

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

**PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

**§ 165.T09-506 [Removed]**

2. Remove § 165.T09-506
3. Add § 165.912 to read as follows:

**§ 165.912 Security Zone; Lake Erie, Perry, OH.**

(a) *Location:* The following area is a security zone: all navigable waters of Lake Erie bounded by a line drawn between the following coordinates beginning at 41° 48.187' N, 081° 08.818' W; then due north to 41° 48.7' N, 081° 08.818' W; then due east to 41° 48.7' N, 081° 08.455' W; then due south to the south shore of Lake Erie at 41° 48.231' N, 081° 08.455' W; thence westerly following the shoreline back to the beginning (NAD 83).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Cleveland, or the designated on-scene representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: July 31, 2002.

**L. W. Thomas,**

*Commander, U.S. Coast Guard, Captain of the Port, MSO Cleveland.*

[FR Doc. 02-20483 Filed 8-12-02; 8:45 am]

**BILLING CODE 4910-15-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA246-0353a; FRL-7254-8]

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District, Ventura County Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from miscellaneous metal parts coating, aerospace assembly and component manufacture and coating, pleasure craft coating and boatyard operations, and resin manufacturing. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on October 15, 2002 without further notice, unless EPA receives adverse comments by September 12, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection

Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765; and, Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA, 93993.

**FOR FURTHER INFORMATION CONTACT:**

Jerald S. Wamsley, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4111.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal****A. What Rules Did the State Submit?**

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SCAQMD	1141	Control of Volatile Organic Compound Emissions From Resin Manufacturing .....	11/17/00	03/14/01
SCAQMD	1124	Aerospace Assembly and Component Manufacturing Operations .....	09/21/01	01/22/02
SCAQMD	1107	Coating of Miscellaneous Metal Parts and Products .....	11/19/01	03/15/02
VCAPCD	74.24.1	Pleasure Craft Coating and Commercial Boatyard Operations .....	01/08/02	03/15/02

We determined these rule submittals met the completeness criteria in 40 CFR

part 51 Appendix V on the following dates: Rule 1141, May 25, 2001; Rule

1124, February 27, 2002; Rule 1107, May 7, 2002; and, Rule 74.24.1, May 7,

2002. These completeness criteria must be met before formal EPA review can begin.

#### *B. Are There Other Versions of These Rules?*

We approved versions of these rules into the SIP on the dates listed: SCAQMD Rule 1141, December 20, 1993; SCAQMD Rule 1124, August 1, 1998; SCAQMD Rule 1107, February 12, 2002; and, VCAPCD Rule 74.24.1, August 31, 1999. Between these SIP incorporations and today, CARB has made no intervening submittals of these rules.

#### *C. What Is the Purpose of the Submitted Rule Revisions?*

SCAQMD Rule 1141 specifies process and manufacturing requirements for resin manufacturers designed to reduce VOC emissions. These processes include resin manufacturing by continuous polystyrene process, a liquid phase high density polyethylene slurry, and a liquid phase polypropylene process. SCAQMD made the following revisions to Rule 1141:

- The definitions of Exempt Compound and VOCs are deleted and replaced with a reference to Rule 102—Definition of Terms;
- An alternative for monthly recordkeeping is added if the resin manufacturing operations are not subject to a daily production limit or daily VOC limit within any other rule or permit; and,
- A usage cut-off exemption is added providing for a monthly limit of 220 pounds of VOC per month should a facility keep monthly records.

SCAQMD Rule 1124 is a rule designed to reduce VOC emissions at industrial sites engaged in the assembly and manufacture of aerospace components for aircraft and space vehicles. Rule 1124's requirements apply to maskant applicators, aircraft refinishers, aircraft fastener manufacturers, aircraft operators, and aircraft maintenance and service facilities. The revisions SCAQMD made to Rule 1124 are listed below.

