

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

APR 12 2005

IN THE MATTER OF: )

PETITION OF FORD MOTOR COMPANY )  
FOR AN ADJUSTED STANDARD FROM )  
35 ILL. ADM. CODE § 218.586 )

AS  
R 05-05

(Adjusted Standard -Air)

STATE OF ILLINOIS  
Pollution Control Board

NOTICE

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Bradley Halloran, Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

Jane Montgomery  
Schiff Hardin & Waite  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6473

Kavita Patel  
Schiff Hardin & Waite  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6473

Kathleen Bassi  
Schiff Hardin & Waite  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6473

PLEASE TAKE NOTICE that I have filed with the Office of the Pollution Control Board the RECOMMENDATION OF THE ILLINOIS EPA on behalf of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Date: April 8, 2005

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

1021 North Grand Avenue East  
P.O. Box 19276  
Spring field, IL 62794-9276  
217/782-5544

THIS FILING IS SUBMITTED ON  
RECYCLED PAPER

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
PETITION OF FORD MOTOR COMPANY ) AS 05-5  
FOR AN ADJUSTED STANDARD FROM ) Adjusted Standard - Air  
35 ILL. ADM. CODE § 218.586 )

RECOMMENDATION OF THE ILLINOIS EPA

The Illinois Environmental Protection Agency ("Illinois EPA") hereby submits its recommendation in the above captioned matter pursuant to the regulation of the Pollution Control Board ("Board") at 35 Ill. Adm. Code §104.416. The Illinois EPA recommends that the Board **GRANT** the petition of Ford Motor Company ("FORD") subject to the terms and conditions contained in this recommendation. In support of this recommendation, the Illinois EPA states as follows:

BACKGROUND

Adjusted Standard Proceedings

1. Ford filed its Petition for Adjusted Standard ("Petition") on February 25, 2005, pursuant to Section 28.1 of the Environmental Protection Act ("Act"), 415 ILCS 5/28.1, and the regulations of the Board under 35 Ill. Adm. Code Part 104. The Petition requested that the Board grant Ford an adjusted standard from the Stage II vapor recovery requirements ("Stage II"), codified at 35 Ill. Adm. Code § 218.586, and to require, in place of Stage II, that Ford comply with the standards of the federal onboard refueling vapor recovery regulations ("ORVR") at Ford's Chicago Assembly Plant ("Plant" or "Chicago Assembly") covered under the applicable provisions of 35 Ill. Adm. Code Part 218, Subpart Y, entitled "Gasoline Distribution."
2. On March 9, 2005, Ford filed a Proof of Publication of Notice with the Board for this

Petition. The notice appeared in the *Daily Southtown* on March 4, 2005. Acceptance of this Proof of Publication was granted by the hearing officer on March 17, 2005.

3. Pursuant to 35 Ill. Adm. Code §104.416, the Illinois EPA is required to file a response to the Petition within 45 days of filing.

4. The Board promulgated 35 Ill. Adm. Code § 218.586 to implement the Stage II requirements of § 182(b)(3)(A) of the Clean Air Act ("CAA") (42 U.S.C. § 7511a(b)(3)(A)).

5. Section 218.586 provides for Stage II vapor control of gasoline fueling operations. The regulation requires that affected dispensers of gasoline install, use, and maintain a vapor collection and control system certified by the California Air Resources Board ("CARB") for the fueling of motor vehicles.

6. As Ford states in its Petition "[t]he Board adopted Stage II vapor recovery at R91-30, 16 Ill.Reg. 13864, effective August 24, 1992. The United States Environmental Protection Agency ("USEPA") approved Illinois' Stage II vapor recovery rules as part of the state implementation plan ("SIP") at 58 Fed. Reg. 3841 (January 12, 1993)." (Pet. at 2).

7. Section 202(a)(6) of the Clean Air Act ("CAA") (42 U.S.C. Sec 7521(a)(6)) further requires automobile manufacturers to install ORVR in passenger vehicles. Ford asserts that the ORVR system which it installs in its passenger vehicles complies with the requirements of CAA § 202(a)(6) and related regulations published at 59 Fed. Reg. 16262 (April 6, 1994). Id. In CAA § 202(a)(6), Congress allowed for the eventual elimination of Stage II vapor recovery systems once ORVR systems became widespread. Ford asserts that its Assembly Plant assembles 100% ORVR-equipped vehicles. (Pet. at 4).

8. Ford asserts that its Stage II system is reaching the end of its useful life and that to continue

complying with § 218.586 would require it to install a new Stage II system. Pet. at 4.

9. Based on the information and assertions in Ford's Petition and Appendices and independent investigation by the Illinois EPA technical staff, the Illinois EPA believes that compliance by Ford with the present applicable requirements of 35 Ill. Adm. Code §218.586 for Chicago Assembly's operations is not economically reasonable. The Illinois EPA also believes that the ORVR may present technical obstacles to full compliance with Stage II.

