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TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD

LSA Document #05-267(APCB)

DEVELOPMENT OF NEW RULES CONCERNING LOWER-REID VAPOR PRESSURE FUEL IN CENTRAL INDIANA

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for a new rule at 326 IAC 13-4 concerning lower-Reid Vapor Pressure (RVP) fuel in Central Indiana. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: October 1, 2005, Indiana Register (29 IR 148).

CITATIONS AFFECTED: 326 IAC 13-4.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

In the April 30, 2004, Federal Register (69 FR 23858), the United States Environmental Protection Agency (U.S. EPA) designated nine (9) counties in the Central Indiana region as nonattainment for the eight-hour ozone National Ambient Air Quality Standard (8-hour standard). The affected counties are: Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby.

Ozone is not emitted directly into the air but is created by a chemical reaction between oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) in the presence of heat and sunlight. While ozone that occurs naturally in the stratosphere approximately 10 to 30 miles above the earth's surface forms a layer that protects life on earth from the sun's harmful rays, ground-level ozone contributes to a variety of health problems. Ozone is a lung irritant and can be harmful, especially for people with asthma or other respiratory problems. Ozone also damages plants and ecosystems and reduces visibility.

Ozone and the pollutants that form ozone, NO_x and VOC, can be transported hundreds of miles from the pollution sources. Motor vehicle exhaust, industrial emissions, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC that help to form ozone. Sunlight and hot weather cause ground-level ozone to form in harmful concentrations in the air. As a result, ozone is known as a summertime air pollutant. Indiana's ozone season is April 1 to September 30.

A nonattainment designation triggers planning requirements for existing sources of air pollution, stricter requirements for certain types of new and expanding facilities that emit air pollution, and certain changes in transportation planning and funding and, potentially, additional clean air measures. Indiana must develop a plan by June 15, 2007, detailing the steps necessary to comply with the standard by the attainment date. Although new national and regional controls, including the nitrogen oxides control rule for power plants, new diesel engine standards, and new diesel fuel standards, will help improve air quality in Central Indiana, additional controls may be necessary in order for the area to attain the standard.

IDEM is working with citizens, local government, businesses, and other interested groups to develop a strategy that will achieve attainment in Central Indiana with feasible and cost-effective programs. IDEM established the Central Indiana Air Quality Advisory Group (CIAQAG) in September 2003 to study alternatives for inclusion in the Central Indiana state implementation plan (SIP). One of the regulatory measures considered, and the subject of this rulemaking, is implementing a lower Reid Vapor Pressure (RVP) fuel requirement in the nine (9) county Central Indiana region during certain months of the year. Currently, Central Indiana is supplied with gasoline with a RVP of 9.0 pounds per square inch (psi). IDEM proposes the use of a lower RVP gasoline of 7.0 psi to provide VOC reductions. Fuel with a lower RVP reduces VOCs by reducing hydrocarbon emissions from gasoline. These reductions could provide an annualized reduction of VOCs of up to nine hundred thirty-two (932) tons per year from on-road mobile sources alone. Additional reductions from other sources such as non-road equipment and portable containers have not been quantified yet.

State adoption of lower RVP gasoline requirements is controlled by Section 211(c)(4) of the Clean Air Act. This section prohibits states from requiring a different fuel or fuel additive if U.S. EPA has a federal program already in place. This preemption does not apply if the state control is identical to the federal control. U.S. EPA may approve a non-identical state fuel control as a SIP provision, if the state demonstrates that the measure is necessary to achieve the primary or secondary National Ambient Air Quality Standards (NAAQS) that the plan implements. U.S. EPA can approve a state fuel requirement as necessary only if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. Since 1992 and in accordance with 40 CFR 80.27, most Indiana counties, including the nine Central Indiana counties, have been limited to a gasoline RVP of not greater than 9.0 psi during the high ozone seasons. Therefore, Indiana must satisfy the requirements of the waiver request provisions in order to have a lower RVP fuel rule approved into the SIP.

