

have tribal implications, as specified in Executive Order 13175. The emissions sources affected by today's rulemaking action are not located within the Indian tribal nations; therefore, this rule will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

*Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to

perform activities conducive to the use of VCS.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective June 4, 2003.

*K. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Nitrogen oxides, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 25, 2003.

**Christine Todd Whitman,**  
*Administrator.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart T—Louisiana**

■ 2. § 52.992 is amended by adding paragraph (e) to read as follows:

**§ 52.992 Areawide nitrogen oxides (NO<sub>x</sub>) exemptions.**

\* \* \* \* \*

(e) On September 24, 2001, and on December 31, 2001, the LDEQ requested that EPA rescind the Baton Rouge section 182(f) and 182(b)(1) NO<sub>x</sub> exemptions that were approved by EPA, and published in the **Federal Register** on January 26, 1996 (61 FR 2438), and February 27, 1996 (61 FR 7218). The State based its request on photochemical grid modeling recently performed for the Baton Rouge State Implementation Plan (SIP) which indicates that controlling NO<sub>x</sub> sources will assist in bringing the Baton Rouge area into attainment with the National Ambient Air Quality Standard (NAAQS) for ozone. On May 7, 2002, EPA proposed approval of the State's request to rescind both NO<sub>x</sub> exemptions. Based on our review of the State's request and the supporting photochemical grid modeling the NO<sub>x</sub> exemptions are rescinded on May 5, 2003.

[FR Doc. 03-10888 Filed 5-2-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IN152-1a; FRL-7481-1]

**Approval and Promulgation of Implementation Plans; Indiana**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to volatile organic compound (VOC) regulations in 326 Indiana Administrative Code (IAC) 8-1-2. Indiana submitted a request for this State Implementation Plan (SIP) revision on October 21, 2002, and provided additional material to EPA on January 10, 2003. This revision affects miscellaneous metal coating operations performing dip or flow coating. One change would enable dip and flow coating operators to use a rolling 30-day average to meet VOC content limits, instead of the current daily compliance requirement. EPA has determined that the extended averaging period is more practical for these sources because of the difficulties associated with intermittently adding solvent and the higher transfer efficiency associated with dip and flow coating operations. Solvent is intermittently added to the coating tank to maintain proper viscosity. Dip and flow coating generally has a higher transfer

efficiency, which results in lower emissions, than spray coating. Indiana also added new equivalent emission limits for dip and flow coating, and made some additional, minor revisions. For the reasons discussed below, EPA is approving this submission.

**DATES:** This rule is effective on July 7, 2003, unless the EPA receives relevant adverse written comments by June 4, 2003. If adverse comment is received, the EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6524, E-Mail: [rau.matthew@epa.gov](mailto:rau.matthew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we," "us," or "our" are used we mean the EPA.

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- I. What is Indiana's current requirement?
- II. What are the changes from the current rule?
- III. What is the EPA's analysis of the submission?
- IV. What are the environmental effects of these actions?
- V. What rulemaking actions are the EPA taking?
- VI. Statutory and Executive Order Reviews.

**I. What Is Indiana's Current Requirement?**

The revisions to Indiana's SIP apply solely to dip and flow coating operations. Dip coating operations dip parts into a tank containing the coating to coat them. In flow coating, the coating pours over the parts to coat them. Both dip and flow coatings have better transfer efficiencies than any type of spray coating. Transfer efficiency is the volume of solids deposited over the volume of solids used. The high transfer efficiencies of both dip and flow coatings mean that waste and VOC

emissions are minimal. Under 326 IAC 8-1-2, dip and flow coating facilities have been required to use daily averaging to meet VOC content limits.

Dip or flow coating operations were required to use the equivalent emission limits in terms of mass per volume of solids deposited. Now they can use equivalent emission limits in terms of mass per volume of solids. The difference is that the former includes the transfer efficiency in calculating the limits. A transfer efficiency of 60% was used. Since dip and flow coating have high transfer efficiencies, complying with the new equivalent emission limits is easier for these sources. The underlying VOC content limits used to calculate the equivalent emission limits remain unchanged.

