safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.1311 to read as follows:

§ 165.1311 Olympic View Resource Area, Tacoma, WA.

(a) *Regulated area.* The following area is a regulated navigation area: that portion of Commencement Bay bounded by a line beginning at: 47°15′40.19753″ N, 122°26′09.27617″ W; thence to 47°15′42.21070″ N, 122°26′10.65290″ W; thence to 47°15′41.84696″ N, 122° 26′11.80062″ W; thence to 47°15′45.57725″ N, 122°26′14.35173″ W; thence to 47°15′53.06020″ N, 122°26′06.61366″ W; thence to 47°15′46.74493″ N, 122°26′09.27617″ W; thence returning along the shoreline to the point of origin. [Datum NAD 1983].

(b) *Regulations.* All vessels and persons are prohibited from anchoring, dredging, laying cable, dragging, seining, bottom fishing, conducting salvage operations, or any other activity which could potentially disturb the seabed in the designated regulated navigation area. Vessels may otherwise transit or navigate within this area without reservation.

(c) *Waiver.* The Captain of the Port, Puget Sound, upon advice from the U.S. EPA Project Manager and the Washington State Department of Natural Resources, may, upon written request, authorize a waiver from this section if it is determined that the proposed operation supports USEPA remedial objectives, or can be performed in a manner that ensures the integrity of the sediment cap. A written request must describe the intended operation, state the need, and describe the proposed precautionary measures. Requests should be submitted in triplicate, to facilitate review by U.S. EPA, Coast Guard, and Washington State Agencies. USEPA managed remedial design, remedial action, habitat mitigation, or monitoring activities associated with the Olympic View Superfund Site are excluded from the waiver requirement. USEPA is required, however, to alert the Coast Guard in advance concerning any of the above-mentioned activities that may, or will, take place in the Regulated Area.

Dated: November 5, 2002.

E.M. Brown,

Rear Admiral, U.S. Coast Guard, 13th District Commander.

[FR Doc. 02–30435 Filed 11–29–02; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH154–1; FRL–7415–3]

Approval and Promulgation of Implementation Plans; Ohio Particulate Matter

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing action on a variety of revisions to particulate matter regulations submitted by Ohio on July 18, 2000. USEPA is proposing to approve revisions to the form of opacity limits for utility and steel mill storage piles and roadways. USEPA is also proposing to approve formalization of existing requirements for continuous emission monitoring for certain types of facilities, criteria for the state to issue equivalent visible emission limits, and revised limits for stationary internal combustion engines. USEPA is proposing to disapprove authority for revising emission limits for Ford Motor's Cleveland Casting Plant via Title V permit modifications.

DATES: Written comments on this proposed rule must arrive on or before January 2, 2003.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: This document is organized as follows:

I. Background

Ohio adopted major revisions to its particulate matter regulations in 1991, addressing requirements of the Clean Air Act amendments of 1977 and 1990. Ohio has submitted and USEPA has approved those regulations. (See 59 FR 27464, May 27, 1994, and 61 FR 29662, June 12, 1996) However, several companies appealed those regulations to the state Environmental Review Board. As a result of lengthy discussions aimed at resolving these appeals, Ohio adopted an assortment of revisions to its particulate matter regulations on December 17, 1997. Ohio submitted the revised regulations to USEPA on July 18, 2000.

The submitted regulations reflect several significant revisions to prior particulate matter regulations. First, Ohio has redesigned the limits on visible emissions from roadways and storage pile operations at utility storage piles. Second, Ohio has similarly redesigned the visible emission limits for roadways and storage piles at iron and steel facilities. Third, Ohio has established criteria for determining the appropriate visible emissions limit for cases where a source meets its mass emission limit but cannot comply with the standard visible emissions limit. These revisions are intended to provide objective criteria by which the state can establish alternate visible emission limits without need for State Implementation Plan (SIP) review by USEPA. Fourth, Ohio adopted provisions by which Ford could modify its limits via amendments to its Title V permit. Ohio further made a variety of other revisions, including adoption of a rule requiring continuous emission monitoring systems (CEMS) that are already required in permits, updating the form and content of the limits for stationary internal combustion engines, updating the rule on contingency measures, and removing an appendix that provided guidance to state permit writers. Finally, Ohio has modified the limits for several facilities in Cuyahoga County (the Cleveland area), including Ford, LTV, and General Chemical.

