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TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND SECOND NOTICE OF COMMENT PERIOD #04-107(APCB)

DEVELOPMENT OF NEW RULES CONCERNING INCORPORATION BY REFERENCE OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR ASPHALT PROCESSING AND ASPHALT ROOFING MANUFACTURING; BRICK AND STRUCTURAL CLAY PRODUCTS MANUFACTURING; CLAY CERAMICS MANUFACTURING; COKE OVENS: PUSHING, QUENCHING, AND BATTERY STACKS; ENGINE TEST CELLS/STANDS; HYDROCHLORIC ACID PRODUCTION; PRINTING, COATING, AND DYEING OF FABRICS AND OTHER TEXTILES; SURFACE COATING OF METAL FURNITURE; AND SURFACE COATING OF WOOD BUILDING PRODUCTS

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 asphalt processing and asphalt roofing manufacturing; brick and structural clay products manufacturing; clay ceramics manufacturing; coke ovens: pushing, quenching, and battery stacks; engine test cells/stands; hydrochloric acid production; printing, coating, and dyeing of fabrics and other textiles; surface coating of metal furniture; and surface coating of wood building products. 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 20-71; 326 IAC 20-72; 326 IAC 20-73; 326 IAC 20-74; 326 IAC 20-75; 326 IAC 20-76; 326 IAC 20-77; 326 IAC 20-78; 326 IAC 20-79.

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

STATUTORY REQUIREMENTS

IC 13-14-9-8 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 there is no anticipated benefit from the first and second public comment periods, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify

- the existing rule; and
- (2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:
- (A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;
 - (B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and
 - (C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

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 a 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.

For most NESHAPs, the final compliance deadline is three (3) years after the rule promulgation date. Most NESHAPs have intermediate compliance dates and require a compliance plan prior to the final compliance deadline. For NESHAPs where only minor changes are required in order to comply with the promulgated NESHAP, the compliance date is less than three (3) years.

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:

Asphalt Processing and Asphalt Roofing Manufacturing

Asphalt processing produces blown asphalt for use in the asphalt roofing manufacturing industry and other asphalt industries. Asphalt roofing manufacturing produces shingles and roll roofing products by applying the blown asphalt to fiberglass and felt substances. Air toxics, such as formaldehyde and hexane, will be reduced at numerous emission points that include blowing stills, asphalt storage tanks, asphalt loading operations, coating mixers, coaters, saturators, wet loopers, and applicators. Nationwide, HAP will be reduced by eight-six (86) megagrams (ninety-five (95) tons) annually. Hydrocarbon emission will be reduced by about five hundred twelve (512) tons annually. U.S. EPA has not identified any potential sources in Indiana. Sources must comply by May 1, 2006.

Brick and Structural Clay Products Manufacturing

The brick and structural clay products manufacturing process consists of preparing raw materials, such as clay and shale, forming the processed materials into bricks and other shapes, and drying and firing bricks and clay products. Air toxics that occur during the manufacture of face brick, structural brick, brick pavers, clay pipe, roof tile, extruded floor, and wall tile will be reduced thirty-five percent (35%) from the estimated baseline according to U.S. EPA estimates. Types of potential air toxics that can be emitted are hydrogen fluoride, hydrogen chloride, antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, and lead. There are at least two (2) potential Indiana sources. Sources must comply by May 16, 2006.

Clay Ceramics Manufacturing

Clay ceramics manufacturing was originally included with brick and structural clay product manufacturing, but has been addressed in a separate NESHAP. The clay ceramic manufacturing process consists of processing clay, shale, and other additives, forming the processed materials into tile and sanitaryware shapes, and drying, glazing, and firing clay ceramic products. Source material may contain small amount of metals that can cause adverse health affects. The NESHAP requires that all kilns use natural gas or an equivalent clean-burning fuel. Compliance costs

are expected to be minimal. There are at least two (2) potential Indiana sources. Sources must comply by May 16, 2006.

