

## II. What Does the State Plan Contain?

The State submittal is based on the CISWI model rule (40 CFR 60.2575 to 60.2875) and incorporates by reference significant portions of that rule. As indicated in Table 1, the State plan contains the nine required elements.

The State plan contained or addressed all of the elements listed in Section 60.2515 of the December 1, 2000, model rule. The plan contained:

1. An inventory of affected CISWI units.
  2. An inventory of the emissions from each of the CISWI units.
  3. A State rule (326 IAC 11–8–2) specifying the requirement for a final control plan and specifying when the units must be in final compliance.
  4. Incorporation by reference (IBR) of EPA emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWI units.
  5. IBR for performance testing, recordkeeping, and reporting requirements.
  6. Certification that a hearing on the State plan was held, and a brief written summary of comments.
  7. A statement that the State will submit data and information using the EPA Aerometric Emissions Information Retrieval System.
  8. A discussion that the State chose as an enforcement mechanism, a State rule (326 IAC 11–8) which contains IBR of the EPA's CISWI EG.
  9. A detailed list which demonstrates the State has legal authority to carry out sections 111(d) and 129 of the Clean Air Act, in the State plan.
- The Indiana rule details the increments of progress for the affected CISWI. It also calls for final compliance by September 1, 2005, and, in this regard, is somewhat more restrictive than the EPA requirement.

## III. Does the State Plan Meet the EPA Requirements?

EPA evaluated the CISWI State plan submitted by Indiana for consistency with the Act, EPA regulations and policy. EPA has determined that the plan meets all applicable requirements and, therefore, is approving it. This approval is based on our findings that in addition to the technical elements provided by IDEM, that:

- (a) Provided adequate public notice of public hearings for the proposed rulemaking that allows Indiana to carry out and enforce provisions that are at least as protective as the EGs for CISWIs; and,
- (b) Demonstrated legal authority to: incorporate by reference emission

standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and, make emission data publicly available.

Additional details concerning EPA's evaluation of the Indiana plan are included in the technical support file available for inspection from the EPA contact listed above.

## IV. What Action Is EPA Taking Today?

EPA is approving the plan which Indiana submitted on December 20, 2002, for the control of emissions from existing CISWI sources in the State. EPA is publishing this approval notice without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rule section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the State plan in the event adverse comments are filed. If we do not receive any adverse comments by July 14, 2003 this action will be effective on August 11, 2003.

## V. Statutory and Executive Order Reviews

### *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 That Significantly Affect Energy Supply, Distribution, or Use*

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).

### *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 is not economically significant.

### *National Technology Transfer Advancement Act*

In reviewing plan 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 plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the