Based on discussions with USEPA, Ohio is conducting a further assessment of whether the revised limits in Cuyahoga County suffice to assure attainment of the annual particulate matter standard. USEPA is deferring action on these revisions pending receipt of this further assessment. The remaining elements of Ohio's submittal are addressed in today's action.

II. Revisions to Opacity Limits for Utilities

A consortium of utility companies requested a variety of revisions to limitations applicable to fugitive emissions from their coal storage piles. The previous state rule included in the current SIP limited visible emissions to 13 minutes per hour. The revised rule limits opacity from material handling operations to 20 percent opacity, assessed as a 3-minute average. The revised rule sets a separate limit for vehicle operations on coal piles (not including vehicle exhaust), also set at 20 percent opacity as a 3-minute average. The revised rule retains the 13 minutes per hour visible emissions limit for wind erosion off storage piles, the same limit for unpaved roads, and a 6 minutes per hour visible emissions limit for paved roads.

The revised rules also amend certain aspects of the methods by which opacity readings are taken. Observations for material handling at utility coal piles are to be taken ''where the fugitive dust plume is distinctly separate from the falling material and from the surface of the pile.'' Observations of opacity from vehicles moving on coal piles are to be taken at or above the top of the vehicle and at least one vehicle length from the rear of the vehicle, so as to be outside the immediate wake of the vehicle.

USEPA views these revised limits as having approximately the same stringency as the previous limits. All of these facilities are in areas attaining the air quality standards for particles nominally 10 microns and smaller in aerodynamic diameter (PM_{10}), and so both the prior limits and the revised limits are intended only to assure fairly modest precautions to avoid excess fugitive emissions. While opacity observations both at or above vehicle height and at least one vehicle length away will be lower than opacity observations at more typical observation points (about a meter above ground), USEPA nevertheless anticipates that this limit will require a similar level of control as was expected under the previous limit. USEPA also views as reasonable the provision to avoid observing visible emissions where these observations can be confounded by falling material or the surface of the pile. Therefore, USEPA believes that the proposed revisions to limits for fugitive emissions from utility coal piles given in Rule 3745–17–07(B)(7) are approvable.

Ohio also revised the test method for observing visible emissions on utility roadways and parking areas. The revised rule, in Rule 3745–17–03(B)(4)(d), states that observations of visible emissions on roadways and parking areas are to be taken at a fixed location at a height four feet above ground. In most contexts, USEPA rejects observing visible emissions at a fixed location, requiring instead that each observation be taken wherever the plume is densest. However, since a roadway dictates a fixed path for vehicles, thus preventing circumvention by vehicles taking variable paths on the roadway, and since the distribution of emissions along the road will not change from vehicle traverse to vehicle traverse, USEPA accepts this test method feature for this particular source type.

III. Revisions to Opacity Limits for Steel Companies

Ohio's revised Rule 3745–17–07, specifically new provisions in 3745–17–07(B)(8), specify revised opacity limits for Ohio steel companies that resemble some of the revised limits for utilities. The limit for material handling operations is the same 20 percent opacity limit based on the same 3-minute average method. For wind erosion, while the rules for utilities retain the prior limit of 13 minutes of visible emissions per hour, the revised rules subject wind erosion at steel plants to a limit of 10 percent opacity as a 3-minute average.

The limits for fugitive emissions from vehicle operations are based on a new test method originally used by Illinois. In this method, opacity readings are initiated when a vehicle passes the observer, with follow-up readings taken 5 and 10 seconds later. These 3 readings are taken for each of 4 vehicle passes. The average of these 12 readings must not exceed 10 percent. This 10 percent limitation applies both to vehicles traversing storage piles and to vehicles traveling on plant roadways and parking areas.

