IL, in 33 CFR 165.933, for the *Experian Event* on October 15, 2007 from 8 p.m. to 10 p.m. These regulations can be found in the June 13, 2007 issue of the **Federal Register** (72 FR 32524).

All vessels must obtain permission from the Captain of the Port or his on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders and directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.933 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners and Local Notice to Mariners.

The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of this safety zone is suspended. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM.

Dated: September 24, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–20309 Filed 10–15–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–RO5–OAR–2005–OH–0005; FRL–8464–6]

Approval and Promulgation of Implementation Plans; Ohio Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting final approval of Ohio rules concerning equivalent visible emission limits (EVELs), i.e., alternate opacity limits that may be established for stack sources that meet mass emission limits but cannot meet standard opacity limits. Ohio's rules provide criteria for establishment of EVELs, and the rules provide that EVELs established according to these criteria take effect without formal review by EPA. Ohio submitted these rules on July 18, 2000, and EPA published notices of proposed rulemaking on December 2, 2002, and on January 23, 2007, that proposed to approve these rules. EPA received one adverse comment letter. EPA will honor the commenter's recommendation to fully codify the effects of this action, but EPA does not agree that further notice and opportunity for comment is necessary. As a result of this action, previous State modifications to EVELs will become effective at the Federal level on November 15, 2007. Similarly, any future action by the State to establish, modify, or rescind EVELs in accordance with the criteria given in these Ohio rules, as approved, will become effective at the federal level immediately upon the effective date of the State action.

DATES: This final rule is effective on November 15, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2005–OH–0005. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone John Summerhays, Environmental Scientist, at (312) 886–6067 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6067, *summerhays.john@epa.gov.*

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

I. What Did EPA Propose?

On July 18, 2000, Ohio submitted and requested approval of numerous particulate matter rules. On December 2, 2002, at 67 FR 71515, EPA proposed to approve many of these rules, including provisions in Ohio Administrative Code (OAC) 3745–17–07(C) relating to EVELs. (On August 9, 2005, at 70 FR 46127, EPA proposed to approve most of the remainder of the rules that Ohio had submitted.) These provisions on EVELs established procedures and criteria by which sources meeting applicable particulate mass emission limits but unable to meet applicable opacity limits could justify a visible emission limit that is ''equivalent'' in stringency to the mass emission limit. Ohio's rules provide further that EVELs established according to the rules' procedures and criteria immediately modify the federally enforceable opacity limits without requirement for review as a revision to the State Implementation Plan (SIP).

Most States' rules provide no detailed criteria for establishing EVELs. In these situations, EPA requires that any EVEL that the State wishes to adopt must be submitted to EPA for review, and the EVEL does not alter the federally enforceable opacity limits unless and until EPA approves the EVEL.

Ohio sought to apply a different process for establishing, modifying, and rescinding EVELs. Ohio adopted detailed procedures and criteria by which it would determine whether and at what level it would establish EVELs. EPA proposed to find that those procedures and criteria are appropriate and replicable, i.e., that an EPA review of appropriate opacity limits for particular facilities would follow the same procedures and criteria and would reach the same conclusion as Ohio. Under these circumstances, EPA proposed to find federal review of the actions that Ohio takes to establish, modify, or rescind EVELs to be unnecessary. As a result, EPA proposed in effect to delegate responsibility to Ohio for managing the subset of EVELs within the set of federally enforceable opacity limits for sources in Ohio.

EPA approved most of the Ohio rules on November 8, 2006, at 71 FR 65417. However, EPA did not approve Ohio's rules regarding EVELs in that rulemaking. Instead, on January 23, 2007, at 72 FR 2823, EPA re-proposed action on the rules regarding EVELs. EPA published this re-proposal for purposes of clarifying and soliciting comments on the treatment of historic EVELs that were previously approved into the State Implementation Plan (SIP).

Under the approach that EPA proposed to approve, Ohio may take several actions on EVELs. Ohio may

rescind a previously established EVEL, thereby reestablishing applicability of Ohio's general opacity limits. Ohio may modify a previously established EVEL. Ohio may establish a new EVEL. In each case, Ohio is to examine opacity values during qualifying stack tests showing compliance with mass emission limits, and then Ohio is to establish the indicated opacity limits that may or may not reflect an EVEL, as appropriate.