**II. What Are the Changes From the Current Rule?**

Under the revisions submitted by Indiana, owners and operators of dip coating and flow coating operations can now use the VOC content averaging method detailed in 326 IAC 8-1-2 (a)(9)(B), while provides for a rolling 30-day average. The average includes the VOC content from all coating and solvent added during the 30-day period.

Indiana also added new equivalent emission limits at 326 IAC 8-1-2 (a)(9)(A) for dip and flow coating operations. For these sources, the new limits replace the general miscellaneous metal coating limits found at 326 IAC 8-1-2 (a)(5)(C). Equivalent emission limits are expressed in terms of mass VOC per volume of coating solids, which is necessary to implement the VOC content averaging method. The equivalent emission limits for dip or flow coating are 1.22 kilograms VOC per liter of solids (kg/l) (10.2 pounds VOC per gallon (lb/gal)) for clear coatings, 0.80 kg/l (6.7 lb/gal) for air dried and extreme performance, and 6.1 kg/l (5.1 lb/gal) for all other coatings.

Indiana also made several minor revisions to 326 IAC 8-1-2. Most of these revisions are simple rewording or adding a word or phrase for clarity to portions of the rule. The equivalent emission limits for miscellaneous metal coating have been moved from 326 IAC 8-1-2 (a)(9)(A) to (a)(5)(C). Indiana also establishes a baseline solvent density of 7.36 pounds of VOC per gallon in 326 IAC 8-1-2 (b)(1).

The revisions to 326 IAC 8-1-2 were adopted on August 7, 2002, by the Air Pollution Control Board. The rule was filed with the Secretary of State on November 15, 2002, and effective on December 15, 2002. It was published in 26 Indiana Register 1073 on January 1, 2003.

**III. What Is EPA's Analysis of the Submission?**

According to Indiana, the current requirement to determine compliance on a daily average basis was inconsistent with certain procedures required for proper operation of dip and flow facilities. In order to maintain proper coating viscosity, so that the coating will be applied correctly, solvent thinner (generally all VOCs) has to be intermittently added and there are practical difficulties with allocating the thinner to a specific day because it is not directly applied to the metal part, as in spray coating.

In addition, dip and flow coating operations have higher transfer efficiency, which results in lower emissions, than spray painting. Therefore, the 30-day rolling average approach is reasonable because of the difficulties associated with intermittently adding solvent thinner and the higher transfer efficiency associated with dip and flow coating operations.

The new equivalent emission limits for dip or flow coating operations are consistent with the recommended emission limits in EPA guidance for surface coating of miscellaneous metal parts and products. The baseline solvent density of 7.36 lb VOC/gal in 326 IAC 8-1-2 (b)(1) is acceptable. This is the average solvent density, so it will provide a reasonable emission limit. The actual solvent density is required in 326 IAC 8-1-2 (b)(2) to calculate the actual emissions. The other rule revisions are acceptable as they help clarify the rule.

**IV. What Are the Environmental Effects of These Actions?**

Reactions involving VOC and nitrogen oxides in warm air form tropospheric (ground level) ozone. Ozone decreases lung function, causing chest pain and coughing. It can aggravate asthma and other respiratory diseases. The highest concentrations of ozone occur in the warm months of the year. Children playing outside and healthy adults who work or exercise outside also may be harmed by elevated ozone levels. Ozone also reduces vegetation growth and reproduction.

The revisions to 326 IAC 8-1-2 make it more practical for sources to continue using dip or flow coating. Dip and flow coating generally has a higher transfer efficiency than spray coating, which results in lower VOC emissions. Therefore, these revisions should not have an adverse impact on air quality.