USEPA supports use of the Illinois method, which focuses opacity readings on the times emissions are occurring and thus is not unduly affected by the number of vehicles that pass by. Although limited information exists as to the emission levels required by for example a 10 percent opacity limit under this method, USEPA's judgment is that this limit requires a similar control level as the previous limit of 13 minutes of visible emissions per hour. USEPA also believes that the other limits being applied to fugitive dust from iron and steel facilities in Rule 3745–17–07(B)(8) are also at least approximately equivalent to the prior limits.

Unlike most of Ohio's steel mills, two mills are in areas that were previously designated nonattainment. In such areas, the state must show that control requirements for relevant source suffice to assure attainment. Ohio's rule changes alter the control requirements for one of these mills, specifically LTV Steel's Cleveland Works facilities. As noted previously, Ohio is conducting a further evaluation of the impact of various Cleveland area limit revisions, and USEPA is deferring action on these changes pending this further evaluation.

Ohio also changed the limitations in Rule 3745–17–13 (E) and (F) governing Wheeling-Pittsburgh Steel, replacing the visible emission limitations applicable to fugitive dust with detailed requirements for the work practices the company must undertake to limit fugitive dust. USEPA views the work practice requirements given in the new Appendix A to Rule 3745–17–13 as likely to achieve approximately the same level of control as was required by the previous visible emission limitations. No other changes were made to the limitations applicable to Wheeling-Pittsburgh Steel. Therefore, USEPA believes that the revisions for Wheeling-Pittsburgh Steel are approvable without any further attainment demonstration.

IV. Criteria for State-Issued Visible Emissions Limits

The current SIP provides the option for sources to justify source-specific stack opacity limits in lieu of the standard stack opacity limit. The standard stack opacity limit supplements mass emission limits by providing an additional means of requiring effective emission control. However, some sources can meet applicable mass emission limits and yet cannot meet the standard stack opacity limit. For these sources, the SIP provides the option for the source to demonstrate that an alternative opacity limit corresponds to compliance with the mass emission limit, or more precisely that compliance with the alternative opacity limit suffices to indicate compliance with the mass emission limit. Ohio labels this an equivalent visible emission limit.

In the current SIP, when the State concludes that an equivalent visible emission limit is warranted, the State must submit a source-specific request with suitable justification to USEPA. In the revised rules, Ohio has given itself the authority to establish federally enforceable equivalent visible emission limits without requiring USEPA review, based on detailed criteria inserted into the rules. USEPA may approve the revised rules only if these criteria would lead Ohio to establish the same equivalent visible emission limit that USEPA would establish.

The prerequisites for equivalent visible emission limits are given in Rule 3745–17–07(C). The source must demonstrate compliance with its mass emission limit. The source must observe opacity during the mass emissions test. The source must be ''operated and maintained so as to minimize the opacity of the emissions during the [mass emissions] test.'' An equivalent visible emission limit may be established only if opacity exceeds the standard opacity limits despite satisfaction of these requirements.

If the source satisfies these prerequisites, Ohio must then follow the detailed procedures in Engineering Guide numbers 13 and 15 (versions effective June 20, 1997) as referenced in Rule 3745–17–07(C)(4) to determine the numerical value of the equivalent visible emission limit. In cases where the average of three emission test runs shows compliance with mass emission limits despite one or two of these runs exceeding the emission limit, an equivalent visible emission limit may be derived only from test runs that show emissions at or below the emission limit. Since the general opacity limit has two parts, equivalent visible emission limits may have two parts as well. Specifically, the general opacity limit requires 6-minute average opacity values to be at or below 20 percent, except for one 6-minute average opacity that may be as high as 60 percent. Equivalent visible emission limits may be set in lieu of either or both of these general limits. If any 6-minute average opacity exceeds 60 percent, despite compliance with the mass emission limit and minimization of opacity, the higher value may be set as a once-per-hour 6-minute average opacity limit. If any hour's second highest 6-minute average opacity exceeds 20 percent, again despite compliance with the mass emission limit and minimization of opacity, the highest second highest 6-minute average opacity value would be set as a limit on the second highest 6-minute average opacity.