The key question addressed in EPA's notice of re-proposed rulemaking was the timing by which EVEL actions taken by Ohio come into effect at the federal level. For future actions, EPA proposed that the federally enforceable limit would reflect the opacity limits adopted by the State (with or without an EVEL) at the same time that Ohio establishes the limits. For past actions altering opacity limits, EPA proposed that the State's actions would alter the federally enforceable opacity limits upon the effective date of final federal rulemaking on the EVEL rules. That is, EPA proposed that, starting on the effective date of EPA's final rulemaking on OAC 3745–17–07(C), the federally enforceable opacity limits shall exactly match the opacity limits in place in Ohio at any given time, including only those EVELs that Ohio has in place pursuant to OAC 3745–17–07(C).

EPA's notice of re-proposed rulemaking specifically addressed situations in which EPA had previously approved EVELs into the SIP. EPA proposed to rescind the previously issued EVELs (to the extent that they are still effective at the Federal level), thereby providing clarity that the applicable federally enforceable opacity limit for any source is the currently effective limit that Ohio has established pursuant to OAC 3745–17–07(C) and not the previously SIP-approved limit. EPA proposed that the limits in these EVELs (to the extent they remain in effect) would remain in effect if and only if the limits remained in effect at the State level. EPA proposed that if Ohio has established changed limits pursuant to OAC 3745–17–07(C), the limits applicable to the affected sources would be changed (the EVEL either rescinded or modified) as of the effective date of EPA's final rulemaking on Ohio's rules. Similarly, any future State change in opacity limits for these sources pursuant to OAC 3745–17–07(C) would also yield an immediate corresponding change in the federally enforceable opacity limit, again without regard to the previous approval of an EVEL into the SIP.

II. What Is EPA's Response to Comments?

EPA received one comment letter regarding the proposed rule, comments submitted by Katerina Milenkovski of Porter Wright Morris & Arthur on behalf of FirstEnergy. EPA approved an EVEL for FirstEnergy's Bay Shore facility near Toledo, codified at 40 CFR 52.1870(c)(58), approved on November 2, 1983 at 48 FR 50530. FirstEnergy objects on procedural grounds to EPA's proposal to rescind EVELs such as this, and FirstEnergy objects to EPA's proposal to eliminate existing EVELs such as the EVEL for its Bay Shore facility without explicitly codifying the change for each affected facility. The following discussion describes FirstEnergy's comments in more detail and provides EPA's evaluation of and response to the comments.

Comment: FirstEnergy describes EPA's proposed action as having ''two parts-one prospective and one retroactive. FirstEnergy has no objection to the prospective portion of the proposal which provides that, once EPA's proposed approval of OAC 3745–17–07(C) is final, any EVELs issued pursuant to it will be automatically federally enforceable and will not require separate federal review. However, FirstEnergy objects to EPA's proposal to eliminate all other EVELs-some identified and some not-that have been historically approved by EPA in the Ohio SIP.''

Response: In fact, OAC 3745–17–07(C) does not have separable provisions for ''prospective'' versus ''retroactive'' revisions to opacity limits. OAC 3745–17–07(C) provides procedures and criteria for determining whether an EVEL is warranted and if so at what level. The procedures and criteria in OAC 3745–17–07(C) provide for periodic review of opacity limits without regard to whether an EVEL was issued in the past or whether an EVEL was approved into the SIP. Once Ohio makes its determination regarding the justification for and level of any EVEL, and once Ohio establishes the warranted opacity limits (with or without an EVEL), OAC 3745–17–07(C) provides that these opacity limits become the federally enforceable opacity limits without EPA SIP review.

