

The VOC emission limits for each coating category require that each coating (with no averaging between coatings) must comply with the limits on an as-applied (that is, including any thinner added) basis. This requirement is reinforced in IDEM's October 1, 2002, letter.

#### *C. 326 IAC 8-12-5 Compliance Requirements*

The compliance requirements in this section were replaced by the NESHAPS requirements in 40 CFR 63.784 and 40 CFR 63.785. These requirements include an equation to determine the maximum allowable thinning ratio. The emission limit, in units of grams VOC/liter of solids (as opposed to the pounds VOC/gallon units in Indiana's rule), is one of the terms in this equation. IDEM's October 1, 2002, letter includes a table that specifies the limits for each coating category in terms of grams VOC/liter of solids, thus facilitating use of this equation. This revision, therefore, improves the effectiveness of this rule by explicitly establishing how much thinner can be added to a coating without exceeding the applicable emission limit.

#### *D. 326 IAC 8-12-6 Test Methods and Procedures*

The test methods and procedures in this section were replaced by the NESHAPS requirements in 40 CFR 63.786. The NESHAPS test methods include the use of EPA's Method 24 for determining VOC content and are therefore approvable.

#### *E. Recordkeeping, Notification and Reporting Requirements*

This section replaces the previous requirements with the NESHAPS requirements in 40 CFR 63.787 and 40 CFR 63.788. This results in a change from daily to monthly recordkeeping. Although going from daily to monthly recordkeeping may sometimes constitute a relaxation, it is not in this case. As discussed previously, Indiana's rules were changed from allowing compliance to be determined on a daily average to requiring that each coating comply on an as-applied basis without averaging. Monthly recordkeeping does not interfere with enforceability of these emission limits because it is only necessary for the VOC content of the coatings to be identified without consideration of any averaging.

### **III. Rulemaking Action**

EPA is approving, through direct final rulemaking, revisions to the VOC rules for the shipbuilding and ship repair industry. This rule applies to the

coating operations carried out by the shipbuilding and ship repair industries in Clark, Floyd, Lake, and Porter counties of Indiana. This revision amends 326 IAC 8-12. EPA is approving: Increasing of the individual coating exemptions from 20 gallons per year to 25 gallons per year in 326 IAC 8-12-2; the decreasing of the amount of total allowable exempt coatings from 400 gallons per year to 264 gallons per year in 326 IAC 8-12-2; the changing of the wording of 326 IAC 8-12-4 by moving the words, "from May 1 through September 30," from 8-12-4(a)(2) to 8-12-4(a)(2)(B); the replacing of portions of the VOC rules, sections 326 IAC 8-12-5 through 326 IAC 8-12-7, dealing with compliance requirements, test methods and procedures, recordkeeping requirements, notification requirements, and reporting requirements with the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements in sections 40 CFR 63.784 through 40 CFR 63.788.

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 June 2, 2003, without further notice unless we receive relevant adverse written comment by May 1, 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.

### **IV. Statutory and Executive Order Reviews**

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. 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 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.*). 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).

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). 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. 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.

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. 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.*).

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