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**TITLE 326 AIR POLLUTION CONTROL BOARD**

**SECOND NOTICE OF COMMENT PERIOD**

LSA Document #11-317

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING AIR CURTAIN DESTRUCTORS**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 1-2-2.5](#) and [326 IAC 4-1](#) concerning air curtain destructors. 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: June 1, 2011, Indiana Register (DIN: [20110601-IR-326110317FNA](#)).

**CITATIONS AFFECTED:** [326 IAC 1-2-2.5](#); [326 IAC 4-1-7](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

**Basic Purpose and Background**

Open burning is generally prohibited in Indiana; however, state law exempts certain open burning activities under conditions that minimize impact on air quality and public health. In addition to the specific limited instances when open burning is allowed, a person may submit an application to IDEM for an approval to engage in open burning. One type of open burning that may be considered by IDEM for an approval is the operation of an air curtain destructor.

IDEM recently received an application for an approval of a portable self-contained air curtain destructor. These newer air curtain destructors allow the operator to maintain a more consistent temperature throughout the entire combustion chamber contributing to high combustion efficiency, little particulate waste, and a large reduction in particulate matter emissions. The units are self-contained and easily transportable. However, the current approval process for the operation of an air curtain destructor under [326 IAC 4-1](#) only allows for the burning of materials placed in an adjacent pit. It does not allow for the burning of materials placed in a portable self-contained unit.

In this rulemaking, IDEM is proposing to amend the definition of "air curtain destructor" in [326 IAC 1-2-2.5](#) to include the operation of units with refractory lined boxes. IDEM also proposes to amend the approval conditions for use of an air curtain destructor in [326 IAC 4-1-7](#) to allow for the operation of a portable self-contained unit.

**[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law**

The following 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" (NIFL elements).

The following information is provided with each NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect human health and the environment in Indiana and examples in which federal law is inadequate to provide this protection for Indiana.
- (2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.
- (3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element (A): Amend rule to allow for use of different types of air curtains.

(1) The approval process for the use of an air curtain destructor is not regulated under federal law. Approvals for the use of air curtains are currently allowed under the state open burning rules. This rulemaking will provide greater flexibility for the use of different types of air curtain destructors and for the use of new technology.

(2) This amendment will reduce the amount of time that IDEM staff presently allocate to issuing air curtain approvals. Without this amendment the regulated entity is required to obtain a variance from the rule before IDEM can grant an open burning approval.

(3) The current open burning rule was used in the preparation of the draft rule language and can be viewed at the following website:

<http://www.in.gov/legislative/iac/T03260/A00040.PDF>

### Potential Fiscal Impact

The amendments in this rulemaking will have a positive fiscal impact on affected entities.

### 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 Susan Bem, Rule and State Implementation Plan Development Section, Office of Air Quality at (317) 233-5697 or (800) 451-6021 (in Indiana).

### SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from June 1, 2011, through July 1, 2011, 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:

Air Burners LLC (AB)

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

*Comment:* Do not specify technical aspects of an air curtain machine, such as air flows, velocities, and manifold angles, but rather the results of that machine. There are at least 2 different methods to create a good and useful air curtain, high flow (low velocity) and high velocity (low flow). The commenter is constantly working on air curtain design with the goal of maintaining high quality pollution control balanced with reducing power consumption to create the air curtain. Leave it up to the manufacturers to operate their machines to meet opacity requirements. (AB)

*Response:* IDEM is proposing operating requirements for portable self-contained units based on manufacturer's specifications and recommendations and a ten percent opacity limit. The current language for earthen trench or pit type units has not been a problem for previously issued approvals and, therefore, IDEM has not amended the requirements for these types of units.

*Comment:* IDEM should regulate and enforce using opacity readings. For temporary use applications there should be a requirement for an initial Method 9 inspection. For stationary units there should be a requirement for a certified opacity reader to qualify the operations initially and then once a year. Enforcement should meet two basic requirements: (1) operators are burning approved materials, and (2) operators are meeting the opacity requirements. (AB)

*Response:* IDEM is proposing an opacity limit for self-contained units and the current rule already limits burning of approved materials. This will ensure that the air curtain unit is being used to dispose of appropriate material and that the air curtain is properly operated.

