
TITLE 326 AIR POLLUTION CONTROL BOARD**CONTINUATION OF FIRST NOTICE OF COMMENT PERIOD**

LSA Document #06-603

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING VOLATILE ORGANIC COMPOUNDS FOR AUTOMOBILE REFINISHING OPERATIONS IN INDIANA**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [326 IAC 8-10](#) concerning automobile refinishing operations in Indiana. The First Notice of Comment Period, published on December 27, 2006 (DIN: [20061227-IR-326060603FNA](#)), requested comments on expanding the existing automobile refinishing rule for Clark, Floyd, Lake, and Porter counties to additional counties in Indiana or the entire state. That comment period has ended; however, IDEM has further considered the options for this rulemaking and at this time is requesting comments on the additional options described in this notice. This Continuation of First Notice of Comment Period provides information that IDEM is considering on automobile refinish coating requirements implemented in California and also on updating and streamlining existing requirements in Indiana's rule. IDEM seeks comment on the alternatives described in this notice, the affected citations listed, and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: December 27, 2006, Indiana Register (DIN: [20061227-IR-326060603FNA](#)).

CITATIONS AFFECTED: [326 IAC 8-10](#).

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**

A First Notice of Comment Period for the Automobile Refinishing Operations rule was published in the Indiana Register on December 27, 2006 (DIN: [20061227-IR-326060603FNA](#)). This Continuation of the First Notice of Comment Period addresses additional options to be considered during this rulemaking.

In the April 30, 2004, Federal Register (69 FR 23858), the U.S. EPA designated the following 23 Indiana counties: Allen, Boone, Clark, Delaware, Dubois, Elkhart, Floyd, Greene, Hamilton, Hancock, Jackson, Johnson, Lake, LaPorte, Madison, Marion, Morgan, Porter, Shelby, St. Joseph, Vanderburgh, Vigo, Warrick, and Lawrenceburg Township in Dearborn County as nonattainment for the eight-hour ozone National Ambient Air Quality Standard (8-hour ozone standard), which is designed to protect human health and the environment. Since that time, all monitoring locations in Indiana have met the 8-hour ozone standard and IDEM is working with the U.S. EPA to have the 23 counties redesignated to attainment. The Cincinnati, Ohio metropolitan area has not yet attained the 8-hour standard, and IDEM has prepared a State Implementation Plan (SIP) revision for Lawrenceburg Township that addresses its contribution to Cincinnati's ozone nonattainment.

While all monitored portions of Indiana have attained the current 8-hour ozone standard, it is prudent for Indiana to consider implementing additional cost-effective measures to reduce emissions that contribute to the formation of ozone. The reasons for considering additional reductions include: the narrow margin between Indiana's current air quality and the current standard; the fact that the U.S. EPA is in the process of reevaluating the 8-hour ozone standard and will likely lower it; and the concerns expressed by other states that emissions from Indiana are contributing to their inability to attain the standard (the Clean Air Act provides a legal mechanism for those states to require Indiana to reduce Indiana's potential contribution to nonattainment in other states).

Indiana has been working with other states on a suite of measures to be considered by each of these states to reduce our mutual contribution to ozone formation in the upper Midwest and eastern United States. These measures include regulation of volatile organic compounds from: automotive refinishing (the subject of this notice); architectural and industrial maintenance coatings; consumer and commercial products; organic solvent degreasers; and stage 1 vapor recovery from gasoline dispensing facilities. In general, these proposed regulations would expand regulations that already exist in parts of Indiana and other states to cover all similar emissions from each of the participating states. The potential benefits of this coordinated action include improved Indiana and regional air quality that may prevent future nonattainment designations if the U.S. EPA tightens the ozone standard, an improved margin of safety between current Indiana air quality and the current standard, and the reduced likelihood of the need to impose more costly emission reduction measures in the future.

Automobile refinishing rules is one measure that could be used to reduce VOCs. In the First Notice of Comment Period, IDEM proposed to extend the existing automobile refinishing rules currently effective in Clark, Floyd, Lake, and Porter counties to the rest of the state as part of a larger regional effort. With this Continuation of

First Notice of Comment Period, IDEM is offering two additional options for consideration in this rulemaking.