10. The Stage II vacuum-assisted vapor recovery system is the most commonly used control device in regulated areas to capture gasoline vapors during vehicle refueling. Typically, vacuum-assisted vapor recovery systems have vapor holes on the tip of the nozzle spout. The vapor recovery process takes place once the activated nozzle is inserted in the vehicle's fillpipe apparatus, turning on the vacuum pump. In most cases, the vacuum pump is located inside the dispenser. Its suctioning capability is sufficiently strong to allow the gasoline vapors from the vehicle's tank to be captured through the vapor holes situated at the tip of the nozzle. The vapors are eventually pushed through the tubing inside the nozzle, then the coaxial hose, then the vapor return line connecting to the underground/ aboveground storage tank, and finally into the storage tank. The "captured" vapors either move around to equilibrate the vapor space in the tank or convert themselves into a liquid gasoline state.

11. ORVR, which is are found inside the passenger vehicle, usually model year 1998 or newer, serves a function similar to Stage II, capturing gasoline vapors coming from the vehicle's tank. ORVR is activated once the gasoline refueling mechanism is turned on. It has a powerful suctioning capability and, once activated, captures the gasoline vapors and re-routs them to the vehicle's tank.

12. Investigations by the Illinois EPA technical staff suggest that Stage II vapor recovery systems and ORVR are very effective in capturing gasoline vapors but can be incompatible if operated simultaneously. For example, when an ORVR-equipped vehicle is fueled at a gas dispensing facility having an assisted type Stage II system, saturated gasoline vapors are not available at the fill spout (nearly all vapors have already been captured by ORVR).

Consequently, fresh air is ingested at the nozzle/fillpipe interface and returned to the underground/aboveground storage tank resulting in increased evaporation and vapor pressure growth. Increased pressure in the tank causes excess vapors to be released into the atmosphere.

13. Significantly, the California Air Resources Board ("CARB") recognizes the incompatibility between ORVR and Stage II and has predicted that up to 35% efficiency loss could occur [in assisted type control efficiency] based on theoretical calculations. CARB is currently working with the manufacturers to make Stage II compatible with ORVR-equipped vehicles during refueling.

#### **DESCRIPTION OF THE FACILITY**

14. The Illinois EPA accepts Ford's description of its assembly plant and Stage II operations and incorporates Section D of the current Petition by reference.

#### **COMPLIANCE ALTERNATIVES**

15. The alternative to the proposed adjusted standard is to continue use of the existing Stage II vapor recovery system that Ford asserts will need to be replaced. The Illinois EPA accepts Ford's calculations in Section F of the Petition that the cost of removing the gasoline vapors not captured by the ORVR systems integral to the vehicles being produced would be inordinately expensive. Considering the cost of replacing the Stage II system and the minimal environmental impact expected by the granting of the Petition (see below), the Illinois EPA believes Ford makes a

reasonable request for an adjusted standard.

**PROPOSED ADJUSTED STANDARD**

16. Ford has requested an adjusted standard from the Board's air pollution control requirements found at 35 Ill. Adm. Code §218.586 insofar as that regulation applies to the initial fuel fill operations at Ford's Plant. The Illinois EPA recommends that the Board **GRANT** Ford's Petition, and requests that the Board adopt the following language as part of an adjusted standard for Ford's initial fuel fill operations at the Plant.

1. The Ford Motor Company Chicago Assembly Plant shall not be subject to the requirements of 35 Ill. Adm. Code § 218.586, so long as the vehicles fueled at the Chicago Assembly Plant are equipped with onboard vapor recovery systems certified by the USEPA to capture a minimum of 95% of the gasoline vapor displaced during fueling.
2. Ford shall file an application to revise its CAAPP permit to reflect the presence of ORVR in all assembled vehicles in lieu of the existing Stage II vapor recovery system.
3. Ford shall operate in full compliance with all other applicable provisions of 35 Ill. Adm. Code Part 218, including but not limited to, Subpart Y.
4. The relief granted in this proceeding shall be limited to the Stage II vapor recovery system at the Plant as of April 8, 2004.
5. Ford shall operate in full compliance with the Clean Air Act, Illinois Environmental Protection Act and other applicable regulations not otherwise discussed herein.
6. Ford shall continue to report all annual emissions to the Illinois EPA commensurate with the requirements of 35 Ill. Adm. Code Part 254.

17. Ford asserts that it already fuels only vehicles equipped with ORVR systems at the Plant and so only minimal compliance will be required to comply with the adjusted standard. Pet. at 6.

### **ENVIRONMENTAL IMPACT**

18. The intent of the regulations promulgated under 35 Ill. Adm. Code Part 218 is to implement Reasonably Available Control Technology for Volatile Organic Material sources in the Chicago 1-hour ozone non-attainment area ("Chicago NAA").