*Comment:* The commenter suggests that there should be two levels of permitting depending on whether it is temporary use or a stationary location of an air curtain machine. Temporary use of air curtain machines (6 months or less) should be fast and simple. For stationary air curtain machines, a simplified Title V permit should be required following 40 CFR 60. Under 40 CFR 60, air curtain machines burning clean wood and vegetative waste are exempt from all requirements except opacity testing. The permit should be designed so a potential applicant could complete it without the need for additional outside consultants or engineers. (AB)

*Response:* Currently, temporary units are the only type of air curtain destructors allowed by the rule and are not required to obtain an air permit. IDEM is proposing that permanent (stationary) units are allowed if properly permitted under [326 IAC 2](#). After these rules are amended, if there is a demand for a simplified Title V permit, IDEM will consider the need for a simplified permit.

### 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. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #11-317 (APCB) Air Curtain  
Susan Bem Mail Code 61-50  
Rule and SIP Development Section  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5967. Please confirm the timely receipt of faxed comments by calling the Rule and State Implementation Plan Development Section at (317) 234-6530.

(3) By electronic mail to [sbem@idem.in.gov](mailto:sbem@idem.in.gov). To confirm timely delivery of comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the electronic mail address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana

Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment must clearly specify the LSA document number of the rulemaking.

### COMMENT PERIOD DEADLINE

Regardless of the delivery method used, comments must be postmarked, faxed, time stamped, or hand delivered no later than 4:45 p.m. on December 16, 2011.

Additional information regarding this action may be obtained from Susan Bem, Rule and State Implementation Plan Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

### DRAFT RULE

SECTION 1. [326 IAC 1-2-2.5](#) IS AMENDED TO READ AS FOLLOWS:

#### [326 IAC 1-2-2.5](#) "Air curtain destructor" defined

Authority: [IC 13](#)

Affected: [IC 13](#)

Sec. 2.5. "**Air curtain destructor**" means an engineered apparatus consisting of a motorized high-velocity fan and an air distribution system designed to aid in the efficient combustion of materials placed in an adjacent pit, **earthen trench, or refractory lined box**. An air curtain destructor is not considered an incinerator as defined in section 34 of this rule.

*(Air Pollution Control Board; [326 IAC 1-2-2.5](#); filed Jan 6, 1989, 3:30 p.m.: 12 IR 1126)*

SECTION 2. [326 IAC 4-1-7](#) IS AMENDED TO READ AS FOLLOWS:

#### [326 IAC 4-1-7](#) Air curtain destructors; approval conditions

Authority: [IC 13-15-2-1](#); [IC 13-17-3-4](#)

Affected: [IC 4-21.5](#); [IC 13-12](#); [IC 13-17-9](#)

Sec. 7. (a) To obtain an air curtain destructor letter of approval, the owner or operator shall ensure that installation and operation of ~~such~~ **the** air curtain destructor will comply with subdivisions (1) through ~~(22)~~ **(12)** as follows. Burning shall be terminated immediately at any air curtain destructor site that does not comply with this section.

- (1) Only untreated wood products shall be burned, except for minimal amounts of uncontaminated petroleum products that may be used for ignition.
- (2) Burning shall not be conducted during unfavorable meteorological conditions, such as high winds or air stagnation or when a pollution alert or ozone action day has been declared.
- (3) The air curtain destructor shall not be operated prior to one (1) hour after official sunrise, the fire shall not be fed after two (2) hours before official sunset, **and** the fire must be completely extinguished by official sunset. ~~and at least one (1) foot of dirt must be placed over the ashes in the pit by official sunset.~~
- (4) An air curtain destructor site shall be located ~~no~~ **not** less than two hundred fifty (250) feet from any private residence, public roadway, power line, or structure, and ~~no~~ **not** less than five hundred (500) feet from any pipeline or fuel storage area.
- (5) An air curtain destructor site shall not be located within one thousand (1,000) feet of a solid waste land disposal facility as defined in [329 IAC 10-2-176](#) or transfer station as defined in [329 IAC 11-2-47](#).
- (6) An air curtain destructor shall not be permanently located at any site, **except in accordance with a valid permit under [326 IAC 2](#)**.
- (7) An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.
- (8) Burning shall not create or contribute to:
  - (A) an air pollution problem;
  - (B) a nuisance; or
  - (C) a fire hazard.
- (9) The approval letter shall be made available at the burning site to state or local officials upon**

request.