FirstEnergy does not specify a recommended EPA rulemaking action. Nevertheless, FirstEnergy's comment implies a recommendation that EPA approve OAC 3745–17–07(C) for one set of circumstances (facilities with no SIP-approved EVEL) and disapprove the rule for another set of circumstances (facilities with a SIP-approved EVEL). Since OAC 3745–17–07(C) does not differentiate between EVELs that have been approved into the SIP and EVELs that have not, EPA does not have the authority to rulemake in this manner. (As discussed below, EPA also believes that such a rulemaking would not be warranted.)

The central question EPA faced is when to change federally enforceable opacity limits once Ohio finds that revisions to opacity limits under OAC 3745–17–07(C) are warranted. Previously, in the absence of specific procedures and criteria that can be expected to yield appropriate and replicable limits, EPA had required that federally enforceable limits not change without EPA review following SIP review procedures. Now that Ohio has incorporated appropriate procedures and criteria into OAC 3745–17–07(C), EPA believes that opacity limit revisions that Ohio finds warranted should take effect at the Federal level as well, without further EPA review. Specifically, EPA believes that future Ohio actions on EVELs should take effect simultaneously at the State and Federal levels, and that past Ohio actions should take effect at the Federal level as soon as final EPA action (being taken here) becomes effective (i.e., November 15, 2007).

Comment: FirstEnergy objects to EPA's proposal ''to delete EVELs that are currently part of the SIP without identifying those EVELs or the facilities in question, and without providing a rationale or explanation for doing so.''

Response: FirstEnergy appears to misunderstand the nature of EPA's proposed action and the rationale that EPA provided for this proposed action. Ohio requested that EPA approve a rule that would change the process by which EVELs are established, modified, and rescinded. The new process would require that Ohio review opacity values and set opacity limits according to specified criteria and would remove the current requirement for EPA to conduct formal SIP review of the opacity limits that Ohio sets. EPA's proposed rulemaking thus evaluated the revised process and provided EPA's rationale for its belief that the revised process assures that Ohio will set appropriate opacity limits without the need for formal EPA review of Ohio's actions.

EPA's proposed rulemaking did not address the merits of particular opacity limits at particular facilities. Indeed, Ohio has requested that EPA approve a process in which formal EPA review of the merits of particular opacity limits at particular facilities is no longer necessary. The acceptability of Ohio's requested process is a function of the

adequacy of the criteria to establish a replicable set of limits, the adequacy of the criteria to establish limits that are reliably consistent with EPA policy on EVELs, and the adequacy of the process to meet procedural requirements. The acceptability of Ohio's requested process is not a function of what particular opacity limits are appropriate at particular facilities.

As a point of clarification, elimination of EVELs from the SIP does not necessarily mean that the relevant facilities are no longer subject to EVELs. If Ohio has retained an EVEL or re-established an EVEL identical to the EVEL in the SIP, then no changes in opacity limits would apply to such facility. EPA is accepting Ohio's determinations as to whether and at what level any EVEL is warranted for any particular source, and EPA is eliminating EVELs in the SIP to avoid confusion and to assure that the opacity limits set by the State (with or without an EVEL) unambiguously represent the federally enforceable opacity limits.

For this rulemaking, as for many rulemakings, EPA need not identify the affected facilities to explain the basis for its action. An illustrative example here is the rulemaking on the other rules that Ohio submitted along with OAC 3745–17–07(C). (See the final rule on November 8, 2006, at 71 FR 65417, and the proposed rules on December 2, 2002, and August 9, 2005, at 67 FR 71515 and 70 FR 46127, respectively.) For example, part of that rulemaking addressed storage pile opacity limits at several Ohio utility plants. EPA addressed these limits on the basis of general properties of storage piles, not on the properties of specific facilities. Therefore, EPA did not identify the facilities affected by this rulemaking, and EPA had no need to identify these facilities.

Comment: FirstEnergy believes that EPA failed to provide proper notice and opportunity for comment on this revision. FirstEnergy comments that EPA was proposing ''a SIP revision, governed by Section 307(d) of the Clean Air Act, which requires that EPA's **Federal Register** notice 'shall be accompanied by a statement of its basis and purpose,' which shall include a summary of—(A) the factual data on which the proposed rule is based; (B) the methodology used in obtaining the data an in analyzing the data; and (C) the major legal interpretations and policy considerations underlying the proposed rule.''

