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TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #03-284(APCB)

DEVELOPMENT OF NEW RULES CONCERNING INCORPORATION BY REFERENCE OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SECONDARY ALUMINUM; PHARMACEUTICALS PRODUCTION; AMINO AND PHENOLIC RESINS; POLYETHER POLYOLS PRODUCTION; SOLVENT EXTRACTION OF VEGETABLE OIL; SEMICONDUCTOR MANUFACTURING; AND REFRACTORY PRODUCTS MANUFACTURING

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules to incorporate by reference the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for secondary aluminum; pharmaceuticals production; amino and phenolic resins; polyether polyols production; solvent extraction of vegetable oil; semiconductor manufacturing; and refractory products manufacturing. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. 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 20-57; 326 IAC 20-58; 326 IAC 20-59; 326 IAC 20-60; 326 IAC 20-61; 326 IAC 20-62; 326 IAC 20-70.

AUTHORITY: IC 13-14-8; IC 13-14-9-7; IC 13-17-3-4; IC 13-17-3-11.

STATUTORY REQUIREMENTS

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under IC 13-14-9-3 would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The 1990 Amendments to the Clean Air Act require the United States Environmental Protection Agency (U.S. EPA) to regulate major sources of hazardous air pollutants (HAPs). A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that has the potential to emit, considering controls, ten (10) tons per year or more of any single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of HAPs. HAPs are listed by U.S. EPA because they are either known or suspected to cause cancer or other serious health effects. There are currently one hundred eighty-eight (188) HAPs listed in the Clean Air Act. On July 16, 1992 (57 FR 311576), U.S. EPA published a list of industrial groups or source categories

that emit one (1) or more of the one hundred eighty-eight (188) listed HAPs. The Clean Air Act requires U.S. EPA to develop emission standards, referred to as national emission standards for hazardous air pollutants (NESHAPs), that require the application of air pollution reduction measures based on maximum achievable control technology (MACT) for the listed source categories. The “MACT floor” is the minimum control level allowed for NESHAPs and ensures that the standard is set at a level that assures that all existing major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

IDEM must incorporate the federal requirements into state rules or establish state requirements that are no less stringent than the federal requirements. This rulemaking will incorporate by reference the following NESHAPs:

Secondary Aluminum Production Plants

Secondary aluminum production plants recover aluminum from secondary sources such as beverage cans, foundry returns, and dross. Examples of processes that release air toxics include aluminum scrap shredding, thermal chip drying, and furnace operations. The type of air toxics released varies widely due to the variety of process operations, but may include: metals, organic compounds, and acid gases such as hydrogen chloride and chlorine. Health effects may include cancer, respiratory irritation, and damage to the nervous system. Nationwide, U.S. EPA estimates this rule will reduce emissions of air toxics by about twelve thousand four hundred twenty (12,420) tons per year, a reduction of nearly seventy percent (70%) for secondary aluminum production plants. There are thirty-seven (37) potential identified sources in Indiana.

Pharmaceuticals Production

Pharmaceuticals production includes chemical production operations used to produce drugs and medication. Processes include chemical synthesis, which is deriving a drug’s active ingredient; and chemical formulation, which is producing a drug in its final form. Emission points of affected sources include storage tanks, process vents, equipment leaks, wastewater collection and treatment systems, and cooling towers. Air toxics emitted include: methylene chloride, methanol, toluene, and hydrogen chloride. These toxics are known or suspected of causing cancer and other serious health effects. Nationwide, U.S. EPA estimates this rule will reduce emissions of air toxics by about twenty-four thousand (24,000) tons, a reduction of nearly sixty-five percent (65%) for pharmaceuticals production. There are eight (8) potential identified sources in Indiana.

Amino and Phenolic Resins

Amino and phenolic resins are used in the manufacturing of plywood, particle board, adhesives, wood furniture, and plastic parts. Regulated chemicals used to manufacture amino and phenolic resins include: formaldehyde, phenol, methanol, xylene, and toluene. Formaldehyde, especially, is a probable human carcinogen, and short term exposure may cause respiratory tract effects in humans. Nationwide, U.S. EPA estimates this rule will reduce emissions of a number of air toxics by three hundred sixty-one (361) tons per year, a reduction of fifty-one percent (51%). There are no potential identified sources at this time in Indiana.

Polyether Polyols Production

Polyether polyols are produced during the chemical production operations used in making lubricants, adhesives, sealants, cosmetics, soaps, and feedstock polymers for urethane production. Emissions of air toxics are produced from different stages of production. Emission points of affected sources include storage tanks, process vents, equipment leaks, and wastewater treatment systems. Processes include emissions from a number of air toxics including ethylene oxide, propylene oxide, toluene, and hexane. Ethylene oxide, for example, is a probable human carcinogen that causes adverse reproductive and developmental effects. Nationwide, U.S. EPA estimates reduction of air toxics by two thousand (2,000) tons annually, a reduction of fifty percent (50%) for polyether polyols production sources. In addition, since many of these chemicals are also volatile organic compounds that contribute to the formation of ozone, this rule will also help to reduce ground-level ozone. There are no potential identified sources at this time in Indiana.