USEPA follows essentially the same criteria and procedures in setting equivalent visible emission limits for new source performance standards pursuant to 40 Code of Federal Regulations part 60.11(e) (40 CFR 60.11(e)). If a source subject to a new source performance standard in 40 CFR part 60 cannot meet an applicable opacity limit, it may petition USEPA for an equivalent visible emission limit. Under 40 CFR 60.11(e)(7), ''[USEPA] will grant such a petition upon a demonstration by the owner or operator that the affected facility and associated air pollution control equipment was operated and maintained in a manner to minimize the opacity of emissions during the performance tests; that the performance tests were performed under the conditions established by [USEPA], and that the affected facility and associated air pollution control equipment were incapable of being adjusted or operated to meet the applicable opacity standard.'' Under 40 CFR 60.11(e)(8), USEPA sets an equivalent visible emission limit at the maximum level that is consistent with compliance with the mass emission limit.

Ohio's criteria for setting equivalent visible emission limits closely parallel USEPA's criteria in 40 CFR 60.11(e). Ohio has an explicit prerequisite that affected facility and associated air pollution control equipment was operated and maintained in a manner so as to minimize the opacity. Rule 3745–17–07(C)(3)(a) dictates that the performance tests must be conducted in accordance with conditions and procedures accepted by Ohio. Although Ohio's rule does not have an explicit prerequisite of the facility and control equipment being incapable of being adjusted or operated to meet the opacity limits, USEPA views this prerequisite as part of the prerequisite for minimizing emissions. Thus, if in USEPA's judgment the facility could meet the general opacity limits through adjustments or changes in operation of the facility and/or control equipment, USEPA would conclude that the source has failed the prerequisite for operating the facility and control equipment so as to minimize opacity.

USEPA thus concludes that Ohio imposes the same prerequisites for granting equivalent visible emission limits as USEPA. Further, Ohio has provided specific procedures by which their equivalent visible emission limits would be set at appropriate levels. Therefore, USEPA believes that it is appropriate to authorize Ohio to issue equivalent visible emission limits according to these criteria without source-specific USEPA review.

V. Revisions to Limits via Title V Permit

In Rule 3745–17–12(I)(50), Ohio authorizes use of Title V permits to establish an alternative set of emission limits at Ford Motor Company's Cleveland Casting Plant. This paragraph identifies several elements of procedure for the state to follow, much of which reflects standard Title V procedures for

permit modifications. Ohio must give USEPA 45 days' notice of the proposed Title V permit modifications. Ohio shall not issue the permit modifications if USEPA objects to the permit modification, unless and until USEPA's objection is resolved. Ford Motor Company must provide a demonstration using modeling consistent with USEPA's modeling guidelines that the alternative set of limits assures attainment of the air quality standards for PM10. Once the alternative set of limits are in effect in issued permit modifications, Ford no longer needs to comply with the superseded limits in Rule 3745–17–12(I).

Rule 3745–17–12(I)(50) also provides the option of amending Ford's emission limitations via new source permit issued under Rule 3745–31–02. In accordance with new source permitting procedures, USEPA and other interested parties would have 30 days to comment, and permit issuance would not be contingent on USEPA objections being resolved. Although new source permits are issued only if at least one emission unit is newly constructed or modified, such permits may also amend the limitations for other, existing and unmodified units. Ordinarily, such limitations supplement and do not supersede any SIP limits that apply to the units. However, in this case, Rule 3745–17–12(I)(50) provides that the new source permit limits would supersede the SIP limits, and Ford's Cleveland Casting Plant need not comply with the limits in the SIP so long as it complies with the limits in the new source permit.

Ohio also added Rule 3745–17–12(I)(51). This paragraph states that once a permit has been issued in accordance with Rule 3745–17–12(I)(50) that amends the requirements applicable to Ford, Ohio shall revise Rule 3745–17–12(I) to become consistent with the revised control strategy.