- An additional year is allowed for the 250 gr/l emission limit for adhesive bonding primers to become effective in 1/1/03.
- Adhesive bonding primers used in remanufactured parts will remain indefinitely at 805 gr/l instead of lowered to 250 gr/l as in the 1998 SIP rule.
- Adhesion promoters are reinstated at an 850 gr/l limit and dropping to 250 gr/l in 2005.

- The exemption for rubber solution fuel tank coatings is extended from 1/01/02 to 1/01/05.
- The emissions limit for antichafe coatings is reduced from 600 gr/l to 420 gr/l, effective 3/01/02.
- The emissions limit for fire resistant coating used in military applications is reduced from 970 gr/l to 800 gr/l, effective 3/01/02.
- The emissions limit for extrudable, brushable, and rollable sealants is reduced from 600 gr/l to 280 gr/l, effective 3/01/02.
- A specialty category for mold release coatings is added with an emissions limit of 750 gr/l.
- Finally, the emissions limit for Type II chemical milling maskants is reduced from 250 gr/l to 160 gr/l, effective 3/01/02.

SCAQMD Rule 1107 is a rule designed to reduce VOC emissions at industrial sites engaged in metal coating operations. VOCs are emitted during the preparation and coating of the metal parts, as well as the drying phase of the coating process. Listed below are the significant revisions that SCAQMD made to Rule 1107. Other minor revisions are listed in the TSD.

- A limited exemption for electrocoatings with a 450 gram/liter VOC content. These coatings are further limited by use to 66 gallons per month. Additional definitions were added to facilitate this amendment.
- The applicability statement has been amended to distinguish Rule 1107 from Rule 1113—Architectural Coatings.
- Test methods were added to determine the acid content of pretreatment primers and etching filters, to quantify the weight percent of elemental aluminum metal coatings and the metal content for metals other than aluminum in coatings, and to determine low concentration non-ethane organic compound emissions.

- Finally, several expired compliance dates were deleted.

VCAPCD Rule 74.24.1 is a rule designed to reduce VOC emissions at industrial sites engaged in manufacturing or repairing vessels in commercial boatyards. Most of these vessels are operated, leased, rented, or chartered to a person or business for recreational purposes. VOCs are emitted during the preparation, repair, and coating of vessels, as well as the drying phase of the coating process.

VCAPCD amendments to Rule 74.24.1 included the changes described below.

- The emissions limit for antifoulant coatings was raised from 330 grams per liter (gr/l) to 400 gr/l.

- The emissions limit for two-component topcoats was raised from 490 gr/l to 650 gr/l.
- New spray gun cleaning requirements were added to the rule.
- Low vapor pressure cleaning solvent requirements for spray gun cleaning and general clean up were added to the rule.
- Test methods were added for determining composite vapor pressure and active and passive solvent losses from spray gun cleaning.
- Finally, definitions were added to facilitate the new spray gun cleaning and solvent requirements.

Each of the subject TSDs have more information about these rules.

## **II. EPA's Evaluation and Action**

### *A. How Is EPA Evaluating the Rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the Clean Air Act (CAA or the Act)), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD and VCAPCD regulate an ozone nonattainment area (see 40 CFR part 81), so each of these rules must fulfill RACT.

Guidance and policy documents that we used to help evaluate specific enforceability and RACT requirements consistently are listed below.

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Control of Volatile Organic Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations," USEPA, 1997, EPA-453/R-97-004, and subsequent revisions.

4. "Control of Volatile Organic Emissions from Existing Stationary Sources Volume VI: Surface Coating of Miscellaneous Metal Parts and Products," USEPA, June 1978, EPA-450/2-78-015.

### *B. Do the Rules Meet the Evaluation Criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The revisions to each rule will be reviewed particularly concerning SIP relaxations.

