
TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #06-604

DEVELOPMENT OF NEW RULES CONCERNING VOLATILE ORGANIC COMPOUNDS FOR ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules at [326 IAC 8-14](#) concerning architectural and industrial maintenance coatings. 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 8-14](#).

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

Under the Clean Air Act, the United States Environmental Protection Agency (U.S. EPA) is responsible for: (1) establishing ambient air quality standards to protect the public health and welfare; (2) determining which areas of the country have air quality that does not meet those standards; and (3) overseeing states' efforts to develop and implement plans to improve air quality in those areas. The Clean Air Act establishes basic requirements and procedures for the clean air planning process, but U.S. EPA issues more specific guidance to help states, citizens, businesses, and local governments comply with the Clean Air Act's requirements. U.S. EPA also promulgates rules to meet the Clean Air Act requirements.

In the April 30, 2004, Federal Register (69 FR 23858), the U.S. EPA published air quality designations and classifications for all areas in the United States for the eight-hour ozone National Ambient Air Quality Standard (8-hour standard), including the designation of 24 Indiana counties, entirely or in part, as nonattainment for the standard. The nonattainment designation became effective on June 15, 2004. The 8-hour ozone nonattainment designations have essentially replaced the former remaining 1-hour ozone nonattainment designations. Each state must put control measures into place in order to bring these areas into attainment by June 15, 2009. Indiana has submitted several ozone redesignation requests to U.S. EPA for approval and plans to submit requests for the remaining counties soon; however, further controls will help keep these counties in attainment once they are redesignated and will also help eliminate Indiana's contribution to other states' nonattainment areas.

Because volatile organic compounds (VOCs) contribute to the formation of ozone, it is important to control VOCs in order to comply with the 8-hour ozone standard. In an effort to assist states in the Midwest Regional Planning Organization (MRPO) in the development of SIPs to comply with the federal requirements, the Lake Michigan Air Directors Consortium (LADCO) has been working with states to identify and recommend regional controls that would help states bring areas back into attainment for the 8-hour ozone standard. The MRPO includes Illinois, Indiana, Michigan, Ohio, and Wisconsin.

The MRPO states have discussed applying certain VOC control measures to all counties in the region in order to provide a general benefit to all nonattainment areas. LADCO has evaluated potential reductions from various regulatory options that could be adopted on a multistate basis in the region. Based on discussions with other states in the MRPO and information provided by LADCO, IDEM proposes to develop an architectural and industrial maintenance (AIM) coatings rule for Indiana as part of a larger regional effort. This rule is part of a larger group of VOC control rules that have been agreed to by the LADCO states to address regional ozone and particulate matter nonattainment. Other VOC control rules will include automobile refinishing, consumer products, degreasing, portable fuel containers, and stage I vapor recovery.

AIM coatings are applied to a variety of surfaces and may be applied by brush, roller, or spray gun and by consumers, painting contractors, or maintenance personnel. VOC emissions result from the evaporation of solvents in the coatings during application and drying. U.S. EPA published the federal AIM coatings rule on September 11, 1998 (63 FR 48848) (40 CFR Part 59 Subpart D) under authority of Section 183(e) of the Clean Air Act. This rule limits the amount of VOC that manufacturers and importers of AIM coatings can put into their products. The rule also has container labeling requirements for AIM coatings. There are different options for complying with the VOC limits, including exemptions for products that may be hard to reformulate. VOC content limits in the national rule took effect on September 11, 1999. The Federal AIM rule is estimated to yield VOC reductions of 20 percent from uncontrolled levels.

U.S. EPA defines an architectural coating as "a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. This definition excludes adhesives and coatings recommended by the manufacturer or importer solely for shop applications or solely for

application to non-stationary structures, such as airplanes, ships, boats, and railcars."

U.S. EPA defines an industrial maintenance coating as "a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats formulated and recommended for application to substrates exposed to one or more of the following extreme environmental conditions in an industrial, commercial, or institutional setting:

- (1) Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposure of interior surfaces to moisture condensation;
- (2) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
- (3) Repeated exposure to temperatures above 120°C (250°F);
- (4) Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or
- (5) Exterior exposure of metal structures and structural components."