USEPA believes that the Clean Air Act does not authorize these revisions. Section 504 in Title V of the Clean Air Act provides that permits required under Title V must include provisions ''as are necessary to assure compliance with applicable requirements of [the Clean Air Act], including the requirements of the applicable implementation plan.'' That is, these permits must assure compliance with the existing implementation plan. The permits may not change the implementation plan or assure compliance with an alternative set of provisions that fail in any way to assure compliance with the existing implementation plan.

If a state wishes to revise its implementation plan, it must pursue the revisions in accordance with section 110 in Title I of the Clean Air Act, entitled ''Implementation Plans.'' Section 110 includes detailed criteria and a detailed review process for state implementation plan revisions. Congress clearly designed a process involving substantial USEPA oversight of revisions to SIPs, specifically providing USEPA with a much longer time for review of SIPs than for Title V permits. The first step in review of implementation plan revisions is a review for completeness, including whether the state has provided adequate technical information to judge the merits of the revision; no counterpart to this step is provided in USEPA's review of Title V permits. Section 110(k) then grants USEPA 12 months to review proposed revisions to implementation plans, in stark contrast to the 45 days for USEPA review of proposed Title V permits. Finally, state implementation plans under section 110 remain unchanged unless USEPA takes affirmative action approving revisions to the plan, whereas Title V permits take effect in the absence of USEPA raising timely objections to the permit. Thus, the provision in Ohio's Rule 3745–17–12(I)(50) for using the Title V permit process to change emission limits that are at the core of Ohio's implementation plan for meeting the PM10 standard in the Cleveland area is clearly contrary to the structure and provisions of the Clean Air Act.

Rule 3745–17–12(I)(50) is also contrary to USEPA's regulations addressing the contents of Title V permits and their relationship to state implementation plans. Regulations for Title V permits in 40 CFR 70.1 define ''applicable requirements'' as, among other things, ''[a]ny standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act''. The first and foremost elements of Title V permit content, as described in 40 CFR 70.6(a)(1), are provisions to ''assure compliance with all applicable requirements''. Neither here nor elsewhere in 40 CFR part 70 does USEPA authorize a Title V permit to modify applicable requirements.

In contrast, 40 CFR part 51 has extensive guidance on revisions to implementation plans. Appendix V to 40 CFR part 51 defines criteria for judging whether a submittal is complete. As stated in 40 CFR 51.103, ''[r]evisions of a plan * * * will not be considered part of an applicable plan until such revisions have been approved by [USEPA] in accordance with this part.''

Importantly, with the exception of periodic monitoring to assure compliance, neither 40 CFR part 70 nor the Title V of the Clean Air Act give a permitting authority the authority to create new requirements through a Title V permit. In some cases, USEPA allows permitting authorities to include in Title V permits conditions that differ from but are equivalent to streamlined applicable requirements. USEPA has issued white papers addressing this possibility. However, these white papers do not offer the option of altering the core requirement of any individual applicable requirement, even if a case is made that a relaxation for one applicable requirement is compensated for by tightening another applicable requirement. Such proposals for net equivalent limits must be submitted to USEPA as requests for state implementation plan revisions subject to review under Title I of the Clean Air Act and 40 CFR part 51.

Rule 3745–17–12(I)(50) authorizes changes to limitations through new source permits as well as through Title V permits. This approach is also not authorized in the Clean Air Act or in applicable regulations. New source permits, like Title V permits, do not satisfy the procedural requirements for state implementation plan review. For this reason, limits imposed in new source permits on new or existing sources are supplemental to and do not supersede existing SIP limits. Neither the Clean Air Act nor USEPA regulations authorize a new source permit to allow noncompliance with a SIP limitation on any emission unit. Consequently, USEPA believes that Rule 3745–17–12(I)(50) must be disapproved.