The waiver request requires the following information:

- Identification of the quantity of reductions needed to reach attainment.
 - Identification of possible other control measures and the quantity of reductions each would achieve.
 - Explanation in detail, with adequate factual support, of which of those identified control measures are considered unreasonable or impracticable.
 - Demonstration that even with the implementation of all reasonable and practicable measures, the state would need additional emissions reductions for timely attainment, and the state fuel measure would supply some or all of such additional reductions.
- IDEM will be compiling documentation to support a waiver request to U.S. EPA during the rulemaking process.

The Clean Air Act requires that states develop measures to bring nonattainment areas into attainment with the NAAQS. This rule is one measure to bring the Central Indiana area into attainment for the 8-hour ozone standard. In order to demonstrate attainment in Central Indiana by June 15, 2009, controls would need to be implemented by the summer of 2006 to provide three (3) years of data prior to the attainment date. As part of a strategy to reduce VOCs by five percent (5%), the CIAQAG recommended that IDEM consider a combination of regulatory control strategies that includes lower RVP gasoline. This rule has been initiated to complete the necessary rulemaking process as quickly as possible, even if the control cannot be in place prior to the start of the 2006 ozone season. The rule will be submitted to U.S. EPA for approval into the state implementation plan (SIP) and will guide air pollution control efforts in the nine (9) affected counties in Central Indiana.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law

None of the elements of the draft rule are specifically imposed by federal law. However, Indiana is required to bring Central Indiana into attainment with the 8-hour ozone standard by June 15, 2009. In order to comply, Indiana must develop a plan by June 15, 2007 that describes the measures needed to meet the attainment date. Although there is no federal law that requires a lower RVP fuel, Indiana has determined through numerous discussions with interested parties that a cleaner fuel may be needed to meet the federal attainment requirement. The materials IDEM relied on in the development of the draft rule are available to the public for public inspection at the Office of Air Quality.

Potential Fiscal Impact

The American Petroleum Institute estimates the increase in gasoline prices would be between \$0.006 and \$0.03 per gallon for 7.0 psi RVP gasoline in the nine county Central Indiana region during the summer months. Based on two hundred sixty-two million three hundred thirty thousand seven hundred ten (262,330,710) gallons of gasoline (Indiana Department of Revenue, 2002) sold in the nine county Central Indiana area during June through mid-September of 2002, the average total annual increased cost could be up to seven million eight hundred sixty-nine nine hundred twenty-one dollars (\$7,869,921). The gasoline sold includes uses other than onroad vehicles, such as lawn and garden equipment, boats, agricultural equipment, and other nonroad gasoline engines. Some of the gasoline will also be bought by visitors and others living outside the nine (9) county region.

There may be initial costs to refiners that choose to supply lower RVP gasoline to Central Indiana, however, the cost depends on whether the refiner would have capital costs to begin refining a new fuel or would have process changes to supply a fuel already refined to a new region. The increased cost to refineries will ultimately be paid for by the consumer and are included in the estimated increased price of the gasoline.

Public Participation and Workgroup Information

The Central Indiana Air Quality Advisory Group (CIAQAG) was established September 2003 to study alternatives for reducing ozone in Central Indiana to demonstrate attainment. This group is comprised of business, government officials, and citizens and has met several times since September 2003 to hear presentations, discuss regulatory and voluntary alternatives to reduce ozone, and make recommendations on alternatives appropriate in Central Indiana. These meetings are open to the public.

At this time, no additional workgroup is planned for this rulemaking, but the department is planning outreach efforts to affected parties during the course of the rulemaking and to provide compliance assistance. If you feel that a workgroup or other informal discussion on the rule is appropriate, or you would like information about the CIAQAG meetings, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from October 1, 2005, through November 3, 2005, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Improving Kids' Environment (IKE)

Indiana Petroleum Council (IPC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: Pressures on the U.S. refining sector, such as demand for petroleum products and the reduced yield for lower RVP fuels, must be taken into consideration by policy makers when considering the short-term and long-term implications of a new fuel control. (IPC)

Response: IDEM recognizes the challenges that the petroleum industry would face if a different fuel is required for Central Indiana for part of the year.

