

Document: Proposed Rule

Source: January 1, 2001, Indiana Register, Volume 24, Number 4

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TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #00-69

DIGEST

Amends 326 IAC 8-12 concerning ship building and ship repair. Adds 326 IAC 20-26 to incorporate by reference federal standards for shipbuilding and ship repair. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: April 1, 2000, Indiana Register (23 IR 1737).

Second Notice of Comment Period and Notice of First Hearing: September 1, 2000, Indiana Register (23 IR 3206).

Date of First Hearing: December 6, 2000.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

Because this proposed rule is not substantively different from the draft rule published on September 1, 2000, at 23 IR 3206, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from September 1, 2000, through September 30, 2000, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On December 6, 2000, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of new rule 326 IAC 20-26 and amendments to 326 IAC 8-12. No comments were made at the first hearing.

326 IAC 8-12-2

326 IAC 8-12-6

326 IAC 8-12-4

326 IAC 8-12-7

326 IAC 8-12-5

326 IAC 20-26

SECTION 1. 326 IAC 8-12-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-12-2 Exemptions

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 2. The following marine coatings are exempt from the volatile organic compound emissions limiting requirements contained in section 4 of this rule:

(1) Any marine coating used in volumes of less than ~~twenty (20)~~ **twenty-five (25)** gallons in any one (1) calendar year. ~~provided, however,~~ The total of all exempt coatings shall not exceed ~~four hundred (400)~~ **two hundred sixty-four (264)** gallons in any one (1) calendar year.

(2) Any marine coating applied using a hand-held aerosol can.

(3) Any marine coating used in a touch-up operation.

(Air Pollution Control Board; 326 IAC 8-12-2; filed Apr 1, 1996, 10:00 a.m.: 19 IR 1751)

SECTION 2. 326 IAC 8-12-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-12-4 Volatile organic compound emissions limiting requirements

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 4. (a) On and after May 1, 1996, the owner or operator of a shipbuilding or ship repair facility subject to this rule shall comply with the following VOC emissions limiting requirements:

- (1) Provisions applicable to specialty coatings are as follows:
 - (A) Special marking coatings shall not exceed a VOC content of four and eight-hundredths (4.08) pounds per gallon.
 - (B) Heat resistant and high-gloss coatings shall not exceed a VOC content of three and fifty-hundredths (3.50) pounds per gallon.
 - (C) High-temperature coatings shall not exceed a VOC content of four and seventeen-hundredths (4.17) pounds per gallon.
 - (D) Weld-through (shop) preconstruction primers shall comply with subdivisions (3) through (5).
 - (E) Any other specialty coating shall not exceed a VOC content of two and eighty-three hundredths (2.83) pounds per gallon.
- (2) During application of any general use coating, ~~from May 1 through September 30~~, VOC emissions shall be limited as follows:
 - (A) The VOC content of any general use coating shall not exceed two and eighty-three hundredths (2.83) pounds per gallon, as applied.
 - (B) **From May 1 through September 30**, no thinner shall be added to any general use coating.
- (3) During application of any weld-through (shop) preconstruction primer, VOC emissions shall be limited throughout the year as follows:
 - (A) Water based weld-through (shop) preconstruction primer shall be used.
 - (B) The VOC content of weld-through (shop) preconstruction primer, as applied, shall not exceed zero (0).
 - (C) No cleaning material shall be used in the primer application facility.
 - (D) No thinner shall be added to the weld-through (shop) preconstruction primer.
- (4) If the owner or operator of a shipbuilding or ship repair facility determines that a water based weld-through (shop) preconstruction primer can no longer be used due to an operational, performance, or availability constraint associated with the water based weld-through (shop) preconstruction primer, the source shall do the following:
 - (A) Notify the department within seven (7) days of discontinuing use of the water based weld-through (shop) preconstruction primer.
 - (B) Submit to the department for approval a plan for an alternative control within sixty (60) days of discontinuance. The alternative control shall consist of one (1) of the following:
 - (i) A water based weld-through (shop) preconstruction primer.
 - (ii) A control system with a minimum overall VOC emissions reduction efficiency of ninety-five percent (95%) that is subject to each of the following requirements:
 - (AA) The operation, maintenance, and testing requirements of 326 IAC 8-7-9.
 - (BB) The monitoring, record keeping, and reporting requirements of 326 IAC 8-7-10.
 - (C) Install the alternative control within nine (9) months of approval by the department of the plan required in clause (B).
- (5) During the time between the date when the owner or operator of the shipbuilding or ship repair facility discontinues the use of the water-based preconstruction primer and the date when the alternative control is installed, the weld-through (shop) preconstruction primer used by the owner or operator of such shipbuilding or ship repair facility shall not exceed a VOC content of five and sixty-five hundredths (5.65) pounds per gallon or the VOC content for weld-through (shop) preconstruction primer prescribed by the U.S. EPA in a final regulation establishing National Emissions Standards for Shipbuilding and Ship Repair (Surface Coating), whichever is lower.