First, based on further discussions with other states, IDEM is considering adopting the South Coast Air Quality Management District (SCAQMD) Rule 1151 concerning automobile refinishing shops. The provisions of this rule, which will be effective on July 1, 2008, include many requirements already included in the existing Indiana rule for Clark, Floyd, Lake, and Porter counties. These include the use of electrostatic or high-volume low-pressure (HVLP) spray application techniques, storing solvent laden materials in closed containers, and using a coating applicator cleaning device that recirculates solvent, recovers spent solvent, and minimizes evaporation. The primary difference is that the SCAQMD rule includes VOC content limits for primer/primer surfacer, primer sealer, and topcoat coatings that are about one-half the current limits in the federal rule and Indiana's existing rule. Indiana could expect a reduction of about 29% beyond the reduction provided by the federal rule (40 CFR 59, Subpart B). Based on an estimate of 2002 annual emission of 10,164 tons, this would mean a reduction of approximately 2,948 tons VOC per year. However, an informal survey of automobile refinishing operations in Central Indiana conducted by IDEM in 2005 indicated that most refinishing operations already use the most recent technologies and work practices to benefit from the increased efficiency, safety, and overall cost savings. Therefore, the only significant impact from applying the SCAQMD rule to all Indiana counties is in the reduction of the VOC content limits for certain coatings. The estimated reduction may also be lower because most refinishing operations already comply with the other requirements in the SCAQMD rule. IDEM seeks comments on this alternative, including the fiscal impact of implementing these limits.

IDEM is also proposing to revise the existing rule, as needed, to provide clarity, remove obsolete language, and streamline the structure of the rule. This may include rule language that is more consistent with the federal rule or SCAQMD 1151. IDEM invites comments on ways to clarify and simplify the rule language.

In combination with other efforts to reduce VOCs in Indiana and the other states, the revisions to the automobile refinishing rules under consideration in Indiana will contribute to a regional control of VOC that will assist many counties to reach and maintain 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

The First Notice of Comment Period, published on December 27, 2006 (DIN: [20061227-IR-326060603FNA](#)), included three alternatives for which comments were received. This Continuation of First Notice of Comment Period adds two additional alternatives to be considered.

Alternative 4. Adopting provisions similar to SCAQMD 1151.

- 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? This alternative is not imposed by federal law and there is no comparable federal law. However, it will provide additional VOC reductions that will assist Indiana to comply with federal ozone requirements.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 5. Clarifying and streamlining the automobile refinishing 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.
- If it is a federal requirement, is it different from federal law? Not applicable.
- 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), and 40 CFR 59, Subpart B (National Volatile Organic Compound Emission Standards for Automobile Refinish 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 volatile organic compounds (VOC) 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 the U.S. EPA has determined are not attaining the standards (nonattainment) for criteria pollutants such as ozone. 40 CFR 59, Subpart B currently applies to manufacturers of coatings used in automobile refinishing operations in Indiana. The state rule for automobile refinishing, [326 IAC 8-10](#), applies to manufacturers of the coatings as well as to the businesses that conduct the refinishing operation.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 4. The estimated control cost to reduce from Indiana's current rules to requirements similar to SCAQMD 1151 is \$2,860 per ton. A reduction of 2,948 tons per year would be estimated to cost \$8,431,280. However, it is anticipated that most automobile refinishers are already in compliance with most of the requirements of this option, so the actual overall cost to automobile refinishers in Indiana is likely to be less.

Potential Fiscal Impact of Alternative 5. There will be no fiscal impact from clarifying and streamlining the automobile refinishing rule.

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:

Christine Lowry
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 234-1191
clowry@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Megan Tretter
IDEM Small Business Assistance Program Ombudsman
MC 50-01 - IGCN 1307
100 N. Senate Ave.
Indianapolis, IN 46204-2251
(317) 234-3386
mtretter@idem.in.gov

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 Christine Pedersen, Rules Development Section, Office of Air Quality at (317) 233-6868 or (800) 451-6021 (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:

#06-603(APCB) Automobile Refinishing
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 July 27, 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).

Pat Troth, Chief
Rules Development Section
Air Programs Branch
Office of Air Quality

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