With Rule 1141 and similar rules, SCAQMD staff did several studies to examine the probable emissions effects of amending the recordkeeping threshold. These studies examined the overall emission effects and 1141 rule-related effects of a change in recordkeeping requirements. The concern was whether or not a facility would change its daily activities and resulting emission patterns when allowed a monthly recordkeeping regime as opposed to a daily requirement. From the results of the overall study, it appeared that average daily usage did not change under either recordkeeping regime. Also, SCAQMD found that there would be no change in either overall, or daily VOC emissions for the resin manufacturers due to adding the monthly recordkeeping option. The requirements of the rule do not change regardless of the recordkeeping option chosen.

The exemption for 220 pounds of VOC per calendar month is an extension of the size-cutoff of 10 pounds per day. It is unlikely that a manufacturing firm would so significantly increase its operations and resulting emissions as to idle its plant for most of a month while operating under a 220 pound emissions cap related to recordkeeping. SCAQMD's study found that 35 of 40 resin manufacturing firms in the South Coast did not qualify for either the daily or monthly exemption. The remaining 5 firms were already exempt from the rule. Therefore, adding a monthly size-cutoff for recordkeeping would not allow sources to avoid regulation. To conclude, the submitted Rule 1141 does not interfere with reasonable further progress or attainment. We do not expect either the daily pattern of emissions, or the number of exempt sources to increase.

Concerning Rule 1124, SCAQMD staff calculated the net effect on VOC emissions of the amendments to the rule. Initial foregone emission reductions are estimated to be 48 pounds per day. By 2005, when all lower emissions limits take effect, the amount of foregone emissions reductions is estimated to be 12 pounds per day. Compared to an estimated

annual average VOC emissions of 5211 pounds per day for the aerospace source category, these foregone emission reductions amount to an increase of 0.23%. Furthermore, an added 12 pounds/day is unlikely to interfere with RFP or attainment of the NAAQS when considered against the 323 tons per day of VOC emissions that would be allowed under the current SIP approved attainment plan. In conclusion, EPA has determined that 12 pounds per day are unlikely to interfere with reasonable further progress or attainment.

Prior to amending Rule 1107, SCAQMD staff compared a 3 pounds (lb) of VOC/gallon coating, the SIP-approved rule VOC content, applied with existing conventional techniques, with using a 3.75 lb VOC/gallon coating applied using electrophoresis. Because of the higher transfer efficiency and the thinner applied coating thickness, the electrophoresis coating technique resulted in less VOC emissions when coating the same surface area. At this time, the exemption for electrophoresis coating techniques is used by a single source. To conclude, the Rule 1107 will not interfere with reasonable further progress or attainment. Net emissions are expected to decrease slightly given the different application methodology.

When considering the revisions to Rule 74.24.1, VCAPCD staff estimated that the new spray gun cleaning and low vapor pressure solvent requirements will offset the two relaxed emission limits by 1000 pounds per year. The rule relaxations for anti-foulant and two component topcoats will result in an increase of 900 pounds per year. This estimate is based on actual coating use and permit limits for the four boatyards affected by the rule. New spray gun cleaning and low vapor pressure cleaning solvent use are expected to reduce emissions by 1900 pounds per year. To conclude, the submitted Rule 74.24.1 does not interfere with reasonable further progress or attainment. The net effect of amendments to the rule is to reduce VOC emissions.

The subject TSD has more information on our evaluation of each rule.

### C. EPA Recommendations To Further Improve the Rules

The TSDs for SCAQMD Rules 1141 and 1124 describe additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

### D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by September 12, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 15, 2002. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. Background Information

### A. Why Were These Rules Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency VOC rules.

TABLE 2—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978 .....	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988 .....	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990 .....	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.

TABLE 2—OZONE NONATTAINMENT MILESTONES

Date	Event
May 15, 1991 .....	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

#### IV. Administrative Requirements

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 (Pub. L. 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. section 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. section 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 October 15, 2002. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 16, 2002.

**Keith Takata,**

*Associate Regional Administrator, Region IX.*

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 F—California

2. Section 52.220 is amended by revising paragraph (c)(286) introductory text, and by adding paragraphs (c)(286)(i)(A)(3), (c)(293)(i)(A)(2), (c)(297)(i)(A)(3) and (c)(297)(i)(C) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(286) New and amended regulations for the following APCDs were submitted on March 14, 2001 by Governor’s designee.

