reassessments of the size of boilers at LTV and the University of Illinois. USEPA proposes to approve Illinois' budget demonstration, demonstrating that Illinois' cement kiln and industrial boiler rules, in conjunction with the state's rules for electricity generating units, are adequate to achieve the NO_X emissions level that USEPA has budgeted for the state. Therefore, USEPA proposes to conclude more generally that Illinois has satisfied the requirements of USEPA's NO_X SIP Call, again provided the governor signs legislation setting a fixed compliance deadline.

USEPA is not proposing action today on subpart X, entitled ''Voluntary NO_X Emissions Reduction Program.'' USEPA is continuing to review this portion of Illinois' submittal and plans to propose rulemaking on these rules in the near future.

V. 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. 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 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), nor will it 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), because it 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. This proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, USEPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. USEPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 20, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16292 Filed 6–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN138–1; FRL–7003–7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Indiana Department of Environmental Management (IDEM) on June 8, 2000. The revised SIP pertains to the Indiana motor vehicle inspection and maintenance (I/M) program. The purpose of this action is to approve certain amendments to the Indiana program, which EPA originally approved on March 19, 1996 (61 FR 11142).

DATES: Written comments must be received on or before July 30, 2001.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of this SIP revision request are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Francisco J. Acevedo at (312) 886–6061 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6061, E-Mail: acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''you'' and ''me'' refer to the reader of this proposed rulemaking and to sources subject to the State rule addressed by this proposed rulemaking, and the terms ''we,'' ''us,'' or ''our'' refer to the EPA.

Table of Contents

I. Background

A. What Is a State Implementation Plan (SIP)?

Section 110 of the Clean Air Act (Act or CAA) requires states to develop air pollution control regulations and strategies to ensure that state air quality meets the national ambient air quality standards established by the EPA. Each state must submit the regulations and emission control strategies to the EPA for approval and promulgation into the federally enforceable SIP.

Each federally approved SIP protects air quality primarily by addressing air pollution at its points of origin. The SIPs can be and generally are extensive, containing many state regulations or other enforceable documents and supporting information, such as emission inventories, monitoring documentation, and modeling (attainment) demonstrations.

B. What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the federally enforceable SIP, states must formally adopt the reuglations and emisison control strategies consistent with State and federal requirements. This process generally includes public notice, public hearings, public comment periods, and formal adoption by state-authorized rulemaking bodies.

Once a state has adopted a rule, regulation, or emissions control strategy it submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If we receive adverse comments we address them prior to any final federal action (we generally address them in a final rulemaking action).

The EPA incorporates into the federally approved SIP all state regulations and supporting information it has approved under section 110 of the Act. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, titled ''Aprpoval and Promulgation of Implementation Plans.'' The actual state regulations the EPA has approved are not reproduced in their entirety in the CFR, but are ''incorporated by reference,'' which means that EPA has approved a given state regulation (or rule) with a specific effective date.

C. What Does Federal Approval of a State Rule Mean to Me?

Enforcement of a state rule before and after it is incorporated into a federally approved SIP is primarily a state responsibility. After the rule is federally approved, however, the CAA authorizes the EPA to take enforcement actions against violators. The CAA also offers citizens legal recourse to address violations, as provided in section 304 of the Act.

D. What Is the Purpose of the Indiana I/M Rule?

Indiana's I/M requirements contained in 326 IAC 13–1.1 provide for emission standards and testing criteria for motor vehicles in Lake, Porter, Clark, and Floyd Counties. These counties are designated as ''nonattainment'' for ozone. Owners and operators of motor vehicles subject to Indiana's I/M program are required to maintain their motor vehicles and related air pollution related equipment in good working order and to have their vehicles' emissions checked every two years. The emissions testing program is a requirement of the Clean Air Act, and has been in place in these Indiana counties since 1984. On March 19, 1996 (61 FR 11142), EPA approved an upgrade to the Indiana I/M program as required by the Act. On June 8, 2000, Indiana submitted amendments to the I/M rule as a revision to the SIP for the purpose of updating program requirements gained from experience gained in the implementation of the Indiana program.

E. What Public Review Opportunities Did Indiana Provide for this Rule?

Indiana held a public hearing on the I/M rule on November 4, 1998, in Indianapolis, Indiana. The Indiana Air Pollution Control Board adopted final rules on December 2, 1998. The rule revisions became effective January 22, 1999, and were formally submitted to EPA on June 8, 2000, as a revision to the Indiana SIP for ozone.

II. Evaluation of the Rule

A. What Are the Changes to the State's I/M Rule?

1. Exemption of the Current Calendar Year Model Vehicle Plus the Three (3) Previous Model Year Vehicles From Emission Testing

The first change, at 326 IAC 13–1.1–2 (Applicability), specifically exempts the current calendar year's model plus the three (3) previous model year vehicles from emissions testing requirements, instead of only the most recent model year, as required in the original rule approved by EPA on March 19, 1996.

Test records for the Indiana program indicate that motor vehicles four (4) years old or newer have a failure rate of five tenths (0.5) percent compared to an average failure rate of thirteen and nine-tenths (13.9) percent for remaining vehicles tested. Indiana has determined that making this change will make the testing more efficient because newer cars, which have an extremely low failure rate, will not be unnecessarily tested. Further, cars which are required to be tested will have a reduced waiting time and increased accessability to test sites. This exemption of model years from emission testing is permissible, as long as the state can demonstrate that the program meets the performance standard for I/M programs as contained in 40 CFR 51.351 and 51.352. We have evaluated this change to the program using EPA's mobile source emission factor model (Mobile5b) and have determined that the program still meets the performance standard required for the Indiana program.

