

Document: IC 13-14-9 Notice

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TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD #00-44(APCB)

READOPTION OF RULES IN TITLE 326 UNDER IC 13-14-9.5

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on the readoption of the following rules in Title 326 of the Indiana Administrative Code pursuant to IC 13-14-9.5. The rules are being published as they were most recently adopted by the board. IDEM seeks comment on the rule language, including any specific revisions to the rule language.

HISTORY

First Notice of Comment Period: March 1, 2000, Indiana Register (23 IR 1488).

Continuation of First Notice Period: May 1, 2000, Indiana Register (23 IR 2109).

CITATIONS AFFECTED: 326 IAC 1-6; 326 IAC 4-2; 326 IAC 8-7; 326 IAC 8-9; 326 IAC 8-11; 326 IAC 9-1; 326 IAC 19-1.

AUTHORITY: IC 13-14-9, IC 13-14-9.5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. A rule that was adopted under a provision of IC 13 and was in effect on December 31, 1995, expires not later than January 1, 2002. All rules adopted after that date under IC 13-14-9, with some exceptions listed in IC 13-14-9.5-1, expire on January 1 of the seventh year after the year in which each rule takes effect. The First Notice of Comment Period and Continuation of First Notice of Comment Period opened all rules required to be opened in Title 326 for readoption, regardless of their initial effective date. All comments received and responses thereto are summarized below.

Because the rules commented on have differing actual expiration dates, not all rules commented on will be readopted within this rulemaking. Depending on the expiration date of each rule, it may be readopted in a subsequent rulemaking, or, if possible, included within a currently existing rulemaking. Responses to comments below identify the expiration date of each rule and whether the rule will be readopted in a future rulemaking or included in a currently existing rulemaking.

Rules being readopted in this rulemaking are set out, in their entirety, as draft rules. Specific changes to the rules are not included in this second notice because many of the comments received requesting that the rules be readopted separately did not provide for specific rule changes. Therefore, with this notice, IDEM seeks comment on specific revisions to the draft rule language. Rules not commented on during the First Notice of Comment Period or the Continuation of First Notice will be readopted by publication of a Notice of Readoption in the Indiana Register pursuant to IC 13-14-9.5-4(c).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from March 1, 2000, through March 31, 2000, and from May 1, 2000, through May 30, 2000, 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:

Indiana Manufacturers Association (IMA)

Mark E. Shere, Attorney for Indianapolis Power and Light (IPL)

Eli Lilly and Company (ELC)

Monaco Coach Corporation (MCC)

Barnes and Thornburg for Bethlehem Steel (BS)

Barnes and Thornburg for Southern Indiana Gas & Electric Company (SIGECO)

Barnes and Thornburg for Indiana-Kentucky Electric Company (IKEC)

Marcia J. Oddi (MJO)

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

GENERAL COMMENTS

Comment: Extend the comment period of the first 30-day public notice. (IMA)

Response: The first notice comment period was extended through May 30, 2000.

Comment: It is inappropriate and in excess of IDEM's statutory authority to readopt these rules without the involvement of the respective board. The statute provides that "the department or board that has rulemaking authority under this title may readopt rules." IDEM does not have rulemaking authority under Title 13. IDEM proposals must be adopted by the appropriate board before the rules can become effective. (ELC)

Response: IC 13-14-9.5(c) allows the department to publish a notice stating that the agency has readopted any rule not commented on within the first notice. IDEM is following the procedure set forth in the statute and is, therefore, within its statutory authority to readopt rules not commented on through this process.

Comment: A number of enrolled acts from the 2000 session of the General Assembly contain provisions impacting existing rules. The March 30, 2000, deadline for submitting comments on the proposed readoption does not allow sufficient time for the commenter to fairly assess the impact of this session's legislation on existing regulations. Lilly requests that any environmental rule impacted by an enrolled act from the 2000 session be adopted in a separate rulemaking and not as part of the "readoption" rule. (ELC)

Response: Substantive rulemakings required by statute are not affected by the readoption process, except to the extent that rules must be readopted prior to their expiration, seven years after the year in which they become effective.

Comment: The readoption process as provided by statute does not apply to any rule that incorporates a federal regulation. It is not clear how IDEM distinguished the state rules meeting this criteria from those that do not. Rules that incorporate federal regulations by reference or adopt federal mandates, should not be subject to readoption. (ELC)

Response: Rules that incorporate a federal regulation by reference are not subject to the readoption process. IDEM is making this distinction. If a rule contains more than a mere incorporation of federal language, it is not subject to the statutory exception and is, therefore, open to expire. If so, it was listed as a rule to be readopted in the first notice.

Comment: IDEM should withdraw the notices of readoption published in the March 1, 2000, Indiana Register. (ELC)

Response: IDEM did not withdraw the notices because they were published in accordance with the procedures established in IC 13-14-9.5-4(a).

Comment: 326 IAC 1-1-3 and 326 IAC 6-1-10.1 both incorporate by reference federal guidance documents or Code of Federal Regulations citations. It is understood that when a document is incorporated into a rule, that the version of the document incorporated is that which was in existence as of the date the rule took effect, unless the rule itself specifies an earlier version. If the document later changes, the former version is still incorporated into the rule. This rule is modified by 326 IAC 1-1-3 which sets the year of the Code of Federal Regulations that are incorporated by reference into the rules. The incorporation by reference of documents and any succeeding amendments poses difficulties if the rule is readopted under the sunset rulemaking. The commenter recommends that these rules and all other rules containing similar language should be considered in separate rulemakings that include language precisely describing the versions of the documents incorporated. (MJO)

Response: IC 13-14-9.5-1 states that the chapter on expiration and readoption does not apply to "a rule that incorporates a federal regulation by reference or adopts under a federal mandate a federal regulation in its entirety without substantive additions." 326 IAC 1-1-3 is updated periodically to assure that all people reading the air rules are aware of which edition of the Code of Federal Regulations (CFR) applies in cases where it is incorporated by reference. Unless a specific edition different than that listed in 326 IAC 1-1-3 is mentioned, the year mentioned in 326 IAC 1-1-3 is the general reference. It does not incorporate any federal regulations, but merely explains which edition of the CFR is the edition being referred to in rules, absent another date. Although 326 IAC 6-1-10.1 does incorporate federal regulations, it is not, on its face, a mere incorporation of federal regulations. The rule is 326 IAC 6-1, which contains much more than mere incorporation of federal regulation. It is, therefore, due to expire under the statute as it does not meet the exemption listed in IC 13-14-9.5-1. As rules are updated, references to the edition of the CFR to use will also be updated.

Comment: Rules that incorporate federal regulations by reference without substantive additions are supposed to be exempt from this rulemaking. 326 IAC 6-1-10.1 is a lengthy rule dealing with Lake County PM10 emission requirements which incorporates by reference a compliance method from 40 CFR 60. 326 IAC 20-17-1 incorporates by reference a subpart from 40 CFR 63. Each of these examples incorporates a federal regulation by reference. Are both examples exempt from the readoption requirement? The commenter suggests that only rules similar to 326 IAC 20-17-1 should be considered exempt from the Sunset readoption requirement. (MJO)

Response: As stated in the notice of readoption in the March 1, 2000, Indiana Register at 23 IR 1488, 326 IAC 20-17 is exempt from the rule expiration under IC 13-14-9.5-1. Although 326 IAC 6-1-10.1 does incorporate federal regulations, it is not, on its face, a mere incorporation of federal regulations. The rule is 326 IAC 6-1, which contains much more than mere incorporation of federal regulation. Section 10.1 of the rule may be more federal incorporation than state language. However, the exemption under IC 13-14-9.5-1 does not provide for exemption based on one section of a rule incorporating federal language. The rule as a whole must be reviewed and a determination made as to whether the entire rule meets the exemption listed under IC 13-14-9.5-1. If it does not, it is due to expire under the statute.

ARTICLE 1

Comment: 326 IAC 1-2 needs to be revised to clarify definitions that are unclear or that misstate the applicable federal requirements. The definitions of “potential emissions” (326 IAC 1-2-55) and “modification” (326 IAC 1-2-42) need revision. A definition of “exceedance”, “noncompliance” and “violation” should be added. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 1-2 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: 326 IAC 1-6 needs to be clarified to more adequately reflect startup and shutdown conditions, to eliminate requirements for preventive maintenance plans, and to eliminate inconsistencies with other sections of the rules. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 1-6 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests more specific comment on the draft rule language, including suggestions for specific revisions to the draft rule.