Solvent Extraction for Vegetable Oil Production

This rule affects facilities that use hexane to extract oil from vegetable seeds. Long term exposure to hexane can cause permanent nerve damage in humans. There are at least eight (8) types of oilseeds used: soybeans, cottonseed, rapeseed (canola), corn germ, sunflower, safflower, peanuts, and flax. The rule restricts plantwide hexane emissions from each affected facility rather than requiring individual controls at each emission point. U.S. EPA expects that the facilities will comply with this rule by upgrading equipment to recover and recycle solvents. Nationwide, U.S. EPA estimates that this rule will reduce emissions of hexane by six thousand eight hundred (6,800) tons per year and ozone forming volatile organic compounds by ten thousand six hundred (10,600) tons per year. There are four (4) potential identified sources at this time in Indiana.

Semiconductor Manufacturing

The semiconductor manufacturing industry is a subset of the electronics manufacturing industry that produces integrated circuits. Integrated circuits are used in products such as computers, appliances, radios, and CD players. Air toxics emitted include hydrochloric acid, hydrofluoric acid, glycol ethers, methanol, and xylene. Process vents containing organic air toxics are required to reduce emissions by ninety-eight percent (98%) or to below twenty parts per million by volume (20ppmv), while inorganic process vents are required to reduce emissions by ninety-five percent (95%) or to below four-tenths and two-hundredths parts per million by volume (0.42ppmv). Storage tanks greater than one thousand five hundred (1,500) gallons capacity are required to reduce emissions to the same level of control as inorganic process vents. There are two (2) potential identified sources in Indiana.

Refractory Products Manufacturing

Refractory products are heat-resistant materials that provide the linings for high-temperature furnaces, reactors, and other process units that include extreme temperatures, corrosion, and abrasion. Air toxics emitted from the manufacture of refractory products include formaldehyde, polycyclic organic matter, phenol, ethylene glycol, and methanol. The rule will also limit the emissions of hydrogen fluoride and hydrochloric acid from new kilns that manufacture clay refractory products and will require the use of natural gas as fuel for existing clay refractory product manufacturers. Nationwide, U.S. EPA estimates a reduction of air toxics by one hundred thirty-seven (137) tons a year, a reduction of fifty percent (50%) from 1996 levels. There are two (2) potential identified sources in Indiana.

Identification of Restrictions and Requirements Not Imposed Under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. Affected entities must comply with the federal rule, and IDEM does not propose to add more stringent requirements.

Public Participation and Workgroup Information

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is necessary, please contact Gayla Killough, Rules Development Section, Office of Air Quality at (317) 233-8628 or (800) 451-6021 (in Indiana).

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on the incorporation by reference of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for secondary aluminum production plants; pharmaceuticals production; amino and phenolic resins; polyether polyols production; solvent extraction of vegetable oil; semiconductor manufacturing; and refractory products manufacturing. These findings are prepared under IC 13-14-9-7 and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law and also state law to adopt national emission standards for hazardous air pollutants as established by the U.S. EPA.
- (3) The public will benefit from prompt adoption of this rule, because the state will have the legal authority to enforce these national emissions standards for hazardous air pollutants.
- (4) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (5) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#03-284(APCB) Group 3 NESHAPS
Gayla Killough
c/o Administrative Assistant
Rules Development Section

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 receptionist on duty at the Tenth floor reception desk, Office of Air Quality, 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 December 1, 2003.

Additional information regarding this action may be obtained from Gayla Killough, Rules Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 20-57 IS ADDED TO READ AS FOLLOWS:

Rule 57. Pharmaceuticals Production

326 IAC 20-57-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1250*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart GGG*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-57-1*)

SECTION 2. 326 IAC 20-58 IS ADDED TO READ AS FOLLOWS:

Rule 58. Amino and Phenolic Resins

326 IAC 20-58-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1400*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart OOO*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-58-1*)

SECTION 3. 326 IAC 20-59 IS ADDED TO READ AS FOLLOWS:

Rule 59. Polyether Polyols Production

326 IAC 20-59-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1420*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart PPP*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-59-1*)

SECTION 4. 326 IAC 20-60 IS ADDED TO READ AS FOLLOWS:

Rule 60. Solvent Extraction for Vegetable Oil Production

326 IAC 20-60-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.2832*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart GGGG*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-60-1*)

SECTION 5. 326 IAC 20-61 IS ADDED TO READ AS FOLLOWS:

Rule 61. Semiconductor Manufacturing

326 IAC 20-61-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.7181* (68 FR 27925, May 22, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart BBBBB*, (68 FR 27925, May 22, 2003, National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-61-1*)

SECTION 6. 326 IAC 20-62 IS ADDED TO READ AS FOLLOWS:

Rule 62. Refractory Products Manufacturing

326 IAC 20-62-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.9782* (68 FR 18747, April 16, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart SSSSS*, (68 FR 18747, April 16, 2003, National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-62-1*)

SECTION 7. 326 IAC 20-70 IS ADDED TO READ AS FOLLOWS:

Rule 70. Secondary Aluminum

326 IAC 20-70-1 Applicability; incorporation by reference of federal standards

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.1500* (67 FR 79815, December 30, 2002).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart RRR*, (67 FR 79815, December 30, 2002, National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum).

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-70-1*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on January 7, 2004 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Air Pollution Control Board will hold a public hearing on new rules 326 IAC 20-57, 326 IAC 20-58, 326 IAC 20-59, 326 IAC 20-60, 326 IAC 20-61, 326 IAC 20-62, 326 IAC 20-70.

The purpose of this hearing is to receive comments from the public prior to preliminary 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. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayla Killough, Rules Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

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) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM 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 Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, 10th Floor, Indianapolis, Indiana and are open for public inspection.