

(ii) Limit the review of a record to those items of information that clearly bear on any determination to amend the records and ensure that those elements are reviewed before a determination is made.

(5) If an individual disagrees with the initial OSD Component determination, he or she may file an appeal. The request should be sent to the Chief, Records and Declassification Division, WHS, 1155 Defense Pentagon, Washington, DC 20301-1155.

(6) If, after review, the Records and Declassification Division determines the system of records should not be amended as requested, the Records and Declassification Division shall provide a copy of any statement of disagreement to the extent that disclosure accounting is maintained in accordance with Chapter 4 or DoD 5400.11-R. The Records and Declassification Division shall advise the individual:

(i) Of the reason and authority for the denial.

(ii) Of his or her right to file a statement of the reason for disagreeing with the Records and Declassification Division decision.

(iii) Of the procedures for filing a statement of disagreements.

(iv) That the statement filed shall be made available to anyone the record is disclosed to, together with a brief statement summarizing reasons for refusing to amend the records.

(7) If the Records and Declassification Division determines that the record should be amended in accordance with the individual's request, the OSD Component shall amend the record, and advise the individual of the amendment, in accordance with Chapter 4 of DoD 5400.11-R.

(8) All appeals should be processed within 30 workdays after receipt. If the Records and Declassification Division determines that a fair and equitable review cannot be made within that time, the individual shall be informed in writing of the reasons for the delay and of the approximate date the review is expected to be completed.

(g) *Disclosure of disputed information.* (1) If the Records and Declassification Division determines the record should not be amended and the individual has filed a statement of disagreement under paragraph (f)(7) of this section, the OSD Component shall annotate the disputed record so it is apparent under record disclosure that a statement has been filed. Where feasible, the notation itself shall be integral to the record. Where disclosure accounting has been made, the OSD Component shall advise previous recipients that the record has been

disputed and shall provide a copy of the individual's statement of disagreement in accordance with Chapter 4 of DoD 5400.11-R.

(i) This statement shall be maintained to permit ready retrieval whenever the disputed portion of the record is disclosed.

(ii) When information that is the subject of a statement of disagreement is subsequently disclosed, the OSD Component's designated official shall note which information is disputed and provide a copy of the individual's statement.

(2) The OSD Component shall include a brief summary of its reasons for not making a correction when disclosing disputed information. Such statements shall normally be limited to the reasons given to the individual for not amending the record.

(3) Copies of the OSD Component's summary will be treated as part of the individual's record; however, it will not be subject to the amendment procedure outlined in paragraph (c)(3) of this section.

(h) *Penalties.* (1) *Civil action.* An individual may file a civil suit against the OSD Component or its employees if the individual feels certain provisions or the Privacy Act have been violated as stated in 5 U.S.C. 552a.

(2) *Criminal action.* (i) Criminal penalties may be imposed against an OSD officer or employee for offenses listed in Section (i) of 5 U.S.C. 552a, as follows:

(A) Willful unauthorized disclosure of protected information in the records.

(B) Failure to publish a notice of the existence of a record system in the **Federal Register**.

(C) Requesting or gaining access to the individual's record under false pretenses.

(ii) An OSD officer or employee may be fined up to \$5,000 for a violation as outlined in paragraph (h)(2)(i) of this section.

(i) *Litigation status sheet.* Whenever a complaint citing 5 U.S.C. 552a is filed in a U.S. District Court against the Department of Defense, an OSD Component, or any OSD employee, the responsible system manager shall promptly notify the DPO. The litigation status sheet in DoD 5400.11-R provides a standard format for this notification. (The initial litigation status sheet shall, as a minimum, provide the information required by items 1, through 6. of DoD 5400.11-R) A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment or opinion shall be provided to the DPO with the litigation

status sheet reporting that judgment or opinion.

(j) *Computer matching programs.* Chapter 11, paragraph B of DoD 5400.11-R, prescribes that all requests for participation in a matching program (either as a matching agency or a source agency) be submitted to the DPO for review and compliance. The OSD Components shall submit these requests through the Records and Declassification Division.

§ 311.7 Information requirements.

The DPO shall establish requirements and deadlines for DoD privacy reports. These reports shall be licensed in accordance with DoD Directive 8910.1.⁸

Dated: January 16, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E7-800 Filed 1-22-07; 8:45 am]

BILLING CODE 5001-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2005-OH-0005; FRL-8272-9]

Approval and Promulgation of Implementation Plans; Ohio Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is re-proposing approval of Ohio rules concerning equivalent visible emission limits (EVELs). 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. EPA proposed to approve these rules on December 2, 2002, at 67 FR 71515. However, that proposal did not clearly solicit comment on the timing by which actions on EVELs by the State take effect. EPA is proposing that previous State modifications to EVELs would become effective at the federal level immediately upon the effective date of any final EPA action approving these Ohio rules. Similarly, any future action by the State to establish, modify, or rescind EVELs in accordance with the criteria given in these Ohio rules would become effective at the federal level immediately upon the effective date of the State action.