(b) On and after May 1, 1996, a source subject to this rule shall comply with the following work practice standards:

- (1) Cleaning accessories, such as, but not limited to, paper, cloth, and rags that have been used for cleaning surfaces and equipment and that contain cleaning materials shall be stored in normally closed gasket sealed containers.
- (2) VOC-containing solvents and coatings shall be stored in normally closed sealed containers prior to use. Spent VOC-containing solvents and coatings shall be stored in normally closed gasket sealed containers.
- (3) Cleaning materials for cleaning spray equipment, including paint lines, shall not be used unless the equipment for collecting the cleaning materials and minimizing its evaporation to the atmosphere is used.
- (4) All handling and transfer of VOC-containing materials to and from containers, tanks, vats, drums, and piping systems shall be conducted in a manner that minimizes drips and spills, and any drips and spills shall be cleaned up promptly.
- (5) All containers, tanks, vats, drums, and piping systems shall be free of cracks, holes, and other defects and must be closed unless materials are being added to or removed from them.

(c) The owner or operator of sources subject to this rule shall comply with the following training requirements:

- (1) On or before January 1, 1996, the owner or operator shall develop a written worker training program. The training program shall be included in the compliance plan required to be submitted to the department for review by section 7(b)(1) of this rule.
- (2) On or before May 1, 1996, all workers, including contractors, shall have completed a training program if they engage in any of the activities listed in subdivision (3).
- (3) The training program may include training provided by the manufacturer or supplier of coatings, cleaning materials, or the application equipment thereof, and shall include written procedures, hands-on demonstration, as appropriate, and certification by the trainer of the trainee's ability to perform the task, on the following activities:
 - (A) Identification of appropriate coatings or cleaning materials.
 - (B) Preparation of coatings or cleaning materials according to coating or cleaning material manufacturer, distributor, or owner or operator's recommendations.
 - (C) Application of coatings or cleaning materials, or organic solvents using techniques that minimize their usage.
 - (D) Procedures to clean spray guns to minimize evaporation of organic solvents to the atmosphere.
 - (E) Work practice standards established in subsection (b).
 - (F) Procedures to gather, record, monitor, and report data in accordance with section 7 of this rule.
- (4) Beginning in 1997, the owner or operator shall provide annual refresher training prior to May 1 to any worker performing one (1) or more of the activities listed in subdivision (3). Such training shall be appropriate to the job responsibilities of the worker.
- (5) Any worker may perform one (1) or more activities listed in subdivision (3), for not more than one hundred eighty (180) days, notwithstanding the requirement of subdivision (2), provided:
 - (A) such untrained worker works under the supervision of a worker who meets the training requirements of subdivision (2); and
 - (B) the owner or operator keeps records of:
 - (i) the date the worker was assigned to the activity;
 - (ii) the date training was completed; and
 - (iii) the name of the worker providing the supervision.
- (6) The owner or operator shall keep records of the training program. The records shall consist of the following:
 - (A) The date training was completed.
 - (B) A list of workers by name and worker activities listed in subdivision (3) in which each worker has been trained.
 - (C) A statement signed by the person providing the training certifying that the worker completed training and is proficient in the activities listed in subdivision (3) in which the worker will be engaged.

(Air Pollution Control Board; 326 IAC 8-12-4; filed Apr 1, 1996, 10:00 a.m.: 19 IR 1753)

SECTION 3. 326 IAC 8-12-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-12-5 Compliance requirements

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 5. (a) Sources subject to the requirements of this rule and the requirements of 326 IAC 20-26 shall comply with the requirements of 40 CFR 63.784 and 40 CFR 63.785*, as incorporated by reference in 326 IAC 20-26, in lieu of this section.