**(10) The owner or operator of an air curtain destructor shall provide twenty-four (24) hour notification in advance to the local fire department and the local health department of the dates and times that the air curtain destructor will be in operation.**

~~(9)~~ **(11) The following shall apply to an air curtain destructor using an earthen trench or pit:**

**(A)** An air curtain destructor and **earthen trench or pit** shall be maintained and operated according to the manufacturer's specifications and recommendations.

~~(40)~~ **(B)** The fan blades of the air curtain destructor shall be regularly cleaned to reduce buildup of dirt and debris.

~~(41)~~ **(C)** All canisters must be properly aligned, connected, and maintained so as to prevent leaks between adjacent canisters.

~~(42)~~ **(D)** The nozzles must be maintained in good working condition. The minimum average velocity at the nozzle must be nine thousand fifty (9,050) feet per minute, and the air flow at the nozzle must be a minimum of seven hundred fifty (750) cubic feet per minute per foot of length.

~~(43)~~ **(E)** The engine running the air curtain destructor fan must be maintained in proper working condition.

~~(44)~~ **(F)** The width of the **earthen trench or pit** shall not extend beyond the length of the nozzle action.

~~(45)~~ **(G)** The distance from the air curtain destructor to the opposite wall of the **earthen trench or pit** shall not exceed ten (10) feet.

~~(46)~~ **(H)** The depth of the **earthen trench or pit** shall be of such distance to allow all burning material to be below the curtain of air created by the air curtain destructor.

~~(47)~~ **(I)** All nozzles shall be aligned and directed toward the opposite wall so that the air strikes the opposite wall at least three (3) feet below the grade upon which the air curtain destructor is located so that the air tumbles in the **earthen trench or pit**.

~~(48)~~ **(J)** The air curtain destructor shall not be at a higher elevation than the elevation of the opposite wall.

~~(49)~~ **(K)** The **earthen trench or pit** shall be enclosed on four (4) sides, and the walls shall be perpendicular to level ground.

~~(20)~~ **(L)** Material being loaded into the **earthen trench or pit** shall be picked up and dropped into the pit, and at no time shall the material protrude through the curtain of air while burning.

**(M) At least one (1) foot of dirt must be placed over the ashes in the earthen trench or pit by official sunset.**

~~(21) The approval letter shall be made available at the burning site to state or local officials upon request.~~

~~(22) The owner or operator of an air curtain destructor shall provide twenty-four (24) hour notification in advance to the local fire department and the local health department of the dates and times that the air curtain destructor will be in operation.~~

**(12) The following shall apply to a portable air curtain destructor using a refractory lined box:**

**(A)** An air curtain destructor, refractory lined box, and associated equipment shall be maintained and operated according to the manufacturer's specifications and recommendations.

**(B)** Access to the refractory lined box must be restricted by official sunset each day.

**(C)** Opacity shall not exceed ten percent (10%), except during times of startup. Measurement of opacity shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9.\*

**(D)** During times of startup, opacity shall not exceed thirty-five percent (35%) and startup periods shall not exceed thirty (30) minutes.

(b) An air curtain destructor letter of approval shall be valid for ~~no~~ **not** longer than one (1) year.

(c) The commissioner or the commissioner's designated agent may add conditions to an air curtain destructor letter of approval as necessary to prevent a public nuisance or protect the public health.

(d) A decision on the air curtain destructor letter of approval is subject to [IC 4-21.5](#) (Administrative Orders and Procedures Act (AOPA)).

**\*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is 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 4-1-7](#); filed Jan 6, 1989, 3:30 p.m.: 12 IR 1127; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3345; errata filed Oct 3, 2000, 2:31 p.m.: 24 IR 381; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

*Posted: 11/16/2011 by Legislative Services Agency*  
An [html](#) version of this document.