⁸ Copies may be obtained at <http://www.dtic.mil/whs/directives/>

DATES: Written comments on this proposed rule must arrive on or before February 22, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2005-OH-0005, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: mooney.john@epa.gov.
- *Fax*: (312) 886-5824.
- *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery*: 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 normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2005-OH-0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid

the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov index*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *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 legal 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 action is EPA taking today?
- II. What Should I Consider as I Prepare My Comments for EPA?
- III. Statutory and Executive Order Reviews

I. What action is EPA taking today?

EPA is re-proposing to approve Ohio rules providing for State issuance of equivalent visible emission limits (EVELs), rules which were a part of a set of particulate matter regulations that Ohio submitted on July 18, 2000. EPA originally proposed to approve these rules on December 2, 2002, at 67 FR 71515. However, that proposal did not clearly explain EPA's views regarding the consequences of approval on historic EVELs that were previously approved into the State Implementation Plan (SIP). EPA today is explaining its views and soliciting comment on this issue.

The rules that EPA proposes to approve provide that EVELs issued by the State in accordance with the specified criteria take effect without formal review by EPA. Consequently, when the State issues an EVEL for a unit at a source, this EVEL will supersede

any EVEL that may previously have been issued for that unit, regardless of whether or not the prior EVEL was part of the SIP. Similar consequences apply when the State terminates an EVEL for a unit at a source, presumably by issuing a permit or other enforceable document that re-establishes the standard opacity limits of OAC 3745-17-07 (A)(1) as the applicable opacity limits; that action will terminate the EVEL for that unit, again regardless of whether the prior EVEL was part of the SIP. EPA's understanding is that the State will periodically review whether previously issued EVELs are still warranted, as part of its management of the EVELs that apply in the State.

EPA is proposing that, as of the effective date of EPA finalizing this proposal, no EVEL shall apply unless Ohio has issued a currently effective EVEL in accordance with its Rule 3745-17-07(C), and the federally enforceable level of any such EVEL shall reflect the currently effective EVEL that the State has thus issued. Therefore, EPA is proposing to delete provisions of the Ohio SIP that contain EVELs, in particular paragraphs (c)(62) and (c)(65) of 40 CFR 52.1870.

EPA recognizes that the Ohio SIP contains other EVELs, implicitly included in SIP-approved permits or administrative orders that also contain other limits. For administrative convenience, EPA proposes not to modify the text of the SIP codification given in 40 CFR 52.1870 to discontinue these EVELs explicitly. Nevertheless, EPA proposes that when this proposed rulemaking becomes final and effective, these EVELs will automatically be discontinued and replaced by the opacity limits that Ohio has adopted more recently in accordance with the criteria given in Rule 3745-17-07(C). (The more recent permits or administrative orders may or may not have limits matching the prior SIP limits.) Similarly, EPA proposes that any future State action to establish, modify, or rescind opacity limits in accordance with the criteria in Rule 3745-17-07(C) shall immediately alter the federal opacity limit accordingly.

II. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

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

III. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a “significant regulatory action” and, therefore, is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

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.).

Regulatory Flexibility Act

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.).

Unfunded Mandates Reform Act

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).

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 proposes to approve 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 13175 Consultation and Coordination With Indian Tribal Governments

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).

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

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.

Executive Order 13211 Actions 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).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such

standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: January 11, 2007.

Mary A. Gade,

Regional Administrator

[FR Doc. E7-923 Filed 1-22-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R06-OAR-2006-0386; FRL-8272-6]

Approval and Promulgation of Implementation Plans; Texas; El Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On January 20, 2006, the Texas Commission on Environmental Quality (TCEQ) submitted a State Implementation Plan (SIP) revision to request redesignation of the El Paso carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). This submittal also included a CO maintenance plan for the El Paso area and associated Motor Vehicle Emission Budgets (MVEBs). The maintenance plan was developed to ensure continued attainment of the CO NAAQS for a period of 10 years from the effective date of EPA approval of redesignation to attainment. In this action, EPA is proposing to approve the El Paso CO redesignation request and the maintenance plan with its associated MVEBs as satisfying the requirements of the Federal Clean Air Act (CAA) as amended in 1990.

DATES: Written comments must be received by February 22, 2007.

ADDRESSES: Comments may be mailed to Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/