Rule 3745–17–12(I)(51) states simply that any alternative limitations established by permit under Rule 3745–17–12(I)(50) must be incorporated into Ohio regulations in Rule 3745–17–12(I). While USEPA does not object to this particular provision, USEPA believes that this paragraph has no effect because no alternative limits may be established under Rule 3745–17–12(I)(50). For this reason, and because paragraph (I)(51) is closely tied to paragraph (I)(50), USEPA believes it most appropriate to disapprove both paragraphs.

VI. Other Submittal Elements

In addition to the revisions requested by industry appellants of Ohio's rules, Ohio also made four revisions that might be considered corrections to their rules. These revisions include adoption of a rule requiring continuous emission monitoring systems (CEMS) that are

already required in permits, updating the form and content of the limits for stationary internal combustion engines, updating the rule on contingency measures, and removing an appendix that provides guidance to state permit writers.

Rule 3745–17–03(C) requires facilities subject to 40 CFR 51 Appendix P to operate, maintain, and submit periodic results from CEMS. In general terms, Appendix P requires CEMS at large boilers, fluid catalytic cracking units (at refineries), nitric acid plants, and sulfuric acid plants. Ohio previously satisfied this requirement by submitting state operating permits for each affected facility mandating CEMS. USEPA approval of these permits is codified at 40 CFR 52.1870(c)(88). These permits have now expired. USEPA believes that Rule 3745–17–03(C) provides for satisfaction of the requirements of Appendix P on a more permanent basis. In conjunction with approving this rule, USEPA intends to remove the codification of its approval of the now expired permits.

Ohio modified both the criteria for differentiating large and small stationary internal combustion engines (defined in paragraphs (B)(23) and (B)(24) of Rule 3745–17–01) and the emission limits applicable to each (specified in Rule 3745–17–11(B)(5)). These revisions parallel the changes in the source characteristics that USEPA recommends using in evaluating emissions from this source type. These revisions should not affect the level of control of these sources and thus should not have any significant effect on emissions from this source category. Therefore, USEPA believes these revisions are acceptable.

Rule 3745–17–14 identifies sources to provide contingency measures and provides criteria for implementing these measures if needed to attain particulate matter standards. Ohio used the measures identified by the sources to develop the contingency plan required under Clean Air Act section 172(c)(9), which USEPA approved on May 6, 1996, at 61 FR 20139. The approved plan reflected measures for only a subset of the sources in Rule 3745–17–14, since other sources listed in this rule were unable to identify suitable contingency measures. Ohio's recent revisions to Rule 3745–17–14(A) delete these extraneous sources from the listing in Rule 3745–17–14 and more generally bring the requirements for identification of measures into conformance with the set of measures actually identified and incorporated into the approved contingency plan. These rule revisions do not in any way change the stringency, triggering process, or other features of the existing contingency plan. Therefore, USEPA believes these revisions are acceptable.

Finally, Ohio revised its Rule 3745–17–14 to remove guidance contained as Appendix B to this rule concerning criteria for particulate matter sources to be eligible for registration status rather than requiring permits to operate. USEPA has not previously approved Appendix B, and Appendix B is not necessary to meet any Clean Air Act requirement. Therefore, USEPA has no objection to Ohio rescinding this appendix, and USEPA need not take any action for this appendix to remain as not part of Ohio's SIP.

VII. Summary of USEPA Action

USEPA is proposing action on most elements of Ohio's particulate matter SIP revisions submitted July 18, 2000. USEPA is proposing to approve revisions to limitations in Rule 3745–17–07 on fugitive dust emissions for utilities and steelmaking facilities and the associated revisions to test methods in Rule 3745–17–03, with one exception. This exception is that USEPA is deferring action on the revisions of limitations for Ford Motor in Rule 3745–17–07(B)(9) and (B)(10), in conjunction with USEPA's deferral of action on various limit revisions for Cleveland area sources.