(i) \* \* \*

(A) \* \* \*

(3) Rule 1141 adopted on July 8, 1983, and amended on November 17, 2000.

\* \* \* \* \*

(293) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 1124 adopted on July 6, 1979, and amended on September 21, 2001.

\* \* \* \* \*

(297) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) Rule 74.24.1 adopted on November 10, 1998, and amended on January 8, 2002.

\* \* \* \* \*

(C) South Coast Air Quality Management District.

(1) Rule 1107 adopted on June 1, 1979, and amended on November 9, 2001.

\* \* \* \*

[FR Doc. 02-20349 Filed 8-12-02; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IN 143-1a; FRL-7249-4]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** On March 5, 2002, the Indiana Department of Environmental Management (IDEM) submitted revisions to the Indiana Administrative Code (IAC) for approval into the Indiana State Implementation Plan (SIP). IDEM amended this submittal in a letter dated May 3, 2002. This regulatory update changes rule language concerning Indiana's permitting programs. Included in this submittal is a provision to assure that applicable requirements exist independently of title V permits. EPA is approving the rule language in this submittal because it is consistent with EPA's regulations governing state permit programs.

**DATES:** This direct final rule is effective October 15, 2002 without further notice unless EPA receives adverse comments in writing by September 12, 2002. If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be addressed to Ms. Pamela Blakley, Chief, Permits and Grants Section (IL/IN/OH), Attention: Mr. Sam Portanova, at the EPA Region 5 office listed below. Copies of the state's submittal and other supporting information used in developing this direct final rule are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois, 60604. Please contact Sam Portanova at (312) 886-3189 to arrange a time if inspection of the submittal is desired.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois, 60604, Telephone Number: (312) 886-3189, E-Mail Address: [portanova.sam@epa.gov](mailto:portanova.sam@epa.gov).

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

What is being addressed in this document?  
What are the program changes that EPA is approving?

What is involved in this final action?

#### What Is Being Addressed in This Document?

On March 5, 2002, IDEM submitted regulatory provisions for approval into the state SIP. IDEM amended this submittal on May 3, 2002. This submittal includes 326 IAC 2-1.1-9.5 which is related to the implementation of Indiana's air permit programs. In today's action, EPA approves the submitted rule language into the Indiana SIP.

#### What Are the Program Changes That EPA Is Approving?

Indiana's construction permits expire upon issuance of a valid title V permit. Title V requires, however, that applicable requirements exist independently of title V permits. Prior to the adoption of 326 IAC 2-1.1-9.5, Indiana's rules did not assure that construction permit conditions exist independently of title V permits. Therefore, this issue was identified as not meeting the program approval requirements of title V and 40 CFR part 70 in a notice of program deficiency (NOD) for the Indiana title V program published in the December 11, 2001 **Federal Register** (66 FR 64039).

Indiana revised the state regulations in 326 IAC 2-1.1-9.5 to say that "any condition established in a permit issued pursuant to a permitting program approved into the state implementation plan shall remain in effect until: (1) The condition is modified in a subsequent permit action; or (2) the emission unit to which the condition pertains permanently ceases operation." "Subsequent permit action" in this rule refers to a permit action taken pursuant to Indiana's construction permit authority. Since title V does not confer authority to modify existing applicable requirements, including construction permit conditions, "subsequent permit action" does not include permit actions taken pursuant to Indiana's title V program. In today's action, EPA approves this regulatory provision into the Indiana SIP. This approval satisfies Indiana's requirement to correct an identified title V program deficiency and resolves the issue published in the December 11, 2001 NOD.

#### What Is Involved in This Final Action?

EPA approves 326 IAC 2-1.1-9.5 into the Indiana SIP. The approval of this

regulation resolves a deficiency issue raised in EPA's December 11, 2001 NOD of the Indiana title V program.

#### Administrative Requirements

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