### V. What Rulemaking Actions Are the EPA Taking?

The EPA is approving, through direct final rulemaking, revisions to VOC emissions regulations for Indiana miscellaneous metal coating operations using dip or flow coating contained in 326 IAC 8-1-2. These revisions consist of changing the averaging period for dip and flow coating facilities, adding equivalent emission limits, creating a baseline solvent density, and rewording several portions of the rule. For the reasons discussed above, EPA believes these revisions are reasonable and consistent with the Act.

We are publishing this action without a prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on July 7, 2003 without further notice unless we receive relevant adverse written comment by June 4, 2003. If the EPA receives adverse written comment, we will publish a final rule informing the public that this rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA does not intend to institute a second comment period on this action. Any parties interested in commenting on these actions must do so at this time.

### VI. 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 Concerning Regulations 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 (Public Law 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 SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for

EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

#### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: April 2, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart P—Indiana**

■ 2. Section 52.770 is amended by adding paragraph (c)(158) to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(158) On October 21, 2002 and January 10, 2003, Indiana submitted revised volatile organic compound regulations for dip and flow coating operations. The revisions include replacing daily compliance with a rolling thirty day average and adding new equivalent emission limits.

(i) Incorporation by Reference.

Amendments to Indiana

Administrative Code Title 326: Air Pollution Control Board, Article 8: Volatile Organic Compound Rules, Rule 1: General Provisions, Section 2: Compliance Methods. Filed with the Secretary of State on November 15, 2002, and effective on December 15, 2002. Published in 26 *Indiana Register* 1073 on January 1, 2003.

[FR Doc. 03-10997 Filed 5-2-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7491-1]

**Texas: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule; technical corrections.

**SUMMARY:** The State of Texas has applied for Final authorization to revise its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA reviewed Texas' application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. As such, EPA published an immediate final rule on April 15, 2003 for a 30-day public review and comment period. The comment period will run until close of business May 15, 2003. Today's publication is a technical correction to the State Analog chart, listing the State regulations that are equivalent to the Federal rules.

**DATES:** This technical correction is in regard to the preamble of an immediate

final rule which will become effective June 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 1445 Ross Avenue, Dallas Texas 75202-2733, (214) 665-6444.

**SUPPLEMENTARY INFORMATION:**

**A. Technical Corrections**

There were printing errors which inadvertently deleted some of the State's regulatory citations from the State's Texas Commission on Environmental Quality (TCEQ) **Federal Register** notice published on April 15, 2003, 68 FR 18126-18133, that notice listed the State's regulations that are equivalent to the rules promulgated to the Federal RCRA implementing regulations in 40 CFR parts 124, 260-268, 270, 273 and 279. Some of the State regulations in that chart were deleted and the following chart lists the correct citations of the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs; [61 FR 34252] July 01, 1996. (Checklist 153).	Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.78(f)(3)(A)-(G) and (g)(3)(A)-(G), effective October 19, 1998.
2. Hazardous Waste Treatment; Storage and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments and Containers; [61 FR 59931] November 25, 1996; [59 FR 62896] December 6, 1994; [60 FR 26828] May 19, 1995; [60 FR 50426] September 29, 1995; [60 FR 56952] November 13, 1995; [61 FR 4903]; [61 FR 28508] June 5, 1996]. (Checklists 154, 154.1, 154.2, 154.3, 154.4, 154.5, and 154.6).	Texas Water Code Annotated Section 5.103 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health and Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.061 (Vernon 2001), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, effective November 15, 2001, as amended; Section 335.24(e), and effective April 4, 1999, as amended, Sections 335.69(f)(2), 335.69(a)(1)(A)-(B), effective November 15, 2001, as amended; Sections 335.152(a)(1), 335.152(a)(4), 335.152(a)(7)-(9), 335.152(a)(16)-(19), effective November 18, 2001; 335.111(a), effective November 15, 2001; 335.112(a)(1), 335.112(a)(4), 335.112(a)(8)-(10), 335.112(a)(19)-(21), 335.112(a)(24), effective November 18, 2001; 305.122(a), effective November 15, 2001, as amended and 305.50(4)(A), effective November 18, 2001, as amended.