(b) Compliance requirements applicable to surface coating operations at a source subject to this rule are as follows:

(1) Compliance with the VOC emissions limiting requirements of section 4(a) of this rule shall be achieved on an as applied basis for each operating day for the following products:

- (A) Coatings.
- (B) Cleaning materials.

(2) Compliance with the work practice standards of section 4(b) of this rule shall be achieved each operating day.

(3) Compliance with the VOC emissions limiting requirements of section 4(a) of this rule shall be demonstrated using U.S. EPA Method 24*. However, in lieu of testing each container of coating for VOC content, the alternative procedures that follow may be used:

(A) If a coating as supplied by the manufacturer is applied to the substrate, in lieu of testing each container of coating using U.S. EPA Method 24*, a source subject to this rule may use the following alternative compliance procedure:

- (i) Use a certificate issued by the manufacturer certifying the VOC content for each batch of coating.
- (ii) Notify the coating applicators that they shall not add any thinner to the coatings.
- (iii) Specify the procedure to be used to notify the coating applicators in the compliance plan required to be submitted in section 7(b)(1) of this rule.

(B) From May 1 through September 30, thinner may not be added to any general use coating. If a thinner is added to a coating

before its application to the substrate, in lieu of testing the coating as applied using U.S. EPA Method 24*, a source subject to this rule may use the following alternative compliance procedure:

- (i) Use a certification from the coating manufacturer for each batch of that coating certifying its VOC content as supplied.
- (ii) Record the volume of coating used.
- (iii) Record the volume of thinner used.
- (iv) Record the VOC content of thinner used.
- (v) Type of coating.

(4) In the compliance plan required to be submitted to the department by section 7(b)(1) of this rule, the source shall specify the compliance procedure or procedures allowed under subdivision (3) that it intends to use to demonstrate compliance with the VOC emissions limiting requirements of section 4(a) of this rule. If the source desires to use a compliance procedure other than one (1) of the three (3) described in subdivision (3), the source shall include in its compliance plan an application for approval by the department and the U.S. EPA of the proposed compliance procedure, subject to the following conditions:

(A) The application shall include a demonstration that there is a definite and consistent relationship between U.S. EPA Method 24* results and the alternative procedure results.

(B) The source shall ensure that the coatings it uses are supplied by coating manufacturers that use the procedures in "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paints, Ink, and Other Coatings" (revised June 1986), U.S. EPA 450/3-84-019* to certify the VOC content of coatings and thinners.

(C) The source may use the alternative procedure during the time the application is being reviewed by the department and the U.S. EPA.

(5) The department may test or have tested any coating for VOC content using U.S. EPA Method 24*. If there is a discrepancy between the results of testing for VOC content, Method 24 test results shall take precedence.

*Copies of Method 24 of 40 CFR 60, **40 CFR 63.784**, **40 CFR 63.785**, and "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paints, Ink, and Other Coatings" (revised June 1986), U.S. EPA 450/3-84-019 may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced material are available from the Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-12-5; filed Apr 1, 1996, 10:00 a.m.: 19 IR 1755*)

SECTION 4. 326 IAC 8-12-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-12-6 Test methods and procedures

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 6. (a) Sources subject to the requirements of this rule and the requirements of 326 IAC 20-26 shall comply with the requirements of 40 CFR 63.786*, as incorporated by reference in 326 IAC 20-26, in lieu of this section.

(b) The methods and procedures set forth in 326 IAC 8-1-4, U.S. EPA Method 24* of 40 CFR 60, Appendix A, and section 5 of this rule shall be used to ensure compliance with the VOC emissions limiting requirements of section 4(a) of this rule.

*Copies of Method 24 of 40 CFR 60, Appendix A and **40 CFR 63.786** may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are available from the Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-12-6; filed Apr 1, 1996, 10:00 a.m.: 19 IR 1756*)

SECTION 5. 326 IAC 8-12-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-12-7 Record keeping, notification, and reporting requirements

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 7. (a) Sources subject to the requirements of this rule and the requirements of 326 IAC 20-26 shall comply with the requirements of 40 CFR 63.787 and 40 CFR 63.788*, as incorporated by reference in 326 IAC 20-26, in lieu of this section.