Comment: The current available modeling does not support the necessity of implementing a local fuel control in Central Indiana. The recent third round of modeling conducted by the Lake Michigan Air Directors Consortium (LADCO) clearly shows Central Indiana meeting attainment of the national ambient air quality standard (NAAQS) by the June 15, 2009 attainment deadline once emissions reductions for existing federal programs, such as the CAIR rule, NOx SIP Call, Tier II/low sulfur gasoline standards, and ultra-low sulfur diesel requirements gradually come on line. (IPC)

Response: Air quality modeling is an important tool that provides useful estimates of the reductions in emissions required to achieve air quality standards, but modeling results are only one input into the decision-making process used by IDEM to compile a weight of evidence demonstration for the State Implementation Plan (SIP). As of today, the modeling results indicate that Central Indiana will be close to attainment and compliance with standards by the assigned deadline. However, the inventory and model are still under development and must be completed prior to making the final policy decisions and development of the SIP.

Comment: In order to obtain EPA approval for a fuel control for inclusion in a state implementation plan, a state must demonstrate to EPA that the control is necessary to achieve a national ambient air quality standard and that there are no reasonable and practicable non-fuel measures available that, if implemented, would bring the area into timely attainment. Selection of a fuel control to provide a margin of safety for a region which modeling demonstrates will reach attainment without the fuel control is in conflict with the Clean Air Act (CAA) requirement that states adopt fuel controls as a last resort, only after all other control measures have been ruled out. To date, the LADCO modeling suggests that attainment of the NAAQS can be met with existing regulatory controls. Therefore, IDEM does not have sufficient evidence to meet the test laid out by the CAA. (IPC)

Response: IDEM will be working with interested parties and U.S. EPA on the criteria for the fuel waiver during the rulemaking process. The inventory and model are still under development and must be completed prior to making the final policy decisions and development of the SIP. If the final modeling does not support the need for a fuel rule for Central Indiana, the rule will be withdrawn.

Comment: The cost effectiveness of a lower RVP fuel for Central Indiana comes into question when the control is sought as a safety net, rather than a control necessary for attainment of the NAAQS. Implementing control measures, such as degreasing, would seem to be a more prudent and cost-effective approach for the state when seeking a safety net. (IPC)

Response: At this time, IDEM believes a lower RVP fuel may be necessary for Central Indiana to reach attainment for the 8-hour ozone standard. Other control measures, including degreasing regulations, are also being pursued.

Comment: If new information resulting from further monitoring demonstrates that attainment can be achieved only by implementing a lower RVP fuel for Central Indiana, the proposed timeframe of June 15, 2006, for introduction of a lower RVP fuel into the Central Indiana market cannot be met by industry. A refinery needs a lead-time of one (1) to three (3) years from rule promulgation in order to supply a lower RVP fuel to a new market. (IPC)

Response: The draft rule includes a compliance date of June 1, 2007. IDEM will continue to work with the refiners and their representatives to meet the attainment deadlines to the extent possible, but may also include a compliance schedule in the rule for later deadlines, if necessary.

Comment: IDEM should give thoughtful consideration to burdens placed on regional refineries due to current or new fuel controls imposed in neighboring states. (IPC)

Response: IDEM has been involved in discussions about fuel requirements in neighboring states and understands the impact they could have on availability of certain fuels for Central Indiana. IDEM will continue to work with the refiners and their representatives throughout this rulemaking to ensure that any fuel required for Central Indiana will minimize disruptions for fuel distribution in the Midwest.

Comment: IDEM should keep the current stakeholder group in place during upcoming rulemaking and implementation phases for ozone and fine particulate attainment planning. (IKE)

Response: IDEM has found the experience of working with the current workgroup to be beneficial to the ozone planning process and will continue to meet with the group throughout the process of identifying and implementing control measures for both ozone and fine particulate attainment efforts.

Comment: Encouraging motorists from the government and business sectors as well as the public to drive less, and more efficiently,

and to reduce unnecessary emissions from idling should also be part of the clean air plan. (IKE)

Response: The CIAQAG has recommended that IDEM take all viable voluntary actions available to improve air quality, including the pursuit of transportation control measures that reduce vehicle miles traveled and single occupant vehicle trips. IDEM will continue to work with the Metropolitan Planning Organizations and the Transportation Control Measure Workgroup to identify and pursue all viable options from a voluntary and regulatory perspective.

