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TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule LSA Document #05-79

DIGEST

Amends 326 IAC 1-2-33.5, 326 IAC 1-2-48, and 326 IAC 1-2-90 for the purpose of incorporating by reference federal exclusions of volatile organic compounds (VOCs) and federally delisted hazardous air pollutants (HAPs) from their current corresponding definitions. Effective 30 days after filing with the secretary of state.

HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: May 1, 2005, Indiana Register (28 IR 2465).

Date of First Hearing: June 1, 2005.

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 May 1, 2005, at 28 IR 2465, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On June 1, 2005, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 1-2-33.5, 326 IAC 1-2-48, and 326 IAC 1-2-90. No comments were made at the first hearing.

326 IAC 1-2-33.5

326 IAC 1-2-48

326 IAC 1-2-90

SECTION 1. 326 IAC 1-2-33.5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-2-33.5 “Hazardous air pollutant” or “HAP” defined

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

Affected: IC 13-17-3-4

Sec. 33.5. “Hazardous air pollutant” or “HAP” means any air pollutant listed pursuant to Section 112(b) of the Clean Air Act **and not delisted from that list or redefined under 40 CFR Part 63, Subpart C, as amended at 69 FR 69325, November 29, 2004***.

***This document is incorporated by reference. Copies referenced in this section 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 1-2-33.5; filed May 25, 1994, 11:00 a.m.: 17 IR 2238)**

SECTION 2. 326 IAC 1-2-48 IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-2-48 “Nonphotochemically reactive hydrocarbons” or “negligibly photochemically reactive compounds” defined

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

Affected: IC 13-17-3-14

Sec. 48. (a) "Nonphotochemically reactive hydrocarbons" or "negligibly photochemically reactive compounds" refers to the list of organic compounds that have been determined to have negligible photochemical reactivity and are thereby excluded from the definition of volatile organic compounds (VOC) ~~in as follows:~~

- (1) 40 CFR 51.100(s)(1)*, ~~The air pollution control board incorporates by reference 40 CFR 51.100(s)(1)*: as amended at 69 FR 69298, November 29, 2004*.~~
- (2) 40 CFR 51.100(s)(5)*, as added at 69 FR 69304, November 29, 2004*.
- (3) 40 CFR 51.100(s)(2)*, as measured by 326 IAC 8-1-4 and approved by the commissioner, subject to conditions under 40 CFR 51.100(s)(3) through 40 CFR 51.100(s)(4)*.

(b) Compliance calculations for coatings expressed as pounds VOC/gallon coating (less water) should treat nonphotochemically reactive compounds or negligibly photochemically reactive compounds as water for purposes of calculating the less water portion of the coating composition.

~~*This document is~~ ***These documents are** incorporated by reference. Copies referenced in this section 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 1-2-48; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2373; filed Sep 23, 1988, 11:59 a.m.: 12 IR 255; filed Jan 16, 1990, 4:00 p.m.: 13 IR 1016; filed Aug 9, 1993, 5:00 p.m.: 16 IR 2827; filed Sep 5, 1995, 12:00 p.m.: 19 IR 29; filed May 13, 1996, 5:00 p.m.: 19 IR 2855; errata filed Mar 21, 1997, 9:50 a.m.: 20 IR 2116; filed Jun 9, 2000, 10:01 a.m.: 23 IR 2704; filed May 21, 2002, 10:20 a.m.: 25 IR 3055*)

SECTION 3. 326 IAC 1-2-90, AS AMENDED AT 28 IR 18, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-2-90 "Volatile organic compound" or "VOC" defined

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

Affected: IC 13-17-3-4

Sec. 90. (a) "Volatile organic compound" or "VOC" ~~means any compound of carbon excluding the following:~~ **has the meaning set forth in 40 CFR 51.100(s)*, as amended at 69 FR 69298, November 29, 2004*, and 69 FR 69304, November 29, 2004*.**

- (1) Carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; and ammonium carbonate.
- (2) Any organic compound which has been determined to have negligible photochemical reactivity listed in section 48 of this rule. VOC content shall be measured in accordance with 326 IAC 8-1-4.

(b) For purposes of determining compliance with emission limits, volatile organic compounds will be measured by the test methods in this title or 40 CFR 60, Appendix A*, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as volatile organic compounds if the amount of such compounds is accurately quantified and such exclusion is approved by the commissioner.

(c) As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the commissioner may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the commissioner, the amount of negligibly-reactive compounds in the source's emissions.

(d) For purposes of federal enforcement for a specific source, the U.S. EPA shall use the test methods specified in Indiana's approved state implementation plan; in a permit issued pursuant to a program approved or promulgated under:

- (1) Title V of the Clean Air Act;
- (2) 40 CFR 51, Subpart I*;
- (3) 40 CFR 51, Appendix S*;
- (4) 40 CFR 52*, or
- (5) 40 CFR 60*.

The U.S. EPA shall not be bound by any state determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the provisions listed in this subsection.

*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, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board*; 326 IAC 1-2-90; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2377; filed Sep 23, 1988, 11:59 a.m.: 12 IR 256; filed May 9, 1990, 5:00 p.m.: 13 IR 1847; filed Aug 9, 1993, 5:00 p.m.: 16 IR 2828; filed Sep 5, 1995, 12:00 p.m.: 19 IR 30; filed Aug 26, 2004, 11:30 a.m.: 28 IR 18)

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 August 3, 2005 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 proposed amendments to 326 IAC 1-2-33.5, 326 IAC 1-2-48, and 326 IAC 1-2-90.

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 amendments. 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, Rule Development 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

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). 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 Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Kathryn A. Watson, Chief
Air Programs Branch
Office of Air Quality