USEPA is proposing to approve Rule 3745–17–03(C), which requires that sources subject to Appendix P of 40 CFR 51 install, satisfactorily operate, and report results from continuous emission monitoring systems. In conjunction with this action, USEPA is proposing to remove from the SIP the now-expired permits that Ohio previously submitted to satisfy Appendix P. USEPA is proposing to approve revisions to Rule 3745–17–04, requiring immediate compliance with the newly adopted limitations, except that USEPA is deferring action on compliance dates associated with Cleveland area limitations pending action on the limits themselves. USEPA is proposing to approve revisions in Rule 3745–17–01 and 3745–17–11 to limits for stationary internal combustion engines. USEPA is proposing to approve replacement of fugitive emission limitations in Rule 3745–17–13 for the Wheeling-Pittsburgh Steel Company with requirements that the company follow specified practices to limit fugitive emissions. USEPA is proposing to approve revisions to Rule 3745–17–14 that bring this rule into conformance with the approved contingency plan and that remove a guidance statement that was not previously part of the SIP.

USEPA is proposing to disapprove Rule 3745–17–12(I)(50) and 3745–17–12(I)(51), which would allow Ohio to incorporate a revised set of emission limits for Ford Motor Company's Cleveland Casting Plant into either a Title V permit or a new source permit. USEPA proposes to conclude that this type of revision to applicable limitations must be subject to the review process under section 110 of the Clean Air Act for revisions to state implementation plans. Finally, USEPA is deferring action on revisions in Rules 3745–17–08, 3745–17–11, and 3745–17–12 that alter the control strategy for meeting the PM10 standards in Cuyahoga County, pending further analysis of whether these revisions continue to assure attainment of the annual PM10 standard.

Final disapproval of the above paragraphs of Rule 3745–17–12(I) would not start any sanctions clock. This submittal was not needed to meet any provision of the Clean Air Act. Disapproval of these paragraphs would simply prevent the addition of these paragraphs to Ohio's state implementation plan and would not constitute a plan deficiency that under section 179 of the Clean Air Act would need to be remedied to avoid sanctions.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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).

This proposed 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 proposes to approve state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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, USEPA'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), USEPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for USEPA, 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

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

Dated: November 15, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 02–30468 Filed 11–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7415–5]

Notice of Data Availability; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants; Additional Information on the Colitag™ Method

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of data availability—supplemental information.

SUMMARY: On March 7, 2002, the Environmental Protection Agency (EPA) published ''Unregulated Contaminant Monitoring Regulation: Approval of Analytical Method for Aeromonas; National Primary and Secondary Drinking Water Regulations: Approval of Analytical Methods for Chemical and Microbiological Contaminants; Proposed Rule.'' In this proposed rule, EPA sought comments on the proposed promulgation of multiple industry-developed methods, one of which was the Colitag™ method, a ''Test for Detection and Identification of Coliforms and *E. coli* Bacteria in Drinking Water and Source Water as Required in National Primary Drinking Water Regulations.'' This method was proposed for the analysis of total coliforms and *E. coli* in finished drinking water samples. After the close of the public comment period on the March 7 proposed rule, EPA received additional information from CPI International, developers of Colitag™, relevant to the performance of the method. Such information (herein after collectively referred to as ''additional information'') includes supplemental data as well as a re-evaluation of previously reported data included in the public record that supported the proposed approval of Colitag™. EPA is using today's action to invite comments on this additional information.

DATES: EPA must receive public comment, in writing, by January 2, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Send comments to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW–2002–0031. Follow the detailed instructions as provided in section I of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Herb Brass, Technical Support Center, Standards and Risk Management Division, Office of Ground Water and Drinking Water, Environmental Protection Agency, Mail Stop 140, 26 W. Martin Luther King Drive, Cincinnati, OH, PH: (513) 569–7926. E-mail: *brass.herb@epa.gov.* For general information and copies of this document, contact the Safe Drinking Water Hotline at (800) 426–4791. The hotline is open Monday through Friday, excluding Federal holidays, from 8:30 a.m. to 4:30 p.m. eastern standard time.

SUPPLEMENTARY INFORMATION:

I. General Information

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

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW–2002–0031. The official public docket 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 docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., eastern standard time, Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. For access to docket materials, please call (202) 566–1744 to schedule an appointment.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,''