Response: Even though EPA believes that section 307(d) of the Clean Air Act is not applicable to this SIP action, EPA for this action has provided the statement of basis and purpose described in section 307(d)(3). As discussed above, Ohio requested that EPA approve a revised process for setting opacity limits. The merits of Ohio's request process are independent of the merits of particular opacity limits at particular facilities, and EPA reviewed Ohio's request accordingly. Therefore, the basis and purpose that EPA specified for its proposed action by necessity did not address particular conditions at particular facilities, and EPA had no need to identify the affected facilities in order to approve the process.

EPA believes that it has provided the basis and purpose of its proposed action with sufficient particularity for interested parties to comment meaningfully. The notice of proposed rulemaking that EPA published on December 2, 2002 provides much of the rationale for concluding that OAC 3745–17–07(C) provides appropriate procedures and criteria for Ohio to take action on EVELs without further EPA review. The notice of proposed rulemaking published on January 23, 2007 supplements the earlier notice by clarifying the timing by which EVELs adopted by Ohio would take effect at a federal level.

FirstEnergy misinterprets the type of information that EPA must provide in its proposed rulemaking. In this rulemaking, the ''data'' underlying EPA's proposed rulemaking are procedural and programmatic data such as the criteria that Ohio would use and the related provisions of Ohio's rule and the criteria that are stated in EPA policies. The ''methodology'' used in obtaining and analyzing these procedural and programmatic data involved a comparison of the Ohio criteria against the criteria stated in EPA policies and a review of whether EPA had sufficient assurances that Ohio's process would yield appropriate opacity limits to be justified in finding formal SIP review of such opacity limits to be unnecessary. The policy considerations involve various features of EPA's policy on EVELs and the desirability of periodic review of EVELs, and the legal interpretations involve statutory provisions regarding the processing of revisions to SIPs. EPA believes that its proposed rulemaking provided all the necessary information of these types to offer the public an adequate opportunity for meaningful comment on EPA's proposed action.

Nevertheless, EPA views FirstEnergy's comments as requesting that EPA identify the affected facilities and the effect of this action that EPA anticipates for each facility. EPA has reviewed the SIP and consulted with Ohio, and EPA is providing the requested information here.

FirstEnergy is correct that EPA took action in 1983 that approved an EVEL for the Toledo Bay Shore facility, although this EVEL may have expired under the terms of the approved permit. The codification of this action did not explicitly note that the approved provisions included an EVEL. EPA believes that this facility is the only facility in Ohio for which EPA approved an EVEL without explicitly noting the EVEL in the Code of Federal Regulations. The current Title V permit for this facility includes no EVEL, indicating that Ohio has concluded in accordance with OAC 3745–17–07(C) that an EVEL is no longer warranted for this facility. The facility is instead subject at the state level to general opacity limits (20 percent opacity with exemptions), and today's action will ensure that federally enforceable opacity limits match the state limits. That is, regardless of whether the 29 percent opacity limits that EPA approved in 1983 (implicitly codified at 40 CFR 52.1870(c)(58)) have expired, today's action clarifies that the general opacity limits now apply, effective on November 15, 2007.

Other facilities for which EPA approved EVELs are those facilities explicitly identified in either paragraph (c)(62) or paragraph (c)(65) of 40 CFR 52.1870. According to Ohio, four of these facilities—Corning Glass, Chardon Rubber, Springview Center, and Packaging Corporation of America (subsequently called Caraustar Industries)—have shut down, so today's action to have federal opacity limits match state limits will have no effect on them. For one facility—a Denman Tire Corporation facility—Ohio has concluded that the EVEL approved into the SIP remains warranted. For this facility, strictly speaking, EPA is implementing Ohio's approved EVEL process by rescinding the old permit approved into the SIP (which may have expired under its terms) but effectively re-establishing the identical limit as part of a newer permit issued by Ohio. Today's action therefore has the effect of clarifying that the EVEL limits approved into the SIP for the Denman Tire facility are currently in effect.