19. Ford is in a unique position concerning the Stage II - ORVR issue. The USEPA has not determined that the Chicago NAA has achieved widespread use of ORVR. Ford, however, assembles solely ORVR equipped vehicles. Accordingly, it is "ahead of the curve" concerning ORVR penetration of the market. Ford cites several instances in its Petition where the USEPA has allowed individual sites to remove Stage II vapor recovery systems where solely ORVR-equipped vehicles are operated at the site. Pet. at 9.

20. Ford maintains, and the Illinois EPA accepts, that consistent, 100% use of ORVR initial fuel fill operations will not have a negative impact on air quality, despite the removal of the Stage II system. Pet. at 7. Ford asserts that few gasoline vapors would actually be "captured" by the Stage II system after use of the ORVR system. Id. Most of what is captured, Ford asserts, would be from the natural gas flare used to power the Stage II system itself. Id. at 7 - 8.

### **STANDARD OF REVIEW**

21. Section 28.1 of the Act (415 ILCS 5/28.1) states that the Board may grant individual adjusted standards from rules of general applicability whenever the Board determines, that:

- (1) Factors relating to that petitioner are substantially and sufficiently different from the factors relied upon by the Board in adopting the general regulations

applicable to that petitioner;

- (2) The existence of those factors justifies an adjusted standard;
- (3) The requested standard will not result in environmental or health effects substantially and sufficiently more adverse than the effects considered by the Board in adopting the rule of general applicability; and
- (4) The adjusted standard is consistent with any applicable federal law.

If a rule of general applicability does not contain the level of justification a petitioner must meet to obtain an adjusted standard, the requirements of Section 28.1(c) of the Act apply.

22. The regulation of general applicability from which Ford seeks an adjusted standard, 35 Ill. Adm. Code §218.586, does not specify a level of justification that Ford must satisfy to obtain an adjusted standard. Therefore, Ford must satisfy the level of justification set forth in 35 Ill. Adm. Code §104.426 which implements the 35 ILCS 5/28.1(c).

23. As recognized in the Board's Order dated March 17, 2005, Ford, in its filings with the Board, has not directly addressed its burden of proof concerning justification for its proposed adjusted standard in this proceeding. However, the Illinois EPA believes that the requisite justification exists and that Ford can establish its burden. Ford has reached the point anticipated by the USEPA in § 202(a)(6) of the CAA. All vehicles assembled at the Chicago Plant are ORVR equipped. Section 218.586 was written when few vehicles on the road were ORVR equipped. More importantly, as a vehicle assembly plant, FORD "controls" the vehicles at the facility and can guarantee that all are ORVR equipped. Because ORVR serves the same function as Stage II, no environmental or health effects would occur which are "substantially and sufficiently more adverse than the effects considered by the Board in adopting the rule of general applicability." 35 Ill. Adm. Code § 104.426(a)(3). In fact, the environmental effect will be negligible.



### **CONSISTENCY WITH FEDERAL LAW**

24. The Board may grant the proposed adjusted standard consistent with federal law under Section 110 of the CAA, 42 U.S.C. §7410, which grants the individual states the authority to promulgate a plan for the implementation, maintenance, and enforcement of air quality standards, subject to approval by USEPA. Pursuant to federal law, states also have the authority to revise such a plan, subject to USEPA approval. By following its adjusted standard procedure with respect to the Board's federally authorized and approved air emission regulations, the Board is exercising the authority granted to the states through Section 110 of the CAA. If the requested adjusted standard is adopted by the Board, Illinois EPA has the authority and will submit the adjusted standard to USEPA as a SIP revision, thus complying with federal law.

### **HEARING**

25. In order to submit any adjusted standard that the Board may grant to Ford as a SIP revision, proper notice of hearing and a hearing must be held to satisfy federal requirements for SIPs under Section 110 of the CAA. (42 U.S.C. §7410).

WHEREFORE, the Illinois EPA recommends that Ford's Petition for Adjusted Standard be **GRANTED**, and the Board enter an order adopting the adjusted standard with the specific language presented in this Recommendation.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

Charles E. Matoesian  
Assistant Counsel  
Division of Legal Counsel

Dated: April 8, 2005

1020 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 627949276  
(217)782-5544  
(217)782-9807 Facsimile

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF SANGAMON )

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached Recommendation of the Illinois EPA upon the person to whom it is directed, by placing it in an envelope addressed to:

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

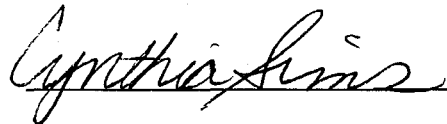
Bradley Halloran, Hearing Officer  
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6600 Sears Tower  
233 South Wacker Drive  
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Schiff Hardin & Waite  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6473

Kathleen Bassi  
Schiff Hardin & Waite  
6600 Sears Tower  
233 South Wacker Drive  
Chicago, Illinois 60606-6473

and mailing it by First Class Mail from Springfield, Illinois on April 8, 2005, with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME

this 8<sup>th</sup> day of April, 2005

Brenda Boehner  
Notary Public



**THIS FILING IS SUBMITTED ON RECYCLED PAPER**