Ozone, Reporting and recordkeeping, Volatile organic compounds.

Dated: August 30, 1999.

Robert Springer,

Acting Regional Administrator, Region 5.

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 *et seq.*

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(153) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(153) On July 9, 1999, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision affecting Volatile Organic Material control requirements at Sun Chemical Corporation (Sun) in Northlake, Illinois. The SIP revision changes requirements for 17 resin storage tanks operated by Sun. Specifically, the SIP revision exempts the 17 tanks from the bottom or submerged fill pipe requirements, provided that no odor nuisance exists at the Sun Northlake facility, and that the vapor pressures of materials stored in the tanks remain less the 0.5 pounds per square inch absolute at 70 degrees Fahrenheit.

(i) Incorporation by reference.

May 20, 1999, Opinion and Order of the Illinois Pollution Control Board, AS 99–4, effective May 20, 1999.

[FR Doc. 99–23581 Filed 9–10–99; 8:45 am]

BILLING CODE 6560–50–P