Ohio also provided information regarding other EVELs that would become the federally enforceable opacity limits by virtue of today's action. Ohio identified four facilities for which Ohio issued EVELs that are no longer in effect. (Ohio rescinded the EVELs for three facilities and the fourth facility shut down.) Ohio concluded

that no facilities other than Denman Tire Corporation's facility presently have an EVEL issued by the State. Thus, EPA believes that FirstEnergy's Bay Shore facility is the only active facility for which a SIP-approved EVEL is clarified to be not in effect as a result of today's action, and Denman Tire Corporation will have the only federally enforceable EVEL (matching the level of the EVEL approved in 1985) at the effective date of this rulemaking.

Under the process submitted by Ohio, the merits of alternative opacity limits are evaluated by the State as it contemplates issuance of a permit or administrative order that would specify applicable opacity limits. In the case of FirstEnergy's Bay Shore plant, Ohio issued a preliminary proposed permit on February 19, 2004, that proposed to subject this facility to general opacity limits (i.e., limits that reflect no EVEL). FirstEnergy had the opportunity to comment at that time on whether an EVEL was warranted at this facility. Ohio considered comments it received and issued a final permit, again applying general opacity limits, on November 19, 2004. This case illustrates the fact that the process requested by Ohio provides suitable opportunity for comment on the merits of particular opacity limits at particular facilities during the State process for issuing opacity limits.

FirstEnergy evidently had adequate notice of EPA's proposed action, insofar as a law firm submitted comments on its behalf. FirstEnergy's Bay Shore facility is the only operating facility with an SIP-approved EVEL that clearly has no EVEL following today's action. This provides further evidence that EPA provided adequate notice and opportunity for comment on the proposed rulemaking.

Comment: FirstEnergy believes that ''elimination of [EVELs established through SIP approval] should be subject to the same process and the same scrutiny as their initial adoption.'' FirstEnergy notes that the past rulemaking that approved these EVELs provided a review of the basis and justification for approving these specific EVELs. FirstEnergy states that ''EPA must, at a minimum, provide an explanation of the change in facts and/or change in law'' that warrants changing the SIP by eliminating these EVELs. (FirstEnergy believes that EPA has found the SIP ''substantially inadequate''; this comment is addressed separately below.)

Response: Under OAC 3745–17–07(C), Ohio is to conduct a periodic review of opacity limits of Ohio sources. The review may suggest that either an increase or a decrease in opacity limits is warranted; in either case, due to the adequacy of the process being approved, EPA believes that the opacity limits that are shown to be warranted according to the procedures and criteria of OAC 3745–17–07(C) need not be reviewed by EPA as SIP revisions.

The periodic review of opacity limits is an important feature of Ohio's rule. Facilities can achieve varying opacity levels as control technology improves and as plant conditions change with time. EVELs often remain in the SIP longer than they are warranted, and Ohio's rule offers a procedure that facilitates periodic review to assure that opacity limits remain appropriate for current conditions. Indeed, this periodic review was an important advantage of OAC 3745–17–07(C) factoring into EPA's decision to approve this rule.

FirstEnergy seems to wish that an EVEL that EPA found warranted under conditions that applied over 20 years ago would be more difficult to rescind than an EVEL that Ohio might currently establish. In particular, FirstEnergy wishes for EPA to disallow rescission of EVELs that have been approved into the SIP unless the rescission undergoes full SIP review.

EPA does not agree with FirstEnergy's recommendation. EPA believes that Ohio's rule is appropriately designed with appropriate procedures regardless of whether or not an affected facility has a previously SIP-approved EVEL. Ohio's rule provides for a review based on current conditions at each facility, with Ohio establishing opacity limits that are currently appropriate without regard to whether different opacity limits may have been appropriate in the past. In cases like FirstEnergy's Bay Shore facility, where Ohio has determined that no EVEL is currently warranted, EPA believes that this change in opacity limits should reflect the same process (involving immediate effectiveness) as applies to any other Ohio EVEL review.

Comment: FirstEnergy believes that ''EPA must * * * provide an explanation of [the basis for finding] the current SIP 'substantially inadequate,' pursuant to Section 110(a)(2)(H)(ii) of the Clean Air Act. EPA must also follow the statutorily prescribed procedures for correcting substantially inadequate SIPs.''