2. A Shortened Vehicle Emission Test

The second change provides for the use of a shortened vehicle emission test for gasoline powered, light and medium duty motor vehicles of model year 1981 through the current calendar year model. The original rule EPA approved on March 19, 1996 (61 FR 11142) specified the use of the 240-second transient vehicle emission test known as the ''IM240 test.'' The new shorter test uses the first 93-second test cycle of the IM240 test and is known as the ''IM93 test.'' Indiana includes the authority for both test types in 326 IAC 13–1.1–7. Both tests types are consistent with the requirements of the federal I/M requirements at 40 CFR 51.357.

IDEM has recently conducted a formal correlation study to compare the IM240 and the IM93 vehicle emissions tests in order to demonstrate that the shortened duration test is as effective in identifying vehicles with excessive emissions and quantifying the associated emission reductions. This will be determined once the state completes the correlation study and formally submits the results to EPA.

3. Testing of Vehicles Equipped With Second Generation On-board Diagnostics Systems (OBDII)

The third change adds provisions for the testing of vehicles equipped with second generation on-board diagnostics systems (OBDII) at 326 IAC 13–1.1–7 (Testing Parameter). OBDII computers monitor and actively perform diagnostics tests, looking at engine parameters such as air to fuel ratio and engine temperature. In vehicles equipped with OBDII systems, a malfunction indicator light illuminates if a system or component either fails or

deteriorates to the point where vehicle emissions could rise above one and one-half time the federal emission standards. OBDII systems are to be inspected as part of both IM240 and IM93 emission tests. Also at 326 IAC 13–1.1–8 (Testing Procedures and Standards), Indiana added OBDII equipment as one of several pieces of equipment that must be inspected and in working order before an emissions inspection will be performed. Furthermore, Indiana added a new section to provide for the testing of OBDII systems per EPA requirements. The new section at 326 IAC 13–1.1–17.1 (On-board diagnostics check), incorporates by reference federal requirements at 40 CFR part 51, subpart S, ''Requirements for Preparation, Adoption, and Submittal of Implementation Plans'' and 40 CFR part 85, subpart W, Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines. The key elements of the Indiana OBDII system check requirements are a check of the self diagnostic system to determine that it is functioning properly and has not been tampered with, a specification of the test sequence for the inspection of on-board diagnostic systems, and a specification of the test result provided with the on-board diagnostic test.

4. Elimination of the Off-cycle Test Currently Required When There Is a Change in Possession of Motor Vehicle Titles

The fourth change eliminates the off-cycle emission test originally required when there was a change in possession of motor vehicle titles. Indiana's program currently provides for vehicle emissions testing every two years. By requiring that motorists present a certificate of compliance for emission testing only during the year that testing is required based on their vehicle's model year in order to obtain registration, motorists can avoid having to unnecessarily test their vehicle multiple times during a single test cycle. This section meets the federal I/M requirements for test frequency and convenience found in 40 CFR 51.355.

5. Certified Inspection and Maintenance Emissions Repair Technician

The fifth change at 326 IAC 13–1.1–1 (Definitions) and 326 IAC 13–1.1–10 (Waivers and Compliance through Diagnostic Inspection) clarifies what is required of a repair shop and technician to become I/M certified, and makes clear that IDEM can rescind certification of a repair technician if he or she does not maintain the training or equipment requirements. The existing rule requires that repairs be performed by a certified repair technician in order to be considered in a waiver request. This section meets the requirements for inspector training and licences or certification found in 40 CFR 51.367

6. Vehicle Retest Limit

The sixth change in 326 IAC 13–1.1–10 (Waivers and Compliance through Diagnostic Inspection) sets a limit of four additional times that a vehicle may be tested after initial failure. A vehicle cannot be tested a fifth time until the type of repairs or modifications necessary has been evaluated by IDEM and the I/M contractor. This is intended to address those instances where motorists bring a failed vehicle in for multiple retests, even if minimal repairs have been made. This section meets the Federal I/M requirements for vehicle retesting found in 40 CFR 51.357.

7. Changes in the ''Definitions'' Section

Indiana has made some additional changes in 326 IAC 13–1.1–1 (Definitions), including amendments to the definitions of ''light duty motor vehicle;'' ''medium duty motor vehicle;'' and ''heavy duty motor vehicle.'' These changes do not affect the vehicle coverage requirements found in 40 CFR 51.356 which requires that light duty vehicles and light duty trucks rated up to 8,500 pounds gross vehicle weight rating be included in the program. In addition to the changes mentioned above, Indiana has added several definitions to address changes made in the other sections of the rule.

The rest of the changes to the rule are administrative in nature and are intended to enhance the clarity of the I/M rule, or improve the operation of the I/M program.

B. Is This Rule Approvable?

Our review of the material submitted indicates that the changes made to the Indiana I/M program addresses the Federal I/M program requirements. These rule revisions are, therefore, approvable.

III. Proposed Action

What Action Is EPA Proposing Today?

The EPA is proposing to approve Indiana's I/M SIP revision submitted by Indiana on June 8, 2000. The SIP revision amends certain program elements of Indiana's motor vehicle inspection and maintenance requirements.

IV. 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. 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 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), nor will it 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), because it 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. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the

necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. 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, Volatile organic compounds, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 19, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16291 Filed 6–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–7001–1]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before July 30, 2001.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 Section XXIII. This docket is available for public inspection and copying Monday–Friday during regular business hours at the following locations:

EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section XXIII, Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air–4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1197.

I. Background Information

A. Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by three local air pollution control agencies. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.