ARTICLE 2

Comment: 326 IAC 2-1.1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-4.1, 326 IAC 2-5.1, 326 IAC 2-5.5, 326 IAC 2-6.1, 326 IAC 2-7, 326 IAC 2-9, 326 IAC 2-10, 326 IAC 2-11, 326 IAC 2-12, 326 IAC 2-13, and 326 IAC 2-14 need revisions including identifying portions of the rule that impose additional burdens beyond federal requirements, identify the practical problem that requires such additional burden, clarify the rules to resolve numerous problems that permit writers have encountered in implementation, improve the consistency and flow of the requirements in distinguishing between major and minor sources, and resolved problems associated with implementing Title V requirements at facilities that filed timely applications but have not yet received Title V permits. (IPL).

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 2-1.1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-4.1, 326 IAC 2-5.1, 326 IAC 2-5.5, 326 IAC 2-6.1, 326 IAC 2-7, 326 IAC 2-9, 326 IAC 2-10, 326 IAC 2-11, 326 IAC 2-12, 326 IAC 2-13, and 326 IAC 2-14 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). These rules expire on January 1, 2006. Therefore, these rules will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: 326 IAC 2-1.1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-4.1, 326 IAC 2-5.1, 326 IAC 2-5.5, 326 IAC 2-6, 326 IAC 2-6.1, 326 IAC 2-7, 326 IAC 2-8, 326 IAC 2-9, 326 IAC 2-10, 326 IAC 2-11, 326 IAC 2-12, 326 IAC 2-13, and 326 IAC 2-14 need revisions including identifying portions of the rule that impose additional burdens beyond federal requirements, identify the practical problem that requires such additional burden, clarify the rules to resolve numerous problems that permit writers have encountered in implementation, improve the consistency and flow of the requirements in distinguishing between major and minor sources, and resolved problems associated with implementing Title V requirements at facilities that filed timely applications but have not yet received Title V permits. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 2-6 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared in the November 1, 1997, Indiana Register at 21 IR 801. When the second notice is published with draft rule language, IDEM will request comment on the draft rule language, including suggestions for specific revisions to the draft rule.

Comment: 326 IAC 2-1.1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-4.1, 326 IAC 2-5.1, 326 IAC 2-5.5, 326 IAC 2-6, 326 IAC 2-6.1, 326 IAC 2-7, 326 IAC 2-8, 326 IAC 2-9, 326 IAC 2-10, 326 IAC 2-11, 326 IAC 2-12, 326 IAC 2-13, and 326 IAC 2-14 need revisions including identifying portions of the rule that impose additional burdens beyond federal requirements, identify the practical problem that requires such additional burden, clarify the rules to resolve numerous problems that permit writers have encountered in implementation, improve the consistency and flow of the requirements in distinguishing between major and minor sources, and resolved problems associated with implementing Title V requirements at facilities that filed timely applications but have not yet received Title V permits. (IPL).

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 2-8 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2007. This rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking and notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 2-1.1, 326 IAC 2-7. (MCC).

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 2-1.1 and 326 IAC 2-7 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). These rules expire on January 1, 2006. Therefore, these rules will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: 326 IAC 2-7 should be adopted separately to clarify that compliance certifications apply only to federally-enforceable requirements and to clarify that reports of deviations should be required no more frequently than is required under existing emergency and other reporting requirements. (BSC)(IKEC).

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 2-7 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 3

Comment: 326 IAC 3-5 contains inadequate provisions regarding excess emissions and monitor downtime. (IPL)

Comment: Readopt 326 IAC 3-5 in a separate rulemaking. The requirements for continuous emissions monitoring systems under this state rule conflict with federal CEMs requirements causing significant opportunities for inconsistent and overlapping requirements between the rules. (ELC)

Comment: 326 IAC 3-5 contains inadequate provisions regarding excess emissions and downtime. (IMA)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 3-5 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: What is the legal effect of the readoption of the rules under IC 13-14-9.5. Is it a new rule with a new effective date? How will this readoption impact rules such as 326 IAC 3-5-1 that states the effective date of this rule? This rule and all other rules containing similar language should be considered in a separate rulemaking. (MJO)

Response: It is IDEM's interpretation that the effective date of a rule is the date it was first effective. However, during the rulemakings to readopt rules soon to expire, the issue of the effective date, and any other language dealing with compliance dates will have to be reviewed to assure there are no gaps in the effectiveness of the rule on regulated entities. 326 IAC 3-5 has an expiration date of January 1, 2006. Therefore, that rule will be readopted in a subsequent rulemaking, notice of which will appear in the Indiana Register.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 3-5, 326 IAC 3-6. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitted information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 3-5 and 326 IAC 3-6 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). These rules expires on January 1, 2006. Therefore, these rules will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 4

Comment: Readopt 326 IAC 4-2 separately. This rule establishes particulate matter emission limits and work practice standards for incinerators. It isn't clear if these rules apply to VOC and volatile HAP emission controls. This rule should be written with clear and enforceable emission limits and standards. (ELC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 4-2 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests more specific comment on the draft rule language, including suggestions for specific revisions to the draft rule.

ARTICLE 5

Comment: 326 IAC 5-1 needs to be clarified to confirm that opacity limits do not apply during start-up and shutdown conditions. The provisions for development of temporary exemptions are overly restrictive and need to be integrated with Title V. The rule should also be clarified to state that a source may be deemed in violation of opacity standards only if monitoring data or visual observations show a statistically significant deviation from the applicable standards. (IPL)

Comment: Readopt 326 IAC 5-1. It should not be included in the general readoption and should be adopted separately because the rules establish no boundaries on applicability. The rule potentially applies to activities that emit no more than a pound of emissions per year. This results in an overwhelming compliance burden for sources that must, as part of their Title V compliance certifications, determine compliance with all applicable requirements, including the opacity rule. Objection is also stated to the inclusion of the opacity requirements in 326 IAC 5-1 and opacity monitoring requirements in 326 IAC 3 as part of the Indiana State Implementation Plan (SIP). Opacity is not one of the six pollutants for which National Ambient Air Quality Standards (NAAQS) exist. Therefore, unless IDEM can demonstrate the opacity rules are necessary to attain and maintain compliance with a NAAQS, these rules should be removed from the SIP. (ELC)

Comment: 326 IAC 5-1 should be adopted separately to address whether the rule should apply to fugitive sources and whether exceedances of an opacity standard should be allowed when a source is in compliance with its underlying particulate matter standard. (BSC)(IKEC)

Comment: 326 IAC 5-1 should be adopted separately to clarify that compliance determined through the use of a properly calibrated continuous opacity monitor should take precedence over human observations. (SIGECO)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 5-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 6

Comment: 326 IAC 6-1 contains a number of simple errors and needs to be updated to reflect current industry emission units and applicable emissions limitations. (IPL)

Response: Second notice of this rulemaking appeared at 23 IR 2901 in the August 1, 2000, Indiana Register. Your comments will be considered in the development of the rule language to be presented to the board at the preliminary adoption hearing. A specific response to your comment will be included in the "Summary/Response to Comments from the Second Comment Period" to be presented to the board at the preliminary adoption hearing. You will receive notice of the board hearing and the board materials prior to the preliminary adoption hearing. You may wish to testify on the draft rule language at the preliminary adoption hearing.

Comment: 326 IAC 6-3 is already noticed to be revised. Rules that IDEM has already identified as likely candidates for revision should be readopted separately. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 6-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). As you have stated, a rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared in the January 1, 2000, Indiana Register at 23 IR 926. When the second notice is published with draft rule language, IDEM will request comment on the draft rule language, including suggestions for specific revisions to the draft rule.

Comment: 326 IAC 6-4 is already noticed to be revised. Rules that IDEM has already identified as likely candidates for revision should be readopted separately. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 6-4 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). As you have stated, a rulemaking addressing this rule and subject matter is currently open. Second notice of this rulemaking appeared in the March 1997 Indiana Register at 20 IR 1652. The agency plans to republish the second notice with draft rule language, at which point IDEM will request comment on the rule language, including suggestions for specific revisions to the draft rule.

Comment: 326 IAC 6-3 should be adopted separately to clarify that this rule only applies to non-de minimis point sources. (BSC)

Comment: 326 IAC 6-3-2(c) is one of the least effective and least understood air pollution control rules under Title 326. The disagreement is not with the general objective of the rule, but rather trying to determine compliance with it. The definitions of process and process weight rate under Article 1 are vague and subject to varying interpretations. Comments have been submitted to the rulemaking currently in process to amend this rule. (ELC)

Comment: 326 IAC 6-3 is ambiguous and leaves key terms open to interpretation. Specifically, the term process and process weight rate are vague and results in subjective interpretations. Also, the Chamber challenges IDEM's recent interpretation that 326 IAC 6-3-2(c) applies to processes with process weight rates less than 100 lb/hr. (IMA)

Comment: Readopt 326 IAC 6-3-2 (Process Weight rule) separately from the package published in the March 1, 2000 Indiana Register. IDEM is currently applying the process weight rule to processes with process weight rates that are below the 100 lbs/hr threshold, units not requiring permit review by IDEM. Include language in the process weight rate by exempting processes below this level. (IMA) (ELC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 6-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. First notice of this rulemaking appeared in the January 1, 2000, Indiana Register at 23 IR 926. When the second notice is published with draft rule language, IDEM will request comment on the draft rule language, including suggestions for specific revisions to the draft rule.

