

shall not postpone the effectiveness of such rule or action. This action to approve both the Maryland NO<sub>x</sub> allowance allocations for 2006 through 2007 and the revisions to the set aside pool requirements, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: March 2, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

■ 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 V—Maryland

■ 2. Section 52.1070 is amended by adding paragraph (c)(186) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(186) Revisions to the Maryland State Implementation Plan submitted on April 24, 2003, July 7, 2003, and December 1, 2003 by the Maryland Department of the Environment pertaining to the Policies and Procedures Relating to Maryland's NO<sub>x</sub> Reduction and Trading Program, and the Nitrogen Oxides Reduction and Trading Program.

(i) Incorporation by reference.

(A) Letter of April 24, 2003 from the Maryland Department of the Environment transmitting additions, deletions, and revisions to COMAR 26.11.30 Nitrogen Oxides Reduction and Trading Program, effective April 28, 2003.

(1) Revisions to COMAR 26.11.30.09A.

(2) Deletion of existing COMAR 26.11.30.09B.

(3) Addition of new COMAR 26.11.30.09B, allocations for control periods 2003 through 2007.

(B) Letter of July 7, 2003 from the Maryland Department of the Environment transmitting an administrative correction to COMAR 26.11.30.09 amending Mirant Dickerson's Unit #3 allocation from 410 to 404 tons of NO<sub>x</sub>.

(C) Letter of December 1, 2003 from the Maryland Department of the

Environment transmitting additions, deletions, and revisions to COMAR 26.11.29 NO<sub>x</sub> Reduction and Trading Program, effective November 24, 2003.

(1) Revisions to COMAR 26.11.29.09 (title), .09A (introductory sentence), and .09A(1).

(2) Addition of COMAR 26.11.29.09A(2) and .09A(3).

(3) Revisions to COMAR 26.11.29.09B (introductory sentence), .09B(1) and .09B(2), establishing the set aside pool at 5 percent of the total trading budget.

(4) Deletion of COMAR 26.11.29.09E and 09F.

(5) COMAR 26.11.29.09G is renumbered as 26.11.29.09E.

(ii) Additional Material.

(A) Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(186)(i) of this section.

[FR Doc. 04-6305 Filed 3-19-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL219-1a; FRL-7632-7]

### Approval and Promulgation of State Implementation Plans; IL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** The EPA is approving a site-specific revision to the Illinois volatile organic compound (VOC) State Implementation Plan (SIP) for the Ford Motor Company's Chicago Assembly Plant in Chicago, IL. By its submittal dated June 20, 2003, the Illinois Environmental Protection Agency (Illinois EPA) requested that EPA approve Ford's adjusted standard into the Illinois VOC SIP. This request is approvable because it satisfies reasonably available control technology (RACT) and is a more suitable control measure for its solvent clean-up emissions than the general VOC rule which it replaces. The rationale for the approval and other information are provided in this rulemaking action.

**DATES:** This direct final rule is effective May 21, 2004, unless EPA receives written adverse comment by April 21, 2004. If written adverse comment is 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 may be mailed to: J. Elmer Bortzer, Acting Chief, Air Programs Branch (AR-18J),

United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the documents relevant to this action are available for inspection during normal business hours at the above address. (Please telephone Steven Rosenthal at (312) 886-6052, before visiting the Region 5 office.)

Comments may also be submitted electronically to [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov) or through hand delivery/courier, please follow the detailed instructions described in Part(I)(B)(1)(i) through (iii) of the Supplementary Information section. A copy of the SIP revision is available for inspection at the Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

#### FOR FURTHER INFORMATION CONTACT:

Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052. [Rosenthal.Steven@epa.gov](mailto:Rosenthal.Steven@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplemental information section is organized as follows:

- I. General Information.
- II. EPA Action and Review.
  1. What Action Is EPA Taking Today?
  2. Why Is EPA Taking this Action?
  3. What Are the Control Requirements in the Adjusted Standard?
  4. What Information Did Illinois Submit in Support of This SIP?
  5. Was a Public Hearing Held?
  6. What Led to the SIP Revision and Why Is It Being Approved?
- III. Final Rulemaking Action.
- IV. Statutory and Executive Order Reviews.

#### I. General Information

*A. How Can I Get Copies Of This Document and Other Related Information?*

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under "Region 5 Air Docket IL219". The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of

materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the person listed in the For Further Information Contact section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the regulations.gov web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### *B. How and To Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket 'Il219'" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or

CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov). Please include the text "Public comment on proposed rulemaking Region 5 Air Docket Il219" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE", and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD-ROM.* You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please include the text "Public comment on proposed rulemaking Region 5 Air Docket Il219" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: J. Elmer

Bortzer, Acting Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

## **II. EPA Action and Review**

### *1. What Action Is EPA Taking Today?*

In this action, EPA is approving into the Illinois VOC SIP an adjusted standard for Ford Motor Company's (Ford) solvent clean-up operations at its Chicago Assembly Plant in Chicago, IL. Specifically, EPA is approving the control requirements contained in the Illinois Pollution Control Board's November 21, 2002, Order which establishes an adjusted standard (AS 02-3) in place of the control requirements in 35 Ill. Adm. Code 218.986 for Ford's solvent clean-up operations.

### *2. Why Is EPA Taking This Action?*

The control requirements contained in the adjusted standard represents a level of control appropriate for solvent clean-up operations at an automobile assembly plant. The adjusted standard

replaces an 81% control requirement in 35 Ill. Adm. Code 218.986 which is not appropriate for solvent clean-up operations because the emissions from these operations are not vented to add-on control equipment.