For idling, IDEM and the Indianapolis Office of Environmental Services (OES) have an ongoing initiative to retrofit school and municipal vehicles and reduce long-term idling from school, municipal, and ultimately private fleets. Between complete and planned IDEM and OES retrofit projects, a minimum of 900 diesel powered vehicles will be retrofitted by the end of 2006.

As additional funding becomes available, IDEM will work with OES and other organizations to identify opportunities for further projects to improve air quality in Central Indiana.

Comment: It is appropriate to explore a clean fuel option for the Central Indiana region. The clean fuel programs in Clark and Floyd Counties and in Northwest Indiana have been successful in contributing to cleaner air in a fair manner with a minimum burden on motorists or supply complications. Another advantage to a clean fuel program is that other equipment that runs on gasoline, such as lawn mowers, will also have reduced emissions. The recent national events in the fuel market may be relevant to development of a clean fuel rule; those issues should be thoroughly explored during the rulemaking process. (IKE)

Response: IDEM agrees that there are advantages to a clean fuel program in Central Indiana. It has not yet been possible to quantify the reductions that would be gained from the use of a cleaner fuel in non-mobile sources, however, further modeling should provide more information. IDEM recognizes the recent national events impacting the fuel market and will continue to consider those impacts during the rulemaking process.

Comment: It is important for IDEM to work closely with U.S. EPA on the demonstration that will be needed at the federal level to achieve approval of a Central Indiana clean fuel program to assure that a rule, if adopted by the Air Pollution Control Board, will be approvable. (IKE)

Response: IDEM has already initiated discussions with U.S. EPA in preparation for the necessary fuel waiver request. These discussions will continue through the rulemaking process to ensure any rule adopted satisfies the fuel waiver requirements.

Comment: The specific provisions of the rule (e.g., 7.0 vs. 7.8 RVP and timing) should be developed in a way that will maximize the reductions from this program as much as feasible given other considerations that should be explored during the rulemaking process. (IKE)

Response: For purposes of the Second Notice of Comment Period, IDEM is proposing a lower RVP fuel of 7.0 psi for Central Indiana to be implemented in 2007. These criteria will be evaluated further during the rulemaking process for feasibility based on additional modeling information and specific comments from interested parties.

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:

#05-267(APCB) Central Indiana Fuel Rule
Christine Pedersen Mail Code 61-50
c/o Administrative Assistant
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204.

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 February 1, 2006.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 13-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Control of Gasoline Reid Vapor Pressure in Central Indiana

326 IAC 13-4-1 Applicability

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

Affected: IC 13-17

Sec. 1. This rule applies to all the following:

(1) Refiners, importers, carriers, or terminals who supply gasoline for use in:

- (A) Boone;**
- (B) Hamilton;**
- (C) Hancock;**
- (D) Hendricks;**
- (E) Johnson;**
- (F) Madison;**
- (G) Marion;**
- (H) Morgan; and**
- (I) Shelby;**

counties between May 1 and September 15 of each calendar year beginning in 2007.

(2) Retail stations and other end users who sell or dispense gasoline in:

- (A) Boone;**
- (B) Hamilton;**
- (C) Hancock;**
- (D) Hendricks;**
- (E) Johnson;**
- (F) Madison;**
- (G) Marion;**
- (H) Morgan; and**
- (I) Shelby;**

counties between June 1 and September 15 of each calendar year beginning in 2007.