Response: This rulemaking reflects no finding of the current SIP to be ''substantially inadequate.'' Ohio has requested that EPA approve a rule that would change the process for taking actions on EVELs in Ohio and that would alter the federally enforceable opacity limits according to determinations on EVELs that Ohio has made and will make. EPA is approving this rule.

Comment: FirstEnergy further objects to EPA's proposal to discontinue EVELs without explicitly modifying the text in the Code of Federal Regulations that identifies the EVELs as part of the SIP. A footnote to this comment identifies FirstEnergy's Bay Shore facility as having an EVEL that ''would be eliminated upon finalization of the proposed action but would still be reflected in the Ohio SIP.'' In FirstEnergy's view, with this approach, the Code of Federal Regulations ''would no longer accurately reflect the contents of the Ohio SIP and the SIP would be more confusing than ever.'' FirstEnergy concludes that if ''EPA is to eliminate EVELs as part of this rulemaking, EPA needs to identify those EVELs in its proposed rulemaking with specificity and, if the proposal is finalized, EPA needs to modify the text of the CFR accordingly.''

Response: Upon review, EPA agrees to honor the commenter's recommendation that EPA modify the CFR for all EVELs that are currently in the SIP. To help implement the process being approved today, a process that provides that a source shall be subject to a federally enforceable EVEL if and only if Ohio has established a currently effective EVEL pursuant to OAC 3745–17–07(C), EPA is modifying the text of the CFR to remove EVELs that are explicitly or implicitly identified as part of the SIP. As proposed, EPA will rescind from the SIP paragraphs (c)(62) and (c)(65) of 40 CFR 52.1870, which currently name the only EVELs explicitly identified in the SIP. EPA will also amend the language of 40 CFR 52.1870(c)(58) to clarify that the EVELs that were included in the permit that EPA approved for FirstEnergy's Bay Shore facility are no longer part of the SIP. EPA believes that the SIP includes no other EVELs, so no other amendments to existing SIP language are necessary. At the effective date of this rulemaking, the Denman Tire Corporation facility will be subject to an EVEL by virtue of an EVEL being specified in the facility's Title V permit, and no other facilities will be subject to an EVEL.

III. What Action Is EPA Taking Today?

EPA is approving OAC 3745–17–07(C) as submitted by Ohio on July 18, 2000. Under the procedures of this rule, a facility shall be subject to a federally enforceable EVEL if and only if the facility is subject to an EVEL that Ohio has established pursuant to OAC 3745–17–07(C). To implement this procedure, and to avoid potential for confusion regarding previously approved EVELs,

EPA is removing the previously approved EVELs from the SIP. Hereafter, EPA intends that federally enforceable EVELs will not be codified in the Code of Federal Regulations as part of the SIP but will instead be reflected only in the permit or other document that Ohio uses to establish the EVEL. Therefore, EPA is rescinding paragraphs (c)(62) and (c)(65) of 40 CFR 52.1870 and is adding language to 40 CFR 52.1870(c)(58) clarifying that the EVEL for FirstEnergy's Bay Shore facility is no longer part of the SIP. These revisions will help clarify that the federally enforceable opacity limits for a facility shall reflect only those EVELs that have been established by Ohio and are currently in effect in accordance with OAC 3745–17–07(C).

IV. What Statutory and Executive Orders Apply?

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

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant regulatory action,'' 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 approves a state rule implementing a Federal Standard.

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. 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 December 17, 2007. 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, Particulate matter.

Dated: August 24, 2007.

Richard C Karl,

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 KK—Ohio

■ 2. Section 52.1870 is amended as follows:

■ a. By removing and reserving paragraphs (c)(62) and (c)(65).

■ b. By revising paragraphs (c)(58) and (c)(134) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(58) On July 14, 1982, the State submitted revisions to its State Implementation Plan for TSP and SO2 for Toledo Edison Company's Bay Shore Station in Lucas County, Ohio, except that the equivalent visible emission limitations in this submittal are no longer in effect.