### 3. What Are the Control Requirements in the Adjusted Standard?

The adjusted standard applies to the paint booth cleaning operations, automated paint application cleaning, manual paint application equipment cleaning, floor cleaning, the purge system for automated paint application equipment, ultra filter cleaning and paint supply system cleaning and vehicle body cleaning. VOC emissions are limited to 340 tons/year as calculated on a 12 month rolling basis. That is, every month, the emissions from the prior 12 months are determined and subject to a 340 tons/year limit. The use of spray equipment is not allowed to apply any cleaning solvent in excess of 3.5 pounds VOC per gallon for cleaning paint booth walls, grates, or the exteriors of paint application equipment. Ford is prohibited from using VOC containing materials to remove paint from paint booth grates, and it is not allowed to store waste solvent or soiled rags from cleaning operations in open containers when not in use. In addition, the Illinois Pollution Control Board's (IPCB) Order contains sufficient recordkeeping requirements and test methods to establish whether the control requirements are achieved.

### 4. What Information Did Illinois Submit in Support of This SIP?

The Illinois EPA submitted the following information (along with other less substantive procedural documents) in support of its request for an Adjusted Standard from 35 Ill. Adm. Code 218.986:

- (a) Ford's Petition from an Adjusted Standard, filed February 4, 2002.
- (b) The Illinois EPA recommendation, filed April 22, 2002.
- (c) Notice of Hearing, filed August 8, 2002.
- (d) The Opinion and Order of the IPCB, in which the IPCB granted Ford an Adjusted Standard for its Chicago facility from 35 Ill. Adm. Code 218.986, adopted November 21, 2002.

### 5. Was a Public Hearing Held?

A public hearing was held on August 15, 2002, in Chicago and a transcript of the hearing was submitted by Illinois EPA in support of its request for a SIP revision.

### 6. What Led to the SIP Revision and Why Is It being Approved?

EPA requires that existing VOC sources in ozone nonattainment areas meet a level of control referred to as RACT. For many source categories EPA has established guidance documents which are referred to as Control Technique Guideline (CTG) documents which fairly explicitly establish the level of control that represents RACT for a specific source category. However, neither a CTG document nor explicit guidance has been established for solvent clean-up operations at automobile assembly plants. Instead, Illinois has a general 81% control requirement for those source categories for which explicit RACT guidance has not been established and Ford was found to be in violation of the 81% control requirement by EPA.

However, because an 81% control requirement is not the most suitable way to regulate solvent clean-up operations, an alternative control plan was agreed to by EPA and Ford in a February 10, 1997, United States District Court Consent Decree. The control requirements in the Consent Decree are the same as those described above in Section II.3., except that the annual limit is 390 tons VOC per year. This level of control was established because it was consistent with the level of control in place at other automotive assembly plants for their solvent clean-up operations. The 390 tons VOC/year was subsequently lowered to 340 tons VOC/year because of improvements made by Ford and as a result of discussions with community groups around Ford's Chicago Assembly Plant. The control requirements in the adjusted standard therefore represent RACT and are approvable.

### III. Final Rulemaking Action

For the reasons given above, EPA is approving the Adjusted Standard from 35 Ill. Adm. Code Section 218.986 for Ford that was submitted on June 20, 2003 as a SIP revision.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective May 21, 2004, without further notice unless we receive relevant adverse written comments by April 21, 2004. If we receive such comments, we will withdraw this action before the effective

date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective April 21, 2004.

### IV. Statutory and Executive Orders Reviews

#### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

#### *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

#### *Regulatory Flexibility Act*

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

*Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

*National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

*Congressional Review Act*

The Congressional Review Act, 5 U.S.C. section 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 21, 2004. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 19, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Title 40 of the Code of Federal Regulations, chapter I, 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.*

■ 2. Section 52.720 is amended by adding paragraph (c)(169) to read as follows:

**§ 52.720 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(169) On June 20, 2003, Illinois submitted an Adjusted Standard for Ford Motor Company's Chicago Assembly Plant. This Adjusted Standard from 35 Ill. Adm. Code 218.986 replaces those requirements with the control requirements in the Illinois Pollution Control Board's November 21, 2002, Order.

(i) Incorporation by reference.

(A) The Illinois Pollution Control Board's November 21, 2002, Opinion and Order which granted the Ford Motor Company's Chicago Assembly Plant an adjusted standard (AS 02-3) from 35 Ill. ADM. Code 218.986. The requirements in 35 Ill. ADM. Code 218.986 have been replaced by the

requirements in the Illinois Pollution Control Board's November 21, 2002, Order.

[FR Doc. 04-6307 Filed 3-19-04; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 258**

[F-2001-RDMP-0044; FRL-7637-9]

RIN 2050-AE92

**Research, Development, and Demonstration Permits for Municipal Solid Waste Landfills**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising the Criteria for Municipal Solid Waste Landfills (MSWLF) to allow states to issue research, development, and demonstration (RD&D) permits for new and existing MSWLF units and lateral expansions. Today's rule will allow Directors of approved state programs to provide a variance from certain MSWLF criteria, provided that MSWLF owners/operators demonstrate that compliance with the RD&D permit will not increase risk to human health and the environment over compliance with a standard MSWLF permit. EPA is finalizing this alternative permit authority to promote innovative technologies associated with landfilling of municipal solid waste. RD&D permits may provide a variance from existing requirements for run-on control systems, liquids restrictions, and the final cover requirements. No variance from any other requirements of MSWLF criteria, unless already provided for in the existing regulations, are allowed under today's rule.

**DATES:** This rule is effective on April 21, 2004.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at 800-424-9346 or TDD 800-553-7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703-412-9810 or TDD 703-412-3323 (hearing impaired).

For information on specific aspects of this rule, contact Mr. Paul Cassidy, Municipal and Industrial Solid Waste Division of the Office of Solid Waste (mail code 5306W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703