(Air Pollution Control Board; 326 IAC 13-4-1)

326 IAC 13-4-2 Definitions

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

Affected: IC 13-11; IC 13-17

Sec. 2. The definitions in IC 13-11 and 326 IAC 1-2 and the following definitions apply throughout this rule unless expressly stated otherwise:

(1) “Alternate fuel” means any of the following fuels or power sources:

- (A) Methanol.**
- (B) Ethanol.**
- (C) Other alcohols containing eighty-five percent (85%) or more by volume of such alcohol with gasoline or other fuels.**
- (D) Natural gas.**
- (E) Liquified petroleum gas.**
- (F) Hydrogen.**
- (G) Electricity.**
- (H) Diesel fuel.**

(2) “Carrier” means any distributor who transports or stores or causes the transportation or storage of gasoline without:

- (A) taking title to or otherwise having any ownership of the gasoline; and**
- (B) altering the quality or quantity of the gasoline.**

(3) “Compliant fuel”, for purposes of this rule, means seven and zero-tenths (7.0) pounds per square inch (psi) lower RVP gasoline, federal reformulated gasoline, or ethanol blended low RVP gasoline as described in section 5 of this rule.

(4) “Consumer” means any person who:

- (A) is the ultimate consumer of gasoline; or**
- (B) purchases fuel for use in a fleet of motor vehicles.**

(5) “Distributor” means any person who transports, stores, or causes the transportation or storage of gasoline at any point

between any gasoline refinery or importer's facility and any retail outlet.

(6) "Ethanol blender" means a person who:

- (A) owns;
- (B) leases;
- (C) operates;
- (D) controls; or
- (E) supervises;

an ethanol blending facility.

(7) "Gasoline" means any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

(8) "Gasoline distribution network" means all persons involved with the distribution of gasoline:

- (A) starting with the refiner; and
- (B) ending with the retailer or wholesale purchaser-consumer.

(9) "Importer" means a person who imports gasoline or gasoline blending stocks or components from a foreign country into the United States.

(10) "Low RVP gasoline" means any gasoline that has a Reid vapor pressure of seven and zero-tenths (7.0) psi or less per gallon as determined in accordance with the appropriate sampling and testing methodologies set forth in 40 CFR 80*.

(11) "Noncompliant fuel" means any motor fuel that is not an alternate or a compliant fuel.

(12) "Psi" means pounds per square inch absolute.

(13) "Refiner" means any person who:

- (A) owns;
- (B) leases;
- (C) operates;
- (D) controls; or
- (E) supervises;

a refinery that produces gasoline for use in an area where low RVP gasoline is required.

(14) "Refinery" means a plant at which gasoline is produced.

(15) "Reid vapor pressure" or "RVP" means the absolute vapor pressure of gasoline or gasoline/ethanol blends as determined by the appropriate sampling and testing methodologies set forth in 40 CFR 80*.

(16) "Reseller" means any person who:

- (A) purchases gasoline; and
- (B) resells or transfers it to a retailer or a wholesale purchaser-consumer.

(17) "Retailer" means any person who:

- (A) owns;
- (B) leases;
- (C) operates; or
- (D) supervises;

a retail outlet.

(18) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

(19) "Wholesale purchaser-consumer" means any person who:

- (A) is the ultimate consumer of gasoline; and
- (B) purchases or obtains gasoline from a distributor for use in motor vehicles.

*Copies of the Code of Federal Regulations (CFR) referenced may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or 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 13-4-2*)

326 IAC 13-4-3 General requirements

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

Affected: IC 13-17

Sec. 3. Beginning in 2007, and each calendar year thereafter, no refiner, importer, distributor, reseller, carrier, or retailer shall do either of the following:

(1) Sell, offer for sale, dispense, supply, offer for supply, or transport for use in:

- (A) Boone;**
- (B) Hamilton;**
- (C) Hancock;**
- (D) Hendricks;**
- (E) Johnson;**
- (F) Madison;**
- (G) Marion;**
- (H) Morgan; and**
- (I) Shelby;**

counties gasoline that is not an alternate fuel or a compliant fuel as defined in section 2 of this rule during the applicable compliance period as defined in section 1 of this rule.

(2) Blend, mix, store, or transport or allow blending, mixing, storing, or transporting of compliant fuel with noncompliant fuel during the applicable compliance period as defined in section 1 of this rule.