On August 31, 2005, U.S. EPA published an Advance Notice of Proposed Rulemaking on AIM Coatings. The comment period was extended on October 13, 2005, and December 20, 2005, and requested comment, data, and information for determining how to calculate VOC reductions from AIM coatings in nonattainment and maintenance areas. After the information has been considered, U.S. EPA will determine the next steps, which may include federal rulemaking. IDEM will monitor the federal effort and consider its implications in this state rulemaking.

In an effort to assist northeastern states to meet and maintain the ozone National Ambient Air Quality Standards (NAAQS), the Ozone Transport Commission (OTC) formed a workgroup to consider a model rule to reduce VOC emissions in AIM coatings. The workgroup formed for this purpose conducted meetings and received comments from interested parties that resulted in a recommendation that the OTC AIM Coatings model rule be the same as the State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) federal model rule. STAPPA/ALAPCO is now the National Association of Clean Air Agencies (NACAA). The OTC identified several implementation options applicable to states in the northeast. The model rule was established at a level at which a substantial number of coatings already exist that comply with the VOC content limits for each product category. In conjunction with the OTC model rule, LADCO considered implementation of a Wisconsin rule limiting the VOC content of traffic markings in the MRPO states. For certain categories of coatings, LADCO estimates that implementation of the OTC model rule and Wisconsin traffic marking rule will reduce VOC emissions by about 20% beyond the federal AIM rule, or 2,986 tons VOC per year in Indiana.

In combination with similar efforts in the other MRPO states, adding an architectural and industrial maintenance coatings rule in Indiana will contribute to a regional control of VOC that will assist many counties to reach attainment for the 8-hour ozone standard. Upon completion, this rule will be submitted to U.S. EPA for approval into the SIP and, along with other regional and state measures, will guide air pollution control efforts in Indiana.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. No rulemaking.

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

Is this alternative imposed by federal law or is there a comparable federal law? No.

If it is a federal requirement, is it different from federal law? Not applicable.

If it is different, describe the differences. Not applicable.

Alternative 2. Adopt the OTC model rule and Wisconsin traffic markings rule.

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.

Is this alternative imposed by federal law or is there a comparable federal law? No, this alternative is not imposed by federal law, but U.S. EPA gives Indiana the flexibility to select appropriate alternatives in order to meet the requirements of the federal law in a timely manner. This alternative controls VOCs which contribute to ground-level ozone and visibility impairment in additional counties of the state.

If it is a federal requirement, is it different from federal law? No, it is not different from federal law, but is a means of complying with existing federal laws.

If it is different, describe the differences. Not applicable.

Applicable Federal Law

40 CFR 50 (National Primary and Secondary Ambient Air Quality Standards), 40 CFR 81 (Designation of Areas for Air Quality Planning Purposes), 40 CFR 51, Appendix Y (Guidelines for BART Determinations Under the Regional Haze Rule), and 40 CFR 59, Subpart D (National Volatile Organic Compound Emission Standards for Architectural Coatings) are applicable federal laws impacting this rulemaking. 40 CFR 50 (amended on July 18, 1997 (62 FR 38856)) contains the standards for criteria pollutants. Ozone is considered a criteria pollutant and air pollution controls reduce emissions of VOCs to reduce ozone formation. 40 CFR 81 (amended on April 30, 2004 (69 FR 23858)) lists the areas of the United States, specific to each state, that U.S. EPA has determined are not attaining the standards (nonattainment) for criteria pollutants such as ozone. 40 CFR 59 Subpart D currently

applies to manufacturers of architectural coatings for sale or distribution in the United States.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. No fiscal impact.

Potential Fiscal Impact of Alternative 2. This alternative is expected to impose a cost to affected parties in Indiana that would otherwise be in noncompliance with the new rule. However, it is unclear to what extent companies may need to reformulate coatings to meet new requirements, therefore, a cost cannot be calculated yet. Additional information is being gathered to address the fiscal impact of this alternative, including from U.S. EPA, which is considering a national AIM rule. IDEM welcomes comments on the fiscal impact of an AIM rule in Indiana.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a Small Business Assistance Program Ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/compliance/ctap/index.html

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Stacey Pfeiffer
IDEM Office of Voluntary Compliance
OPPTA - MC60-04
100 N. Senate Avenue, W-041
Indianapolis, IN 46204-2251
(317) 233-5624
spfeiffer@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#06-604(APCB) AIM Coatings
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 IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 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 Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by February 9, 2007.

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).

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

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