Coke Ovens: Pushing, Quenching, and Battery Stacks

Coke plants produce coke from coal using coke oven batteries. Coke is used in blast furnaces in the conversion of iron ore to iron, which is further reduced to steel. Pushing is the process of removing coke from the oven after the coal has been coked. Quenching is the cooling of coke by deluging it with water. The NESHAP establishes opacity limits and requires operation of continuous opacity monitors for battery stacks. U.S. EPA estimates a forty-three percent (43%) reduction from current levels for various air toxics, such as benzene and naphthalene. There are at least three (3) potential Indiana sources. Sources must comply by April 14, 2006.

Engine Test Cells/Stands

An engine test cell/stand is any apparatus used for testing uninstalled mobile engines. The four subcategories include: internal combustion engines of less than twenty-five (25) horsepower; internal combustion engines of more than twenty-five (25) horsepower; combustion turbine engines; and rocket engines. Engine test cells/stands emit air toxics, such as benzene, toluene, and mixed xylenes, in the exhaust gases from combustion of gaseous and liquid fuels being tested in the engine cell/stand. U.S. EPA estimates the NESHAP will reduce emissions by sixty-six (66) tons per year per test cell/stand. There are at least six (6) potential sources in Indiana. Sources must comply by May 27, 2006.

Hydrochloric Acid Production

Hydrochloric acid is produced to be used in a variety of industrial processes including refining ore, pickling and cleaning of metal products; electroplating, cleaning boilers; neutralizing chemically basic systems; fertilizers; dyes; textiles; rubber; and preparing various food products. The NESHAP will only apply to facilities that produce liquid hydrochloric acid at a concentration of thirty percent (30%) by weight or greater. U.S. EPA estimates reduction of hydrochloric acid emission by forty-nine percent (49%) compared to current levels. There are at least three (3) potential Indiana sources. Sources were required to submit a notice of compliance by June 26, 2003, or sixty (60) days after beginning of operation for new sources.

Printing, Coating, and Dyeing of Fabrics and Other Textiles

Rolls of fabric are coated and printed on either one (1) or both sides for decorative and functional purposes. Dyeing is the application of color to textile material, such as yarn, thread, cord, fiber, fabric, or other textile material. Finishing is the process performed after dyeing. The NESHAP requires pollution prevention techniques. U.S. EPA estimates a sixty percent (60%) reduction from an estimated 1997 baseline. There is at least one (1) potential Indiana source. Sources must comply by May 29, 2006.

Surface Coating of Metal Furniture

Surface coating is the process of applying a coating that is usually decorative or protective, in this case to the surface of metal furniture. Air toxic emissions, such as VOCs, occur from the coating application, which includes curing and drying of the coating; and from the evaporation of organic cleaning materials used to prepare the surfaces before coating is applied and to clean equipment and tools. Facilities will comply with the NESHAP using powder coating technology or toxics-free liquid coatings. U.S. EPA estimates a seventy-three percent (73%) reduction from 1997-1998 baseline. There are at least two (2) potential Indiana sources. Sources must comply by May 23, 2006.

Surface Coating of Wood Building Products

Surface coating is the process of applying a coating that is usually decorative or protective, in this case to the surface of wood building products. Wood building products include exterior siding and primed door skins; flooring, such as paneling and tileboard; and windows. Air toxics emissions, such as VOCs, occur from the coating application operation, which includes curing and drying of the coating, and from the evaporation of organic cleaning materials used to prepare the surfaces before coating is applied and to clean equipment and tools. U.S. EPA estimates a sixty-three percent (63%) reduction from the 1997 baseline. There are at least five (5) potential Indiana sources. Sources must comply by May 28, 2006.