(Air Pollution Control Board; 326 IAC 13-4-3)

326 IAC 13-4-4 Record keeping requirements

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

Affected: IC 13-17

Sec. 4. (a) A person may not sell, dispense, or transfer gasoline intended for use in Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties during the applicable time period as defined in section 1 of this rule without a transfer document that contains the information listed in this subsection unless the gasoline is being dispensed into motor vehicles or purchased by a consumer at a retail or wholesale outlet. This document shall accompany every shipment of gasoline after it has been dispensed by the refinery. The document shall contain, at a minimum, the following information:

- (1) The date of all transfers.**
- (2) The volume of the gasoline that was transferred.**
- (3) The volume and percentage of ethanol if ethanol blended, with a date and location of blending.**
- (4) The location and time of transfer.**
- (5) A statement certifying that the gasoline:**
 - (A) has an RVP of seven and zero-tenths (7.0) psi or less per gallon; or**
 - (B) is ethanol blended.**

(b) Any person who manufactures, refines, transports, stores, or sells compliant fuel that is intended for use in:

- (1) Boone;**
- (2) Hamilton;**
- (3) Hancock;**
- (4) Hendricks;**
- (5) Johnson;**
- (6) Madison;**
- (7) Marion;**
- (8) Morgan; and**
- (9) Shelby;**

counties during the applicable time period as described in section 1 of this rule shall ensure that it is segregated from noncompliant fuel and labeled at all times.

(c) Each person in the gasoline distribution network shall maintain records containing the compliance information required by this rule. These records shall be retained by the regulated parties for at least two (2) years from the date of creation or receipt. *(Air Pollution Control Board; 326 IAC 13-4-4)*

326 IAC 13-4-5 Ethanol blended gasoline

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

Affected: IC 13-17

Sec. 5. Gasoline containing ethanol may exceed the seven and zero-tenths (7.0) RVP limit by not more than one (1) psi if

the gasoline meets all of the following requirements:

- (1) The gasoline must contain denatured, anhydrous ethanol.
- (2) The concentration of anhydrous ethanol, excluding the required denaturing agent, must be:
 - (A) at least nine percent (9%); and
 - (B) not more than ten percent (10%);by volume, of the gasoline.
- (3) The ethanol content of the gasoline shall be determined by use of one (1) of the testing methods specified in 40 CFR 80, Appendix F*. The maximum ethanol content of gasoline shall not exceed any applicable waiver conditions under Section 211(F)(4) of the Clean Air Act, as amended.
- (4) Each invoice, loading ticket, bill of lading, delivery ticket, and other document that accompanies a shipment of gasoline containing ethanol shall:
 - (A) contain a statement that the gasoline being shipped contains ethanol; and
 - (B) list the type and volume percentages of the concentration of ethanol in that 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 13-4-5*)

326 IAC 13-4-6 Compliance and test methods

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

Affected: IC 13-17

Sec. 6. (a) Compliance with the seven and zero-tenths (7.0) psi standard shall be determined by use of one (1) of the sampling and testing methods specified in this section. Any sampling or testing of gasoline required by this rule shall be accomplished as follows:

- (1) Sampling of gasoline for the purpose of determining compliance with this rule shall be conducted in accordance with 40 CFR 80, Appendix D*.
- (2) Testing of gasoline for purposes of determining compliance with this rule shall be conducted in accordance with 40 CFR 80, Appendix E*.

(b) Upon presentation of credentials, the:

- (1) refiner;
- (2) importer;
- (3) distributor;
- (4) reseller;
- (5) carrier; or
- (6) retailer;

to whom this rule applies shall allow the commissioner, or an authorized representative of the commissioner, to sample or test gasoline in accordance with this section.

*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 13-4-6*)

326 IAC 13-4-7 Violations

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

Affected: IC 13-14-2-6; IC 13-17

Sec. 7. Failure to comply with any provision of this article constitutes a violation of this article and is subject to the provisions of IC 13-14-2-6 and IC 13-30. (*Air Pollution Control Board; 326 IAC 13-4-7*)

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 May 3, 2006, 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 a new rule at 326 IAC 13-4 concerning lower-RVP fuel in Central Indiana.

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 Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 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 Department of Environmental Management, 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.