ARTICLE 7

Comment: 326 IAC 7-1.1 needs to be updated to reflect current industry emission units and applicable emission limitations. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 7-1.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2005. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: 326 IAC 7-3 should be revised to identify clear criteria to discontinue ambient monitoring when it is no longer necessary. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 7-1.1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2005. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 8

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 8-1. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 8-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2005. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 8-7, 326 IAC 8-9, 326 IAC 8-11. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 8-7, 326 IAC 8-9, and 326 IAC 8-11 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). These rules are included within this second notice. These rules are being published as they were most recently adopted by the board. IDEM requests more specific comment on draft rule language, including suggestions for specific revisions to the draft rules.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 8-10. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 8-10 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2007. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 8-12. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 8-12 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). A rulemaking addressing this rule and subject matter is currently open. Second notice of this rulemaking appeared in the September 1, 2000, Indiana Register at 23 IR 3206. Your comments will be considered in the development of the rule language to be presented to the board at the preliminary adoption hearing. A specific response to your comment will be included in the "Summary/Response to Comment from the Second Comment Period" to be presented to the board at the preliminary adoption hearing. You will receive notice of the board hearing and the board materials prior to the preliminary adoption hearing. You may wish to testify on the draft rule language at the preliminary adoption hearing.

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 8-13. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 8-13 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 9

Comment: Lilly objects to the general readoption of 326 IAC 9-1 that establishes carbon monoxide emission control requirements for various source categories. The rule purportedly applies to all sources of carbon monoxide emissions commencing operation after March 21, 1972, yet the rule establishes emission controls for only 3 categories of sources. Also, it is not clear whether 326 IAC 9-1-2(3) applies to VOC and volatile HAP emission controls using combustion to destroy the pollutants. (ELC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 9-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). 326 IAC 9-1 is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests more specific comment on the draft rule language, including suggestions for specific revisions to the draft rule.

ARTICLE 10

Comment: 326 IAC 10-1 should not be readopted in its current form as it is already in a rulemaking with extensive revisions. This rule needs to be revised consistent with EPA's NOx SIP call. (IPL)

Response: A rulemaking addressing this rule and subject matter is currently open. The rule was preliminarily adopted at the August 2000 board meeting. In addition, a First Notice was published on July 1, 2000, which would provide for further amendments in 326 IAC 10 to comply.

ARTICLE 14

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted

separately, as follows: 326 IAC 14-10. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC) *Response:* Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 14-10 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 19

Comment: 326 IAC 19-1 provisions are inadequate to control emissions from mobile sources and should be revised to include state-wide inspection and maintenance requirements and other possible controls. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 19-1 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). 326 IAC 19-1 is included within this second notice. The rule is being published as it was most recently adopted by the board. IDEM requests more specific comment on the draft rule language, including suggestions for specific revisions to the draft rule.

Comment: 326 IAC 19-3 provisions are inadequate to control emissions from mobile sources and should be revised to include state-wide inspection and maintenance requirements and other possible controls. (IPL)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 19-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2006. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

ARTICLE 20

Comment: It isn't clear how IDEM distinguished the state rules that should be readopted or not readopted under 326 IAC 20. IDEM has listed several rules for readoption that incorporate federal regulations by reference or adopt federal mandates and should not be subject to readoption. An exemption is clearly provided in the statute for these rules and IDEM shouldn't slow down the process and jeopardize federal delegation of authority by readopting the rules. (ELC)

Response: Rules that incorporate a federal regulation by reference are not subject to the readoption process. IDEM is making the distinction. However, rules that do more than incorporate a federal regulation are not subject to the very limited exemption of IC 13-14-9.5-1. Rules which wholly incorporated a federal regulation and do nothing more are subject to the exemption, and, as such, were clearly identified in the notice of readoption.

ARTICLE 23

Comment: Any rules that impose a mandatory time period to submit certain information, reports, or fees should be adopted separately, as follows: 326 IAC 23-3. An alternative approach to achieve the purpose of the rule would be to specify the time period for submitting information on a case-by-case basis in the permit and not in the rule. (MCC)

Response: Pursuant to IC 13-14-9.5-4(b), you have requested that 326 IAC 23-3 be readopted separately from the general readoption rule authorized by IC 13-14-9.5-4(a). This rule expires on January 1, 2007. Therefore, this rule will not be readopted within this rulemaking but will be readopted in a subsequent rulemaking. Notice of that rulemaking will be published in a subsequent Indiana Register.

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:

#00-44(APCB) Readoption Rule

Kathryn A. Watson

Air Programs Branch Chief

Office of Air Management

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile to (317) 233-2342. To ensure timely receipt of the document, it is recommended that the sender contact the Air Management Section at (317) 233-0426 when faxing a document.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered or faxed by October 30, 2000.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Management, (317) 232-8229 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 1-6-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-1 Applicability

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

Affected: IC 13-15; IC 13-17

Sec. 1. This rule applies to the owner or operator of any facility required to obtain a permit under 326 IAC 2-5.1 or 326 IAC 2-6.1. (*Air Pollution Control Board; 326 IAC 1-6-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2380; filed May 25, 1994, 11:00 a.m.: 17 IR 2238; filed Nov 25, 1998, 12:13 p.m.: 22 IR 980*)

SECTION 2. 326 IAC 1-6-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-2 Records; notice of malfunction

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

Affected: IC 13-17-3

Sec. 2. (a) A record shall be kept of all malfunctions, including startups or shutdowns of any facility or emission control equipment which result in violations of applicable air pollution control regulations or applicable emission limitations and such records shall be retained for a period of three (3) years and shall be made available to the commissioner upon request. When a malfunction of any facility or emission control equipment occurs which lasts more than one (1) hour, said condition shall be reported to the commissioner or his appointed representative. Notification shall be made by telephone or telegraph, as soon as practicable, but in no event later than four (4) daytime business hours after the beginning of said occurrence. Failure to report a malfunction of any emission control equipment subject to the requirements of this rule (326 IAC 1-6) shall constitute a violation of this rule (326 IAC 1-6) and any other applicable rules. Information of the scope and expected duration of the malfunction shall be provided including the following:

- (1) Identification of the specific emission control device to be taken out of service, as well as the location and permit number of such equipment.
- (2) The expected length of time that the emission control equipment will be out of service.
- (3) The nature and quantity of emissions of air contaminants likely to occur during the shutdown period.
- (4) Any measures such as the use of off-shift labor on equipment that will be utilized to minimize the length of the shutdown period.
- (5) Any reasons that shutdown of the facility operation during the maintenance period would be impossible for the following reason:
 - (A) continued operation is required to provide essential services, provided, however, that continued operation solely for the economic benefit of the owner or operator shall not be sufficient reason;
 - (B) continued operation is necessary to prevent injury to persons or severe damage to equipment.
- (6) A demonstration that interim control measures have reduced or will reduce emissions from the facility during the shutdown period.

(*Air Pollution Control Board; 326 IAC 1-6-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2380; errata, 11 IR 2632*)

SECTION 3. 326 IAC 1-6-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-3 Preventive maintenance plans

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

Affected: IC 13-17-3

Sec. 3. (a) Any person responsible for operating any facility specified in 326 IAC 1-6-1 shall prepare and maintain a preventive maintenance plan including the following information:

- (1) Identification of the individual(s) responsible for inspecting, maintaining and repairing emission control devices.
- (2) A description of the items or conditions that will be inspected and the inspection schedule for said items or conditions.
- (3) Identification and quantification of the replacement parts which will be maintained in inventory for quick replacement.

(b) Preventive maintenance plans shall be submitted to the commissioner upon request and shall be subject to review and approval

by the commissioner. As deemed necessary by the commissioner, any person operating a facility shall comply with the requirements of subsection (a) of this section. (*Air Pollution Control Board; 326 IAC 1-6-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2381*)

SECTION 4. 326 IAC 1-6-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-4 Conditions under which malfunction not considered violation

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

Affected: IC 13-17-3

Sec. 4. (a) Facility owners or operators shall be responsible for operating and maintaining all emission control equipment and combustion or process equipment or processes in compliance with all applicable rules. Emissions temporarily exceeding the standards which are due to malfunctions of facilities or emission control equipment shall not be considered a violation of the rules provided the source demonstrates that:

- (1) All reasonable measures were taken to correct, as expeditiously as practicable, the conditions causing the emissions to exceed the allowable limits, including the use of off-shift and over-time labor, if necessary.
- (2) All possible steps were taken to minimize the impact of the excessive emissions on ambient air quality which may include but not be limited to curtailment of operation and/or shutdown of the facility.
- (3) Malfunctions have not exceeded five percent (5%), as a guideline, of the normal operational time of the facility.
- (4) The malfunction is not due to the negligence of the operator.

