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TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD #02-189(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING LEAD-BASED PAINT ACTIVITIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules in 326 IAC 23 to implement the requirements of House Enrolled Act 1171. 326 IAC 23 concerns the licensing and approval of individuals and firms engaged in lead-based paint activities and training programs providing instruction in such activities. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 23.

AUTHORITY: IC 13-14-9; IC 13-17-14-5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

IDEM established a lead-based paint program in 326 IAC 23 effective February 5, 1999, to ensure that a person conducting lead-based paint activities in certain specified housing and child-occupied facilities does so in a manner that protects the health of the building's occupants, especially children six (6) years of age and younger. This program requires a person to be licensed by IDEM to perform lead-based paint abatement activities. It establishes fees for the licensing of individuals, contractors, and the approval of training courses and training course providers. This program is similar to the accreditation program for asbestos workers.

In 2002, the Indiana General Assembly enacted HEA 1171, which amends the Indiana Code under IC 13-17-14 for the lead-based paint program. HEA 1171 requires the air pollution control board to amend 326 IAC 23 by July 1, 2003, to incorporate the new statutory changes. This rulemaking will meet that requirement. HEA 1171 may be reviewed at www.state.in.us/legislative.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#02-189(APCB) Lead-based paint
Kathryn A. Watson, Chief

Air Programs Branch
Office of Air Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by July 31, 2002.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Janet McCabe
Assistant Commissioner
Office of Air Quality