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TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE #04-236 (APCB)

DEVELOPMENT OF NEW RULES CONCERNING ORGANIC LIQUID DISTRIBUTION (NON-GASOLINE), MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING, SURFACE COATING OF AUTOMOBILES AND LIGHT DUTY TRUCKS, SURFACE COATING OF METAL CANS, SITE REMEDIATION, AND MISCELLANEOUS COATING 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 hazardous air pollutants for organic liquid distribution (non-gasoline); miscellaneous organic chemical manufacturing; surface coating of automobiles and light duty trucks; surface coating of metal cans; site remediation; and miscellaneous coating manufacturing and has scheduled a public hearing/meeting before the air pollution control board (board) for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 20-83; 326 IAC 20-84; 326 IAC 20-85; 326 IAC 20-86; 326 IAC 20-87; 326 IAC 20-88.

AUTHORITY: 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-

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:

Organic liquid distribution (non-gasoline) (40 CFR 63, Subpart EEEE)

Organic liquid distribution takes place at liquid terminal sources, organic chemical manufacturing sources, petroleum sources, crude oil pipeline pumping and breakout stations, and other industrial sources. Nationwide, U.S. EPA estimates that general air toxics will be reduced by sixty percent (60%) from current levels. Volatile organic compounds will be reduced by seventy percent (70%) from current levels. There are at least thirteen (13) potential Indiana sources. Sources must comply by February 3, 2004.

Miscellaneous organic chemical manufacturing (40 CFR 63, Subpart FFFF)

This source category includes twenty-two (22) categories on U.S. EPA’s initial list of source categories, including miscellaneous chemical production and polymers and resins. Also included in this rule is chlorinated paraffin production, rubber chemical production, polyester resin production, and alkyd resin production. This NESHAP requires sources to install pollution prevention emission controls at process vents, storage tanks, equipment leak areas, wastewater systems, and transfer operations. Nationwide, U.S. EPA estimates that emissions will be reduced by sixteen thousand eight hundred (16,800) tons per year. There are at least eighteen (18) potential Indiana sources. Sources must comply by November 10, 2006.

Surface coating of automobiles and light duty trucks (40CFR 63, Subpart IIII)

The surface coating of automobiles and light-duty trucks is a process of applying decorative, protective, or functional coatings to new automobile and light-duty truck bodies and body parts. Coating materials include primer, topcoat, sealer, sound deadener, windshield primer, and adhesive. Various air toxics emitted include xylenes, toluenes, ethyl benzene, and methyl isobutyl ketone. Nationwide, U.S. EPA estimates that emissions will be reduced by sixty percent (60%) from the estimated 1997 baseline. U.S. EPA estimates at least four (4) potential Indiana sources. Sources must comply by February 26, 2007.

Surface coating of metal cans (40 CFR 63, Subpart KKKK)

Metal can surface coating operations include process that coat metal cans or ends such as decorative tins or metal crowns or closure during any stage of the can manufacturing process. Coating materials include basecoats, decorative inks, end seals or end lining compounds, side seam stripes, inside sprays, interior lacquers, overvarnishes, and repair spray coatings. Emission limits will be met using pollution prevention techniques such as improved coatings. Nationwide, U.S. EPA estimates that emissions will be reduced by seventy percent (70%) from the estimated 1997 baseline. There are at least six (6) potential Indiana sources. Sources must comply by November 13, 2006.

Site remediation (40 CFR 63, Subpart GGGG)

Site remediation involves the removal of hazardous substances from contaminated media such as soil or groundwater, removal of the contaminated media itself, or removal of the hazardous substances by themselves. This NESHAP requires emission controls or work practice standards for three groups of emission points: process vents, management units such as tanks and containers, and equipment leaks. There are at least twelve (12) potential Indiana sources. Sources must comply by October 8, 2006.

Miscellaneous coating manufacturing (40 CFR 63, Subpart HHHHH)

Miscellaneous coating manufacturing sources produce paints, inks and/or adhesives. Sources will comply with the NESHAP by installing emission controls at process vessels, storage tanks, equipment leaks, wastewater systems, and transfer operations. Nationwide, U.S. EPA estimates that emissions will be reduced by four thousand nine hundred (4,900) tons per year. There are at least eighteen (18) potential Indiana sources. Sources must comply by December 11, 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 Kaplan
Commissioner
Indiana Department of Environmental Management

ADDITIONAL INFORMATION

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

DRAFT RULE

SECTION 1. 326 IAC 20-83 IS ADDED TO READ AS FOLLOWS:

Rule 83. Organic Liquid Distribution (Non-Gasoline)

326 IAC 20-83-1 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 63.2334 (69 FR 5064, February 3, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart EEEE* (69 FR 5063, February 3, 2004, National Emission Standards for Hazardous Air Pollutants: Organic Liquid Distribution (Non-Gasoline))*.

*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 20-83-1*)

SECTION 2. 326 IAC 20-84 IS ADDED TO READ AS FOLLOWS:

Rule 84. Miscellaneous Organic Chemical Manufacturing

326 IAC 20-84-1 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 63.2435* (68 FR 63888, November 10, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart FFFF* (68 FR 63888, November 10, 2003, National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical 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 20-84-1*)

SECTION 3. 326 IAC 20-85 IS ADDED TO READ AS FOLLOWS:

Rule 85. Surface Coating of Automobiles and Light-Duty Trucks

326 IAC 20-85-1 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 63.3081* (69 FR 22624, April 26, 2004)*.

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart IIII* (67 FR 22623, April 26, 2004, National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks)*.

*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 20-85-1*)

SECTION 4. 326 IAC 20-86 IS ADDED TO READ AS FOLLOWS:

Rule 86. Surface Coating of Metal Cans

326 IAC 20-86-1 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 63.3481* (68 FR 64447, November 13, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart KKKK* (67 FR 64446, November 13, 2003, National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans).

*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 20-86-1*)

SECTION 5. 326 IAC 20-87 IS ADDED TO READ AS FOLLOWS:

Rule 87. Site Remediation

326 IAC 20-87-1 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 63.7881* (68 FR 58191, October 8, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart GGGGG* (68 FR 58190, October 8, 2003, National Emission Standards for Hazardous Air Pollutants: Site Remediation)*.

*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 20-87-1*)

SECTION 6. 326 IAC 20-88 IS ADDED TO READ AS FOLLOWS:

Rule 88. Miscellaneous Coating Manufacturing

326 IAC 20-88-1 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 63.7985* (68 FR 69185, December 11, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart HHHHH* (68 FR 69185, December 11, 2003, National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating 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 20-88-1*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8, and IC 13-14-9, notice is hereby given that on October 6, 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 20-83, 326 IAC 20-84, 326 IAC 20-85, 326 IAC 20-86, 326 IAC 20-87, and 326 IAC 20-88.

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.