(b) No facility shall be operated unless the air pollution control device(s) and measures are also in operation simultaneously and are not bypassed, unless necessary to prevent damage to equipment or injury to persons or unless there is a malfunction and the requirements set forth in subsection (a) of this section are met.

(c) Excessive emissions shall be brought into compliance with all practicable speed, and appropriate action, including those set forth above, to correct the conditions causing such emissions to exceed applicable limits; to reduce the frequency of occurrence of such conditions, to minimize the amount by which said limits are exceeded, and to reduce the length of time for which said limits are exceeded. These actions shall be initiated as expeditiously as practicable. (*Air Pollution Control Board; 326 IAC 1-6-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2381*)

SECTION 5. 326 IAC 1-6-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-5 Excessive malfunctions; department actions

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

Affected: IC 13-17-3

Sec. 5. The commissioner may consider the following guidance in determining cases of excessive malfunctions. Where records show that repeated malfunctions exceed five percent (5%), as a guideline, of the normal operational time for any one control device or combustion or process equipment, the commissioner may require that the maintenance program be improved or that the defective or faulty equipment or emission control device be replaced. The commissioner may require curtailment of operation of a facility if the owner or operator of the facility or emission control device cannot demonstrate that for the most recent twelve (12) month period the facility and/or the emission control device has operated in compliance with the applicable rules at least ninety-five percent (95%) of the operating time of said equipment. (*Air Pollution Control Board; 326 IAC 1-6-5; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2381*)

SECTION 6. 326 IAC 1-6-6 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 1-6-6 Malfunction emission reduction program

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

Affected: IC 13-17-3

Sec. 6. Any owner or operator of a facility which has the potential to emit concentration in excess of the concentrations stated in 326 IAC 1-6-1 shall submit by January 19, 1980, or within one hundred eighty (180) days after a new source commences operation, a malfunction emission reduction program. Said program shall include, but not be limited to, the normal operating emission rate and the program proposed to reduce emissions in the event of a malfunction to an emission rate which will not contribute to the cause of the violation of the ambient air quality standards established in 326 IAC 1-3. The program shall be based on the best estimates

of type and number of startups, shutdowns, and malfunctions experienced during normal operation of the facility or emission control device and the scope and duration of such conditions.

Said program may be subject to review and approval by the commissioner. (*Air Pollution Control Board; 326 IAC 1-6-6; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2382*)

SECTION 7. 326 IAC 4-2-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 4-2-1 Applicability

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

Affected: IC 13-15; IC 13-17

Sec. 1. This rule (326 IAC 4-2) establishes standards for the use of incinerators which emit regulated pollutants. This rule (326 IAC 4-2) does not apply to incinerators in residential units consisting of four (4) or fewer families or incinerators for which streamlined requirements have been established in accordance with 326 IAC 2-7-24. All other incinerators are subject to this rule (326 IAC 4-2). (*Air Pollution Control Board; 326 IAC 4-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2420; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2366*)

SECTION 8. 326 IAC 4-2-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 4-2-2 Incinerators

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

Affected: IC 13-17-3

Sec. 2. All incinerators shall:

- (1) consist of primary and secondary chambers or the equivalent;
- (2) be equipped with a primary burner unless burning wood products;
- (3) comply with 326 IAC 5-1 and 326 IAC 2;
- (4) be maintained properly as specified by the manufacturer and approved by the commissioner;
- (5) be operated according to the manufacturer's recommendations and only burn waste approved by the commissioner;
- (6) comply with other state and/or local rules or ordinances regarding installation and operation of incinerators;
- (7) be operated so that emissions of hazardous material including, but not limited to, viable pathogenic bacteria, dangerous chemicals or gases, or noxious odors are prevented;
- (8) not emit particulate matter in excess of:
 - (A) incinerators with a maximum refuse-burning capacity of two hundred (200) or more pounds per hour: three-tenths (0.3) pounds of particulate matter per one thousand (1,000) pounds of dry exhaust gas at standard conditions corrected to fifty percent (50%) excess air; or
 - (B) all other incinerators: five-tenths (0.5) pounds of particulate matter per one thousand (1,000) pounds of dry exhaust gas at standard conditions corrected to fifty percent (50%) excess air; and
- (9) not create a nuisance or a fire hazard.

If any of the above result, the burning shall be terminated immediately. (*Air Pollution Control Board; 326 IAC 4-2-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2421; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1127*)

SECTION 9. 326 IAC 8-7-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-1 Definitions

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 1. In addition to the definitions contained in 326 IAC 1-2 and 326 IAC 8-1-0.5, the following definitions apply throughout this rule:

- (1) "Aggregate emissions of a source" means the sum of the baseline potential emissions from all the facilities at the source of the types listed in section 2(a) of this rule.
- (2) "Baseline actual emissions" means the actual emissions for the baseline year.
- (3) "Baseline potential emissions" means the facility's potential to emit assuming one hundred percent (100%) use of the highest

VOC emitting material used in the baseline year.

(4) "Baseline year" means the year 1990 or later for which the most accurate or complete data are available and are representative of the source's normal operating conditions.

(5) "Fuel combustion facility" means a fossil fuel fired steam generating unit, process heater, or process furnace used exclusively for the purpose of producing steam by heat transfer or for heating an industrial process by heat transfer.

(6) "Industrial wastewater treatment" means the treatment of spent or used water containing dissolved or suspended matter from the following types of industries:

(A) Organic chemical, plastic, and synthetic fiber manufacturing.

(B) Pesticide manufacturing.

(C) Pharmaceutical manufacturing.

(D) Hazardous waste treatment, storage, and disposal facilities.

(Air Pollution Control Board; 326 IAC 8-7-1; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1224)

SECTION 10. 326 IAC 8-7-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-2 Applicability

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 2. (a) This rule shall apply to stationary sources located in Lake, Porter, Clark, or Floyd County that emit or have the potential to emit volatile organic compounds (VOCs) at levels equal to or greater than twenty-five (25) tons per year (tpy) in Lake and Porter Counties and one hundred (100) tpy in Clark and Floyd Counties. This rule shall also apply to sources that have coating facilities which emit or have the potential to emit a total equal to or greater than ten (10) tpy of VOCs in Floyd, Clark, Lake, or Porter County. In determining whether the thresholds in this section are exceeded, the owner or operator of a source shall include the total potential VOC emissions from the following facilities:

(1) Facilities of the type identified by the following rules, but with actual emissions below the applicability levels of those rules:

(A) 326 IAC 8-2, concerning surface coating operations.

(B) 326 IAC 8-3, concerning organic solvent degreasing operations.

(C) 326 IAC 8-4, concerning petroleum operations.

(D) 326 IAC 8-5, concerning miscellaneous operations.

(2) Facilities of the following types:

(A) Fuel combustion facilities, including process heaters and furnaces.

(B) Wastewater treatment plants, excluding industrial wastewater treatment operations as defined in section 1(6) of this rule.

(C) Coke ovens, including byproduct ovens.

(D) Barge loading facilities.

(E) Jet engine test cells.

(F) Iron and steel production facilities.

(G) Vegetable oil processing facilities.

(3) All other facilities with potential VOC emissions, hereafter referred to as affected facilities except those covered by the rules cited in clauses (A) through (D) and those belonging to source categories listed in clauses (E) through (Q) as follows:

(A) 326 IAC 8-2.

(B) 326 IAC 8-3.

(C) 326 IAC 8-4.

(D) 326 IAC 8-5.

(E) Synthetic organic chemical manufacturing industry (SOCMI) distillation.

(F) SOCMI reactors.

(G) Offset lithography.

(H) Batch processors.

(I) Industrial wastewater treatment operations.

(J) Plastic parts coating for business machines.

(K) Plastic parts coating for automobiles.

(L) Wood furniture coating.

(M) Aerospace coating.

(N) Auto body refinishing.

(O) Ship building and ship repair.

- (P) Cleanup solvents.
- (Q) Volatile organic liquids storage.

(b) Facilities of the types listed in subsection (a)(1) through (a)(2) are exempt from the emission limit requirements of section 3 of this rule.