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 appropriate, please contact Gayl 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 asphalt processing and asphalt roofing manufacturing; brick and structural clay products manufacturing; clay ceramics manufacturing; coke ovens: pushing, quenching, and battery stacks; engine test cells/stands; hydrochloric acid production; printing, coating, and dyeing of fabrics and other textiles; surface coating of metal furniture; and surface coating of wood building products. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) The draft 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 state law to adopt NESHAPs or adopt rules that are as stringent as the federal regulations.
- (3) The citizens and regulated community of Indiana will benefit from prompt adoption of this rule because the state will have the legal authority to enforce these NESHAPs.
- (4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (5) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan

Commissioner

Indiana Department of Environmental Management

DRAFT RULE

SECTION 1. 326 IAC 20-71 IS ADDED TO READ AS FOLLOWS:

Rule 71. Asphalt Processing and Asphalt Roofing

326 IAC 20-71-1 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 63.8681* (68 FR 24578, May 7, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart LLLLL* (67 FR 24578, May 7, 2003, National Emission Standards for Hazardous Air Pollutants for Asphalt Roofing And Processing).

***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 20-71-1*)**

SECTION 2. 326 IAC 20-72 IS ADDED TO READ AS FOLLOWS:

Rule 72. Brick and Structural Clay Products

326 IAC 20-72-1 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 63.8385 (68 FR 26722, May 16, 2003)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart JJJJJ (68 FR 26722, May 16, 2003, National Emission Standards for Brick and Structural Clay Products)*.

***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 20-72-1)**

SECTION 3. 326 IAC 20-73 IS ADDED TO READ AS FOLLOWS:

Rule 73. Clay Ceramics Manufacturing

326 IAC 20-73-1 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 63.8535*(68 FR 26738, May 16, 2003)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart KKKKK*(68 FR 26738, May 16, 2003, National Emission Standards for Clay Ceramics Manufacturing)*.

***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 20-73-1)**

SECTION 4. 326 IAC 20-74 IS ADDED TO READ AS FOLLOWS:

Rule 74. Coke Ovens: Pushing, Quenching, and Battery Stacks

326 IAC 20-74-1 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 63.7281 (68 FR 18026, April 14, 2003)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart CCCCC*(68 FR 18025, April 14, 2003, National Emission Standards for Coke Ovens: Pushing, Quenching, and Battery Stacks)*.

***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 20-74-1)**

SECTION 5. 326 IAC 20-75 IS ADDED TO READ AS FOLLOWS:

Rule 75. Engine Test Cells/Standards

326 IAC 20-75-1 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 63.9285* (68 FR 28785, May 27, 2003)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart P P P P P (68 FR 28785, May 27, 2003, National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands)*.

***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 20-75-1)**

SECTION 6. 326 IAC 20-76 IS ADDED TO READ AS FOLLOWS:

Rule 76. Hydrochloric Acid Production

326 IAC 20-76-1 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 63.8985* (68 FR 19090, April 17, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart N N N N N* (68 FR 19090, April 17, 2003, National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production).

***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 20-76-1)**

SECTION 7. 326 IAC 20-77 IS ADDED TO READ AS FOLLOWS:

Rule 77. Printing, Coating, and Dyeing of Fabrics and Other Textiles

326 IAC 20-77-1 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 63.4281* (68 FR 32188, May 29, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart O O O O O* (68 FR 32188, May 29, 2003, National Emission Standards for Hazardous Air Pollutants for Printing, Coating, and Dyeing of Fabrics and Other Textiles).

***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 20-77-1)**

SECTION 8. 326 IAC 20-78 IS ADDED TO READ AS FOLLOWS:

Rule 78. Surface Coating of Metal Furniture

326 IAC 20-78-1 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 63.4881* (68 FR 28620, May 23, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart RRRR* (68 FR 28620, May 23, 2003, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Furniture).

**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 20-78-1)*

SECTION 9. 326 IAC 20-79 IS ADDED TO READ AS FOLLOWS:

Rule 79. Surface Coating of Wood Building Products

326 IAC 20-79-1 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 31760, May 28, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart QQQQ* (68 FR 31760, May 28, 2003, National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products).

**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 20-79-1)*

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 June 2, 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 20-71, 326 IAC 20-72, 326 IAC 20-73, 326 IAC 20-74, 326 IAC 20-75, IAC 20-76, IAC 20-77, 326 IAC 20-78, and 326 IAC 20-79.

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 Gayl 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, Tenth Floor, Indianapolis, Indiana
and are open for public inspection.*