

Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

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). 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. 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.

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. 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.*).

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**. 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. 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: March 1, 2004.

Wayne Nastri,

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 adding paragraphs (c)(280)(i)(C) and (c)(316)(i)(E) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(280) * * *

(i) * * *

(C) Yolo-Solano Air Quality Management District.

(1) Rule 1.1, revised on August 13, 1997.

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(316) * * *

(i) * * *

(E) Yolo-Solano Air Quality Management District.

(1) Rule 2.33, revised on March 12, 2003.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD145/154-3104; FRL-7634-6]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Nitrogen Oxides Allowance Allocations for 2006-2007, and Revisions to Set-Aside Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The revisions consist of the Nitrogen Oxides (NO_x) allowance allocations for ozone seasons 2006 and 2007, in accordance with Maryland's approved NO_x SIP Call program, and establishes a set aside pool calculated as a percentage of the state's trading budget. EPA is approving these revisions to Maryland's NO_x Reduction and Trading Program in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on May 21, 2004, without further notice, unless EPA receives adverse written comment by April 21, 2004. If EPA receives such comments, it 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: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to morris.makeba@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the **SUPPLEMENTARY INFORMATION** section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Maryland Department of the Environment, 1800

Washington Boulevard, Suite 705,
Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT:
Marilyn Powers, (215) 814-2308, or by
e-mail at powers.marilyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Maryland's NO_x Reduction and Trading Program under COMAR 26.11.29 and 26.11.30 was approved by EPA as meeting the requirements of the NO_x SIP Call on January 10, 2001 (66 FR 1866). The approved program contains NO_x reduction requirements beginning May 1, 2003, and allowance allocations for affected trading sources for ozone seasons 2003 through 2005. Thereafter, Maryland's approved rule requires that allocations be updated, three years in advance, for every two year period, starting with 2006 and 2007. This SIP revision consists of Maryland's allocation update for 2006 and 2007, and includes changes to the requirements pertaining to its set aside pool.

II. Summary of SIP Revision

On April 24, 2003, July 7, 2003, and December 1, 2003, the Maryland Department of the Environment (MDE) submitted formal revisions to its SIP. The revisions consist of NO_x allowance allocations for the 2006 and 2007 ozone seasons, and revisions affecting Maryland's set aside pool for new sources and clean air projects. The MDE's initial submission of April 24, 2003, consists of revisions to COMAR 26.11.30.09, Allocation of Allowances. The MDE's letter of July 7, 2003, consists of an administrative change to correct an allocation for one source. It amends Mirant Dickerson's Unit #3 allocation from 410 to 404 tons of NO_x. The revisions consisted of allocations for the control period 2006 and 2007 for each of the affected sources for which allocations were provided in the initial control period (2003 through 2005). The allocations for electric generating units (EGUS) were derived using each source's average actual heat input from the 2000 and 2001 ozone seasons multiplied by an emission rate of 0.15 pounds NO_x/MMBTU, adjusted as a percentage of the total budget, with the exception of one source which received allocations based on its lower, permitted emission rate. The allocations for non-electric generating units (non-EGUS) are unchanged from the initial control period. For most sources the 2006 and 2007 allocations do not differ significantly from the initial 3-year allocations.

The MDE's submission of December 1, 2003, consists of revisions to COMAR

26.11.29.09, Requirements for New NO_x Affected Trading Sources and Set-Aside Pool. These revisions clarify that the set aside pool continues beyond 2005, and establish the set aside pool calculated as 5 percent of the state's trading budget for each ozone season (obviating the need to submit a SIP revision for the set-aside every time future allocations are made). Also, the revisions allow new sources to secure allowances at the end of each ozone season, as is allowed for existing sources. Together, these submissions establish allocations that maintain Maryland's NO_x SIP statewide budget. They are approvable as satisfying the NO_x SIP Call requirement that Maryland update its allowance allocations for the 2006 and 2007 ozone seasons.

III. Final Action

EPA is approving the SIP revisions submitted by MDE on April 24, 2003, July 7, 2003, and December 1, 2003. The revisions consist of NO_x allowance allocations for the 2006 and 2007 ozone seasons, and revisions affecting Maryland's set aside pool for new sources and clean air projects.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 21, 2004, without further notice unless EPA receives adverse comment by April 21, 2004. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number MD145/154-3104 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 morris.makeba@epa.gov, attention MD145/154-3104. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.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 [Regulation.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. 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 the **ADDRESSES** section of this document. 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.* Written comments should be addressed to the EPA Regional office

listed in the **ADDRESSES** section of this document.

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, confidential business information (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.

Submittal of CBI Comments

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.

Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

IV. Statutory and Executive Order Reviews

A. General Requirements

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. 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). 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.*). 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 (Public Law 104-4). 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). 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. 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.

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. 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.*).

B. 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).

C. 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 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 to approve both the Maryland NO_x 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_x 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_x.

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

Environment transmitting additions, deletions, and revisions to COMAR 26.11.29 NO_x 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 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.

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