(c) Coating facilities that have aggregate potential emissions greater than ten (10) tpy and less than twenty-five (25) tpy in Lake and Porter Counties and coating facilities with aggregate potential emissions greater than forty (40) tpy and less than one hundred (100) tpy in Clark and Floyd Counties shall comply with the certification, record keeping, and reporting requirements of section 6 of this rule.

(d) Affected facilities are subject to the requirements of section 3 of this rule unless the source's actual emissions have been limited on or before May 31, 1995, to below twenty-five (25) tpy in Lake and Porter Counties and one hundred (100) tpy in Clark and Floyd Counties through federally enforceable production or capacity limitations in an operating permit. Until such time as 326 IAC 2-8 has been approved by the U.S. EPA, the operating permit will be submitted to the U.S. EPA by the department as a SIP revision. (*Air Pollution Control Board; 326 IAC 8-7-2; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1224*)

SECTION 11. 326 IAC 8-7-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-3 Emission limits

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 3. Affected facilities must implement one (1) of the following emissions reduction measures on or before May 31, 1995:

(1) Achieve an overall VOC reduction from baseline actual emissions of at least ninety-eight percent (98%) by the documented reduction in use of VOC containing materials or install an add-on control system that achieves an overall control efficiency of ninety-eight percent (98%).

(2) Where it can be demonstrated by the source that control technology does not exist that is reasonably available and both technologically and economically feasible to achieve a ninety-eight percent (98%) reduction in VOC emissions, a source shall achieve an overall VOC reduction of at least eighty-one percent (81%) from baseline actual emissions with the documented reduction in use of VOC containing materials or install an add-on control system that achieves an overall control efficiency of eighty-one percent (81%).

(3) Achieve an alternative overall emission reduction with the application of reasonably available control technology (RACT) that has been determined as reasonably available by the U.S. EPA and the department. A petition developed in accordance with the procedures in 326 IAC 8-1-5 shall accompany the request for an alternative overall emission reduction. The petition shall be submitted to the department on or before December 31, 1994. The department may approve an extension until February 28, 1995, for submittal of the petition provided the request is received by the department prior to December 31, 1994. (*Air Pollution Control Board; 326 IAC 8-7-3; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1225*)

SECTION 12. 326 IAC 8-7-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-4 Compliance methods

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 4. (a) If compliance with section 3(1) or 3(2) of this rule is to be achieved with the application of an add-on control system or systems, the following requirements shall apply:

(1) On or before December 31, 1994, the source shall submit to the department a compliance plan containing the following information:

- (A) A description of the processes that will be controlled.
- (B) A description of the add-on control systems.
- (C) A description of the expected control efficiency that will be achieved.

(2) A compliance test shall be performed on the add-on control systems according to the schedule and situations described in section 9(4) of this rule. The test results will be used to demonstrate compliance with the applicable emission limit and establish process and control system operating parameters.

(3) After August 31, 1995, compliance shall continue to be demonstrated by monitoring the process and control system operating parameters established in the initial compliance test unless the parameters are revised by a subsequent test. Any subsequent test and revision to process and control system operating parameters must be submitted to the department as a revision to the compliance plan and be approved by the department. A copy of the most recent compliance test shall be located at the facility and shall be made available to any department or U.S. EPA inspector upon request.

(4) Results of the compliance test required by subdivision (2) shall be submitted to the department on or before September 30, 1995, and shall contain, at a minimum, all of the following:

(A) Test methods and procedures.

(B) Overall control efficiency.

(C) Process operating parameters during the compliance test, including, but not limited to, the following:

(i) Production rate.

(ii) Temperature.

(iii) Pressure.

(iv) Moisture content of process stream.

(v) Characteristics of process materials.

(vi) Other parameters relevant to the emissions of VOC.

(b) If compliance with section 3(1) or 3(2) of this rule is to be achieved through the reduction in the use of VOC containing materials, the owner or operator shall submit a compliance plan on or before December 31, 1994.

(1) The compliance plan shall contain, at a minimum, all of the following information:

(A) The name and address of the source, and the name and telephone number of a company representative.

(B) A complete description of the baseline actual emissions.

(C) A complete description of the VOC containing materials, such as chemicals, coatings, solvents, and cleaning materials used at the facility with an identification of the VOC containing materials that will be replaced along with a complete description of the replacement materials. The owner or operator shall also include a description of the operations in which the VOC containing materials are used.

(D) A comprehensive record keeping and monitoring plan that will be used to insure and demonstrate compliance. The plan must follow the test methods and procedures as described in section 7 of this rule.

(2) The owner or operator shall also submit a copy of the approved compliance plan with the source's Part 70 permit application. The Part 70 permit application must be submitted to the department no later than six (6) months, and issued no later than twelve (12) months, from the effective date of Indiana's Part 70 permit program. The department shall incorporate the approved compliance plan into the source's Part 70 permit which shall include specific enforceable permit conditions. These permit conditions shall reflect limits, with no longer than daily averaging, on VOC content of process materials, capture and control efficiencies, or other conditions that will limit VOC emissions and demonstrate compliance with the requirements of this rule. The permit shall also include appropriate test methods that are consistent with the methods incorporated within 326 IAC 8 [this article], and sufficient monitoring record keeping and reporting requirements to assure that information is available to document continuous compliance with the VOC limits. The department will submit a copy of the compliance plan to the U.S. EPA for review. On or after May 31, 1995, the owner or operator shall operate the facility as described in the approved compliance plan unless request by the department to modify the plan as described in section 5 of this rule.

(c) If a source intends to comply with section 3(2) of this rule, it shall submit to the department on or before December 31, 1994, for review and approval, documentation demonstrating that ninety-eight percent (98%) control is not reasonably achievable taking into account availability of alternative materials, technical feasibility, cost, and any other factors considered by the source. A demonstration that ninety-eight percent (98%) control is not achieved at similar operations, if any, in other ozone nonattainment areas within the United States is an acceptable demonstration.

(d) Owners or operators who elect to comply with section 3(3) of this rule are subject to the following requirements:

(1) Compliance shall be achieved with the application of one (1) or more emission reduction systems including, but not limited to, the following:

(A) add-on controls;

(B) elimination or reduction in use of VOC containing materials; or

(C) work practices.

(2) On or before December 31, 1994, the owner or operator shall submit to the department a compliance plan containing all of the following information:

(A) The name and address of the source and the name and telephone number of a company representative.

- (B) A petition for a site specific RACT control plan developed in accordance with the procedures in 326 IAC 8-1-5.
- (C) Identification of all VOC emitting facilities along with the description of the purpose each facility serves.
- (D) A list of the facilities that meet the applicability criteria of section 2(a) of this rule.
- (E) Baseline actual emissions for each facility identified in clause (D) along with the following information:
 - (i) Maximum design rate, maximum production, or maximum throughput.
 - (ii) Identification, amount, and VOC emission factor of process materials such as coatings, chemicals, and fuels.
 - (iii) Baseline year.
- (F) A complete description of the emission reduction measures that the source intends to implement, the percent VOC reduction to be achieved by these measures, and calculations that demonstrate that the measures will meet the projected VOC reductions described in the source's petition for site specific RACT. The compliance plan shall also describe the expected percentage of overall emission reduction from baseline actual emissions. Supporting documentation such as:
 - (i) a manufacturer's warranty on a control system;
 - (ii) the difference in the VOC emission factor of the baseline coating or process chemicals; or
 - (iii) an increase in transfer efficiency;
 shall be included.
- (G) The operation, maintenance, monitoring, and record keeping procedures that will ensure continued compliance.
- (H) The expected annual VOC emission in tons per year (tpy) after applying the emission reduction systems.

(e) Owners or operators who elect to comply with this rule with the application of enforceable permit limits, in accordance with section 2(d) of this rule shall, prior to December 31, 1994, submit an application for a federally enforceable state operating permit (FESOP) in accordance with 326 IAC 2-8. Until such time as 326 IAC 2-8 has been approved by the U.S. EPA, the operating permit will be submitted to the U.S. EPA by the department as a SIP revision. The source shall include as a part of the permit application, the following information:

- (1) The name and address of the source and the name and telephone number of a company representative.
- (2) Identification of all VOC emitting facilities together with a description of the purpose each facility serves.
- (3) A list of facilities that meet the requirements of section 2(a) of this rule.
- (4) Baseline actual emissions for each facility identified in subdivision (3) along with the following information:
 - (A) Baseline year.
 - (B) Maximum design rate, maximum production, or maximum throughput.
 - (C) Identification, amount, and VOC emission factor of process materials such as coatings, chemicals, and fuels.
- (5) Identification of facilities for which limitation on hours of operation or limitation on amount of production has been proposed along with the proposed number of hours or amount of production.
- (6) The monitoring and record keeping procedures that will be used to demonstrate compliance with the limitation on hours of operation or limitations in amount of production.
- (7) A signed statement providing that the proposed limitation on hours of operation or limitation on amount of production shall be fully implemented prior to or on May 31, 1995.