(a) (b) The following records shall be maintained at the facility for a minimum of three (3) years:

- (1) Certification of the annual training program.
- (2) The following records for each working day of the surface coating operation:
 - (A) The following for each coating:
 - (i) Trade name, manufacturer, coating category consistent with the definitions in section 3 of this rule, and applicable VOC content consistent with section 4 of this rule.
 - (ii) VOC content as supplied.
 - (iii) Certification from the coating manufacturer, MSDS, or product data sheet for each coating used.
 - (iv) Volume of coating used.
 - (v) Thinner added, if any, including the following:
 - (AA) Description.
 - (BB) VOC content.
 - (CC) Volume added.
 - (B) The following for each solvent:
 - (i) Description.
 - (ii) Description of use, including the following:
 - (AA) Thinning.
 - (BB) Cleanup.
 - (iii) VOC content.
 - (iv) Volume used for thinning.
 - (v) Volume used for cleanup.
- (3) Copy of the compliance plan required by subsection (b)(1).
- (4) Copy of the quarterly compliance report required by subsection (b)(2).

~~(b)~~ (c) Notification and reporting requirements are as follows:

(1) On or before January 1, 1996, each source subject to this rule shall submit to the department for review a compliance plan. The department may require revisions to the compliance plan. A source may revise its compliance plan upon notifying the department in writing that a change to the compliance plan is necessary because there has been a major change in its manufacturing practices.

The compliance plan shall include and address the following:

- (A) Compliance procedure and an application for using alternative demonstration procedure if the owner or operator of the shipbuilding and ship repair facility intends to use an alternative procedure to demonstrate compliance as specified in section 5 of this rule.
- (B) Training program as specified in section 4(c) of this rule.
- (C) Procedures to comply with record keeping, including data gathering requirements specified in subsection (a)(2).
- (D) Procedures to comply with work practice standards of section 4(b) of this rule.

(2) Beginning May 1, 1996, and within sixty (60) days after the end of each quarter, each source subject to this rule shall submit a quarterly compliance report. Reporting frequency may be changed to semiannually after May 1, 1997, if a source complying with the requirements of this rule requests such change in writing and the department determines that semiannual reporting is adequate to assure compliance with this rule. The department shall examine the source's compliance records in considering such request.

The quarterly report shall contain the following information:

- (A) Compliance status as of the last day of the quarter for the following:
 - (i) Work practice standards.
 - (ii) Training program.
 - (iii) Emission standards.
 - (iv) Compliance procedures.
 - (v) Provisions of the compliance plan.

(B) Date, duration, nature, and cause of each instance of noncompliance with the requirements listed in clause (A) and the corrective action taken.

(C) An explanation for each instance of noncompliance with the requirements listed in clause (A), including whether the noncompliance is exempt due to a state or federal provision. If there is a state or federal provision providing an exemption for the noncompliance, the basis of the exemption must be cited.

***Copies of 40 CFR 63.787 and 40 CFR 63.788 may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are available from the Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (Air Pollution Control Board; 326 IAC 8-12-7; filed Apr 1, 1996, 10:00 a.m.: 19 IR 1756)**

SECTION 6. 326 IAC 20-26 IS ADDED TO READ AS FOLLOWS:

Rule 26. Shipbuilding and Ship Repair Surface Coating Operations

326 IAC 20-26-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12-3-1

Sec. 1. (a) This rule applies to affected sources as defined in 40 CFR 63.781*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart II*, National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair Surface Coating Operations.

(c) Sources, as defined in 326 IAC 8-12-1, that are subject to this rule, may be subject to 326 IAC 8-12. Sources subject to this rule and 326 IAC 8-12-5 through 326 IAC 8-12-7 shall comply with the requirements of 40 CFR 63.784 through 40 CFR 63.788* in lieu of 326 IAC 8-12-5 through 326 IAC 8-12-7.

***Copies of 40 CFR 63, Subpart II, may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are available from the Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (Air Pollution Control Board; 326 IAC 20-26-1)**

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on February 7, 2001 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 8-12 new rule 326 IAC 20-26.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rule and amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Suzanne Whitmer, Rule Development section, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). Technical information may be obtained from Pat Daniel, Program Planning and Policy section, (317) 233-0429 or (800) 451-6027, press 0, and ask for extension 3-0429 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-1785. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Management