* * * * *

(134) On July 18, 2000, the Ohio Environmental Protection Agency submitted revised rules for particulate matter. Ohio adopted these revisions to address State-level appeals by various industry groups of rules that the State adopted in 1995 that EPA approved in 1996. The revisions provide reformulated limitations on fugitive emissions from storage piles and plant roadways, selected revisions to emission limits in the Cleveland area, provisions for Ohio to follow specified criteria to issue replicable equivalent visible emission limits, the correction of limits for stationary combustion engines, and requirements for continuous emissions monitoring as mandated by 40 CFR part 51, Appendix P. The State's submittal also included modeling to demonstrate that the revised Cleveland area emission limits continue to provide for attainment of the PM_{10} standards. EPA is disapproving two paragraphs that would allow revision of limits applicable to Ford Motor Company's Cleveland Casting Plant through permit revisions without the full EPA review provided in the Clean Air Act.

(i) Incorporation by reference.

(A) The following rules in Ohio Administrative Code Chapter 3745–17 as effective January 31, 1998: Rule OAC 3745–17–01, entitled Definitions, Rule OAC 3745–17–03, entitled Measurement methods and procedures, Rule OAC 3745–17–04, entitled Compliance time schedules, Rule OAC 3745–17–07, entitled Control of visible particulate emissions from stationary sources, Rule OAC 3745–17–08, entitled Restriction of emission of fugitive dust, Rule OAC 3745–17–11, entitled Restrictions on particulate emissions from industrial processes, Rule OAC 3745–17–13, entitled Additional restrictions on particulate emissions from specific air contaminant sources in Jefferson county, and OAC 3745–17–14, entitled Contingency plan requirements for Cuyahoga and Jefferson counties.

(B) Rule OAC 3745–17–12, entitled Additional restrictions on particulate emissions from specific air contaminant sources in Cuyahoga county, as effective on January 31, 1998, except for paragraphs (I)(50) and (I)(51).

(C) Engineering Guide #13, as revised by Ohio EPA, Division of Air Pollution Control, on June 20, 1997.

(D) Engineering Guide #15, as revised by Ohio EPA, Division of Air Pollution Control, on June 20, 1997.

(ii) Additional material.

(A) Letter from Robert Hodanbosi, Chief of Ohio EPA's Division of Air Pollution Control, to EPA, dated February 12, 2003.

(B) Telefax from Tom Kalman, Ohio EPA, to EPA, dated January 7, 2004, providing supplemental documentation of emissions estimates for Ford's Cleveland Casting Plant.

(C) Memorandum from Tom Kalman, Ohio EPA to EPA, dated February 1, 2005, providing further supplemental documentation of emission estimates.

(D) E-mail from Bill Spires, Ohio EPA to EPA, dated April 21, 2005, providing further modeling analyses.

* * * * *

[FR Doc. E7–20253 Filed 10–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2007–0376; FRL–8477–4]

Approval of Implementation Plans of Illinois: Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Illinois State Implementation Plan (SIP) submitted on September 14, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006. EPA is determining that the SIP revision fully meets the CAIR requirements for Illinois. Therefore, as a consequence of the SIP approval, EPA will also withdraw the CAIR Federal Implementation Plans (CAIR FIPs) concerning sulfur dioxide (SO_2), nitrogen oxides (NO_X) annual, and NO_X ozone season emissions for Illinois. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006.

CAIR requires States to reduce emissions of SO_2 and NO_X that significantly contribute to, and interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates ($PM_{2.5}$) and/or ozone in any downwind state. CAIR establishes State budgets for SO_2 and NO_X and requires States to submit SIP revisions that implement these budgets in States that EPA concluded did contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is approving, Illinois meets CAIR requirements by participating in the EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions.

DATES: This direct final rule will be effective December 17, 2007, unless EPA receives adverse comments by November 15, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–0376, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail: mooney.john@epa.gov*.

3. *Fax:* (312) 886–5824.

4. *Mail:* ''EPA–R05–OAR–2007–0376'', John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery or Courier:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 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.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–0376. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* website is an