The monitoring and record keeping procedures that will demonstrate compliance with the limitation on hours of operation or limitations in amount of production will be incorporated into the source's operating permit.

(f) The department may approve an extension until February 28, 1995, for any compliance plan, demonstration, or application required by this section, provided the request is received by the department prior to December 31, 1994. (*Air Pollution Control Board; 326 IAC 8-7-4; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1225*)

SECTION 13. 326 IAC 8-7-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-5 Compliance plan

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 5. Compliance plans required by this rule must be approved by the department. The department may:

- (1) Request additional information if the information contained in the compliance plan is found to be incomplete or indicates noncompliance with the rule.
- (2) Request modifications in the proposed operation, maintenance, monitoring, and record keeping procedures.
- (3) If the department requests modifications in the proposed operation, maintenance, monitoring, or record keeping procedures, the owner or operator shall resubmit a new compliance plan containing the modification within sixty (60) days of the initial

notification.

(4) Compliance plans required by this rule must be approved by the department by November 30, 1995.
(*Air Pollution Control Board; 326 IAC 8-7-5; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1227*)

SECTION 14. 326 IAC 8-7-6 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-6 Certification, record keeping, and reporting requirements for coating facilities

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 6. On or before December 31, 1994, or upon the startup of any new coating facility meeting the aggregate potential emissions criteria of section 2(c) of this rule, each source or facility shall submit to the department a certification that the facility is exempt from the requirements of section 3 of this rule. The certification shall contain all of the following information:

- (1) The name and address of the source and the name and telephone number of the company representative.
- (2) Identification of each VOC emitting facility together with a description of the purpose each facility serves.
- (3) A listing of facilities which meet the requirements of section 2(a) of this rule.
- (4) Baseline actual emissions for each facility identified in subdivision (3) together with the following information:
 - (A) Maximum design rate, maximum production, or maximum throughput.
 - (B) VOC emission factors with reference to the source of the emission factors and procedures as to how the emission factors were estimated, for example, the type of each fuel or process chemicals used and the baseline year used.
- (5) Procedures that will be used to monitor the source's potential emissions to ensure that they remain below twenty-five (25) tpy.
(*Air Pollution Control Board; 326 IAC 8-7-6; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1227*)

SECTION 15. 326 IAC 8-7-7 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-7 Test methods and procedures

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 7. The owner or operator of any source subject to this rule shall be subject to the applicable test method requirements of 326 IAC 8-1-4 and in 40 CFR 60, Appendix A*.

*Copies of the Code of Federal Regulations (CFR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections are also available from the Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 8-7-7; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1228*)

SECTION 16. 326 IAC 8-7-8 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-8 General record keeping and reports

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 8. In addition to complying with specific recording and reporting requirements in other sections of this rule, sources shall comply with all of the following requirements:

- (1) All records required by this rule shall be maintained for at least three (3) years.
- (2) Records required by this rule or records used to demonstrate that a source is exempt from the requirements of this rule shall be submitted to the department or the U.S. EPA within thirty (30) days of the receipt of a written request. If such records are not available, the source shall be considered to be subject to the emission limits contained in section 3 of this rule.
- (3) Sources subject to this rule shall notify the department at least thirty (30) days prior to the addition or modification of a facility which may result in a potential increase in VOC emissions.

(*Air Pollution Control Board; 326 IAC 8-7-8; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1228*)

SECTION 17. 326 IAC 8-7-9 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-9 Control system operation, maintenance, and testing

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 9. The following requirements shall apply to sources that choose to meet the emission limit requirements of section 3 of this rule at any facility using a control device or devices:

- (1) The control system shall be operated and maintained according to the manufacturer's recommendations but may be modified based on the results of the initial or subsequent compliance test or upon the written request of the department.
- (2) The operating and maintenance procedures shall be followed beginning no later than May 31, 1995. A copy of the procedures shall be submitted to the department no later than September 30, 1995.
- (3) A copy of the operating and maintenance procedures shall be maintained in a convenient location at the source property and as close to the control system as possible for the reference by plant personnel and department inspectors.
- (4) The control system shall be tested according to the following schedule and under the following situations:
 - (A) An initial compliance test shall be conducted on or before August 31, 1995, and every two (2) years after the date of the initial test.
 - (B) A compliance test shall also be conducted whenever the owner or operator chooses to operate a control system under conditions different from those that were in place at the time of the previous test.
 - (C) If the owner or operator chooses to change the method of compliance with section 3 of this rule, a compliance test shall be performed within three (3) months of the change.
 - (D) A compliance test shall also be performed within ninety (90) days of the startup of a new facility or upon written request by the department or the U.S. EPA.
- (5) All compliance tests shall be conducted according to a protocol approved by the department at least thirty (30) days before the test. The protocol shall contain, at a minimum, the following information:
 - (A) Test procedures.
 - (B) Operating and control system parameters.
 - (C) Type of VOC containing process material being used.
 - (D) The process and control system parameters which will be monitored during the test.

(Air Pollution Control Board; 326 IAC 8-7-9; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1228)

SECTION 18. 326 IAC 8-7-10 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-7-10 Control system monitoring, record keeping, and reporting

Authority: IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-3; IC 13-14

Sec. 10. (a) Sources that choose to meet the emission limit requirements of section 3 of this rule with the use of a control device or devices shall install, calibrate, maintain, and operate, according to the manufacturer's specification, the following monitoring equipment unless an alternative monitoring procedure has been approved by the department:

- (1) If a thermal incinerator is used for VOC reduction, a temperature monitoring device capable of continuously recording the temperature of the gas stream in the combustion zone of the incinerator shall be used. The temperature monitoring device shall have an accuracy of one percent (1%) of the temperature being measured in degrees centigrade or plus or minus five-tenths degree Centigrade ($\pm 0.5^{\circ}\text{C}$), whichever is greater.
- (2) If a catalytic incinerator is used for VOC reduction, a temperature device capable of continuously recording the temperature in the gas stream immediately before and after the catalyst bed of the incinerator shall be used. The temperature monitoring device shall have an accuracy of one percent (1%) of the temperature being measured in degrees centigrade plus or minus five-tenths degree Centigrade ($\pm 0.5^{\circ}\text{C}$), whichever is greater.
- (3) If a carbon adsorber is used to remove and recover VOC from the gas stream, a VOC monitoring device capable of continuously recording the concentration level of VOC at the outlet of the carbon bed shall be used. The monitoring device shall be based on a detection principle such as infrared, photoionization, or thermal conductivity.
- (4) Where a VOC recovery device other than a carbon adsorber is used, the source shall provide to the department information describing the operation of the device and the process parameters which would indicate proper operation and maintenance of the control device. The department may request further information and will specify appropriate monitoring procedures and reporting requirements.

(b) Sources subject to the requirements of this section shall maintain the following records:

- (1) A log of the operating time of the facility and the facility's capture system, control device, and monitoring equipment.
- (2) A maintenance log for the capture system, the control device, and the monitoring equipment detailing all routine and nonroutine maintenance performed. The log shall include the dates and duration of any outages of the capture system, the control device, or the monitoring system.
- (3) The following additional records shall be maintained for facilities using thermal incinerators:
 - (A) Continuous records of the temperature in the gas stream in the combustion zone of the incinerator.
 - (B) Records of all three (3) hour periods of operation for which the average combustion temperature of the gas stream in the combustion zone was more than fifty degrees Fahrenheit (50°F) below the combustion zone temperature which existed during the most recent compliance test that demonstrated that the facility was in compliance.
- (4) The following additional records shall be maintained for facilities using catalytic incinerators:
 - (A) Continuous records of the temperature of the gas stream both upstream and downstream of the catalyst bed of the incinerator.
 - (B) Records of all three (3) hour periods of operation for which the average temperature measured at the process vent stream immediately before the catalyst bed is more than fifty degrees Fahrenheit (50°F) below the average temperature of the process vent stream which existed during the most recent compliance test that demonstrated that the facility was in compliance.
 - (C) Records of all three (3) hour periods of operation for which the average temperature difference across the catalyst bed is less than eighty percent (80%) of the temperature difference measured during the most recent compliance test that demonstrated that the facility was in compliance.
- (5) The following additional records shall be maintained for facilities using carbon adsorbers:
 - (A) Continuous records of the VOC concentration level or reading in the exhaust stream of the carbon adsorber.
 - (B) Records of all three (3) hour periods of operation during which the average VOC concentration level or reading in the exhaust gas is more than twenty percent (20%) greater than the average exhaust gas concentration level or reading measured by the organic monitoring device during the most recent determination of the recovery efficiency of the carbon adsorber that demonstrated that the facility was in compliance.
- (6) Facilities using VOC recovery devices other than carbon adsorbers shall maintain the monitoring records and meet the reporting requirements specified by subsection (a)(4).
- (7) Information requirements in subdivisions (3)(B), (4)(B), (4)(C), and (5)(B) shall be submitted to the department within thirty (30) days of occurrence. The following information shall accompany the submittal:
 - (A) The name and location of the facility.
 - (B) Identification of the control system where the excess emission occurred and the facility it served.
 - (C) The time, date, and duration of the exceedence [*sic.*].
 - (D) Corrective action taken.

(Air Pollution Control Board; 326 IAC 8-7-10; filed Dec 22, 1994, 11:45 a.m.: 18 IR 1229)

SECTION 19. 326 IAC 8-9-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-9-1 Applicability

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

Affected: IC 13-12

Sec. 1. (a) On and after October 1, 1995, this rule applies to stationary vessels used to store volatile organic liquid (VOL) that are located in Clark, Floyd, Lake, or Porter County.

(b) Stationary vessels with a capacity of less than thirty-nine thousand (39,000) gallons are subject to the reporting and record keeping provisions of section 6(a) and 6(b) of this rule and are exempt from all other provisions of this rule.

(c) Stationary vessels with a capacity equal to or greater than thirty-nine thousand (39,000) gallons that store a VOL with a maximum true vapor pressure equal to or greater than five-tenths (0.5) pound per square inch absolute (psia) but less than seventy-five hundredths (0.75) psia are subject to the provisions of section 6(a), 6(b), 6(g), and 6(h) of this rule and are exempt from all other provisions of this rule. *(Air Pollution Control Board; 326 IAC 8-9-1; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1056)*

SECTION 20. 326 IAC 8-9-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-9-2 Exemptions

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

Affected: IC 13-12

Sec. 2. This rule does not apply to the following vessels:

- (1) Vessels at coke oven byproduct plants.
- (2) Pressure vessels designed to operate in excess of twenty-nine and four-tenths (29.4) pounds per square inch absolute and without emissions to the atmosphere.
- (3) Vessels that are permanently attached to mobile vehicles such as trucks, rail cars, barges, or ships.
- (4) Vessels with a design capacity less than or equal to four hundred twenty thousand (420,000) gallons used for petroleum or condensate stored, processed, or treated prior to custody transfer.
- (5) Vessels located at bulk gasoline plants.
- (6) Storage vessels located at gasoline service stations.
- (7) Vessels used to store beverage alcohol.
- (8) Stationary vessels that are subject to any provision of 40 CFR 60*, Subpart Kb, New Source Performance Standard for Volatile Organic Liquid Storage.

*Copies of the Code of Federal Regulations (CFR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-9-2; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1056*)

SECTION 21. 326 IAC 8-9-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-9-3 Definitions

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

Affected: IC 13-12

Sec. 3. The following definitions apply throughout this rule:

- (1) "Condensate" means hydrocarbon liquid separated from natural gas that condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.
- (2) "Custody transfer" means the transfer of produced petroleum and condensate, or both, after processing or treatment, or both, in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other forms of transportation.
- (3) "Fill" means the introduction of VOL into a storage vessel but not necessarily to complete capacity.
- (4) "Gasoline service station" means any site where gasoline is dispensed to motor vehicle fuel tanks from stationary storage vessels.
- (5) "Maximum true vapor pressure" means the equilibrium partial pressure exerted by a volatile organic liquid. The maximum true vapor pressure of VOLs stored at or above the ambient temperature shall correspond to the highest calendar month average storage temperature and shall be determined as follows:
 - (A) Maximum true vapor pressure for VOLs stored at or above the ambient temperature shall be determined using the following procedures:
 - (i) For gasolines and naphtha, either of the following:
 - (AA) Figures 17A and 17B, American Petroleum Institute Publication 2517, Third Edition, February 1989, with addendum, May 1994*.
 - (BB) Figure 4.3-6, AP-42, Compilation of Air Pollutant Emission Factors, Volume I (Stationary Point and Area Sources), Fourth Edition, September 1985*.
 - (ii) For crude oils, either of the following:
 - (AA) Figures 18A and 18B, American Petroleum Institute Publication 2517, Third Edition, February 1989, with addendum, May 1994*.
 - (BB) Figure 4.3-5, AP-42, Compilation of Air Pollutant Emission Factors, Volume I (Stationary Point and Area Sources), Fourth Edition, September 1985*.
 - (iii) For VOLs, other than those in item (i) or (ii), procedures on page D-146, Vapor Pressures, Critical Temperatures, and Critical Pressures of Organic Compounds, Handbook of Chemistry and Physics, 51st Edition, 1970-1971, Chemical Rubber Company*.
 - (iv) Maximum true vapor pressure for VOLs stored at or above ambient temperatures shall be determined at the following temperatures:
 - (AA) In Lake and Porter Counties, seventy-three degrees Fahrenheit (73°F).
 - (BB) In Clark and Floyd Counties, seventy-seven and seven-tenths degrees Fahrenheit (77.7°F).
 - (B) Alternatively, the owner or operator or the department and the U.S. EPA may require measurement of vapor pressure. ASTM Method D323-92* or a method acceptable to the department and U.S. EPA shall be used. If a discrepancy exists between the

results obtained from methods in clause (A) and methods used in this clause, the results in this clause shall prevail.

- (6) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.
- (7) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery.
- (8) "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquified petroleum gases as determined by the following methods:
 - (A) For gasoline, only, ASTM D323-82*.
 - (B) For gasoline-ethanol blends, ASTM D-5190*, ASTM D-5191*, ASTM 5482*.
- (9) "Vessel" means each tank, reservoir, or container used for the storage of VOLs but does not include either of the following:
 - (A) Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors.
 - (B) Subsurface caverns or porous rock reservoirs.
- (10) "Volatile organic liquid" or "VOL" means any organic liquid that can emit volatile organic compounds (VOCs) into the atmosphere except those VOLs that emit only those compounds that the department has determined do not contribute appreciably to the formation of ozone.
- (11) "Waste" means any liquid resulting from industrial, commercial, mining, or agricultural operations, or from community activities that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or recycled.

*Copies of Figures 17A and 17B, American Petroleum Institute Publication 2517, Third Edition, February 1989, with addendum, May 1994; Figure 4.3-6, AP-42, Compilation of Air Pollutant Emission Factors, Volume I (Stationary Point and Area Sources), Fourth Edition, September 1985; Figures 18A and 18B, American Petroleum Institute Publication 2517, Third Edition, February 1989, with addendum, May 1994; Figure 4.3-5, AP-42, Compilation of Air Pollutant Emission Factors, Volume I (Stationary Point and Area Sources), Fourth Edition, September 1995; Procedures on page D-146, Vapor Pressures, Critical Temperatures, and Critical Pressures of Organic Compounds, Handbook of Chemistry and Physics, 51st Edition, 1970-1971, Chemical Rubber Company; ASTM Method D323-92; ASTM D323-82; ASTM D-5190; ASTM D-191; and ASTM 5482 referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-9-3; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1056; errata filed Dec 19, 1995, 3:15 p.m.: 19 IR 1141; errata, 19 IR 1372; errata filed Apr 9, 1996, 2:30 p.m.: 19 IR 2045*)

SECTION 22. 326 IAC 8-9-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-9-4 Standards

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

Affected: IC 13-12

Sec. 4. (a) The owner or operator of each vessel with a capacity greater than or equal to thirty-nine thousand (39,000) gallons, that stores VOL with a maximum true vapor pressure greater than or equal to seventy-five hundredths (0.75) pound per square inch absolute (psia) but less than eleven and one-tenth (11.1) psia shall do the following:

- (1) On or before May 1, 1996, for each vessel having a permanently affixed roof, install one (1) of the following:
 - (A) An internal floating roof meeting the standards in subsection (c).
 - (B) A closed vent system and control device meeting the standards in subsection (d).
 - (C) An equivalent emissions control system resulting in equivalent emissions reductions to that obtained in clause (A).
- (2) For each vessel having an internal floating roof, install one (1) of the following:
 - (A) At the time of the next scheduled cleaning, but not later than ten (10) years after May 1, 1996, an internal floating roof meeting the standards in subsection (c).
 - (B) On or before May 1, 1996, a closed vent system and control device meeting the standards in subsection (d).
 - (C) On or before May 1, 1996, an equivalent emissions control system resulting in equivalent emissions reductions to that obtained in clause (A).
- (3) For each vessel having an external floating roof, install one (1) of the following:
 - (A) At the time of the next scheduled cleaning, but not later than ten (10) years after May 1, 1996, an external floating roof meeting the standards in subsection (e).
 - (B) On or before May 1, 1996, a closed vent system meeting the standards in subsection (d).
 - (C) On or before May 1, 1996, an equivalent emissions control system resulting in equivalent emissions reductions to that

obtained in clause (A).

(4) For each vessel subject to this subsection, the owner or operator described in the report required in section 6(b) of this rule, install one (1) of the following:

- (A) Emission control equipment.
- (B) A schedule for vessel cleaning and installation of emission control equipment.

(b) On or before May 1, 1996, the owner or operator of each vessel with a capacity greater than or equal to thirty-nine thousand (39,000) gallons, that stores VOL with a maximum true vapor pressure greater than or equal to eleven and one-tenth (11.1) psia shall equip each vessel with a closed vent system with a control device meeting the standards of subsection (d).

(c) Standards applicable to each internal floating roof are as follows:

(1) The internal floating roof shall float on the liquid surface, but not necessarily in complete contact with it, inside a vessel that has a permanently affixed roof.

(2) The internal floating roof shall be floating on the liquid surface at all times, except during initial fill and during those intervals when the vessel is completely emptied or subsequently emptied and refilled.

(3) When the roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be accomplished as rapidly as possible.

(4) Each internal floating roof shall be equipped with one (1) of the following closure devices between the wall of the vessel and the edge of the internal floating roof:

(A) A foam or liquid-filled seal mounted in contact with the liquid (liquid-mounted seal).

(B) Two (2) seals mounted one (1) above the other so that each forms a continuous closure that completely covers the space between the wall of the vessel and the edge of the internal floating roof. The lower seal may be vapor-mounted, but both must be continuous.

(C) A mechanical shoe seal that consists of a metal sheet held vertically against the wall of the vessel by springs or weighted levers and that is connected by braces to the floating roof. A flexible coated fabric, or envelope, spans the annular space between the metal sheet and the floating roof.

(5) Each opening in a noncontact internal floating roof except for automatic bleeder vents (vacuum breaker vents) and the rim space vents shall provide a projection below the liquid surface.

(6) Each opening in the internal floating roof except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains shall be equipped with a cover or lid that shall be maintained in a closed position at all times (with no visible gap) except when the device is in actual use. The cover or lid shall be equipped with a gasket. Covers on each access hatch and automatic gauge float well shall be bolted except when they are in use.

(7) Automatic bleeder vents shall be equipped with a gasket and shall be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports.

(8) Rim space vents shall be equipped with a gasket and shall be set to open only when the internal floating roof is not floating or at the manufacturer's recommended setting.

(9) Each penetration of the internal floating roof for the purpose of sampling shall be a sample well. The sample well shall have a slit fabric cover that covers at least ninety percent (90%) of the opening.

(10) Each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover.

(d) Standards applicable to each closed vent system and control device are as follows:

(1) The closed vent system shall be designed to collect all VOC vapors and gases discharged from the vessel and operated with no detectable emission as indicated by an instrument reading of less than five hundred (500) parts per million (ppm) above background and visual inspections as determined by the methods specified in 40 CFR 60, Subpart VV, 60.485(C)*.

(2) The control device shall be designed and operated to reduce inlet VOC emissions by ninety-five percent (95%) or greater. If a flare is used as the control device, it shall meet the specifications described in the general control device requirements in 40 CFR 60.18, General Provisions*.

(e) Standards applicable to each external floating roof are as follows:

(1) Each external floating roof shall be equipped with a closure device between the wall of the vessel and the roof edge. The closure device shall consist of two (2) seals, one (1) above the other. The lower seal shall be referred to as the primary seal; the upper seal shall be referred to as the secondary seal.

(2) Except as provided in section 5(c)(4) of this rule, the primary seal shall completely cover the annular space between the edge of the floating roof and vessel wall and shall be either a liquid-mounted seal or a shoe seal.

(3) The secondary seal shall completely cover the annular space between the external floating roof and the wall of the vessel in

a continuous fashion except as allowed in section 5(c)(4) of this rule.

(4) Except for automatic bleeder vents and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface.

(5) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid that shall be maintained in a closed position at all times, without visible gap, except when the device is in actual use.

(6) Automatic bleeder vents shall be closed at all times when the roof is floating except when the roof is being floated off or is being landed on the roof leg supports.

(7) Rim vents shall be set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting. Automatic bleeder vents and rim space vents shall be gasketed.

(8) Each emergency roof drain shall be provided with a slotted membrane fabric cover that covers at least ninety percent (90%) of the area of the opening.

(9) The roof shall be floating on the liquid at all times, for example, off the roof leg supports, except when the vessel is completely emptied and subsequently refilled. The process of filling, emptying, or refilling when the roof is resting on the leg supports shall be continuous and shall be accomplished as rapidly as possible.

*Copies of 40 CFR 60, Subpart VV, 60.485(C); and 40 CFR 60.18, General Provisions referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-9-4; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1057*)

SECTION 23. 326 IAC 8-9-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-9-5 Testing and procedures

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

Affected: IC 13-12

Sec. 5. (a) The owner or operator of each vessel subject to section 4(a) of this rule shall meet the requirements of subsection (b), (c), or (d).

(b) On and after May 1, 1996, except as provided in section 4(a)(2) of this rule, the owner or operator of each vessel equipped with an internal floating roof shall meet the following requirements:

(1) Visually inspect the internal floating roof, the primary seal, and the secondary seal, if one is in service, prior to filling the vessel with VOL. If there are holes, tears, or other openings in the primary seal, the secondary seal, or the seal fabric or defects in the internal floating roof, or both, the owner or operator shall repair the items before filling the vessel.

(2) For vessels equipped with a liquid-mounted or mechanical shoe primary seal, visually inspect the internal floating roof and the primary seal or the secondary seal, if one is in service, through manholes and roof hatches on the fixed roof at least once every twelve (12) months after initial fill. If the internal floating roof is not resting on the surface of the VOL inside the vessel, or there is liquid accumulated on the roof, or the seal is detached, or there are holes or tears in the seal fabric, the owner or operator shall repair the items or empty and remove the vessel from service within forty-five (45) days. If a failure that is detected during inspections required in this section cannot be repaired in forty-five (45) days and if the vessel cannot be emptied within forty-five (45) days, a thirty (30) day extension may be requested from the department in the inspection report required in section 6(c)(3) of this rule. Such a request for an extension must document that alternate storage capacity is unavailable and specify a schedule of actions the company will take that will assure that the control equipment will be repaired or the vessel will be emptied as soon as possible.

(3) For vessels equipped with both primary and secondary seals:

(A) visually inspect the vessel as specified in subdivision (4), at least every five (5) years; or

(B) visually inspect the vessel as specified in subdivision (2).

(4) Visually inspect the internal floating roof, the primary seal, the secondary seal, if one is in service, gaskets, slotted membranes, and sleeve seals each time the vessel is emptied and degassed. If the internal floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal or the seal fabric, or the gaskets no longer close off the liquid surfaces from the atmosphere, or the slotted membrane has more than ten percent (10%) open area, the owner or operator shall repair the items as necessary so that none of the conditions specified in this subdivision exist before refilling the vessel with VOL. In no event shall the inspections required by this subsection occur at intervals greater than ten (10) years in the case of vessels conducting the annual visual inspection as specified in subdivisions (2)

and (3)(B) and at intervals no greater than five (5) years in the case of vessels specified in subdivision (3)(A).

(5) Notify the department in writing at least thirty (30) days prior to the filling or refilling of each vessel for which an inspection is required by subdivisions (1) and (4) to afford the department the opportunity to have an observer present. If the inspection required by subdivision (4) is not planned and the owner or operator could not have known about the inspection thirty (30) days in advance of refilling the vessel, the owner or operator shall notify the department at least seven (7) days prior to the refilling of the vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, this notification, including the written documentation, may be made in writing and sent by express mail so that it is received by the department at least seven (7) days prior to the refilling.

(c) On and after May 1, 1996, except as provided in section 4(a)(3) of this rule, the owner or operator of each vessel equipped with an external floating roof shall meet the following requirements:

(1) Determine the gap areas and maximum gap widths between the primary seal and the wall of the vessel and between the secondary seal and the wall of the vessel according to the following frequency:

(A) Measurements of gaps between the vessel wall and the primary seal (seal gaps) shall be performed during the hydrostatic testing of the vessel or within sixty (60) days of the initial fill with VOL and at least once every five (5) years thereafter.

(B) Measurements of gaps between the vessel wall and the secondary seal shall be performed within sixty (60) days of the initial fill with VOL and at least once per year thereafter.

(C) If any source ceases to store VOL for a period of one (1) year or more, subsequent introduction of VOL into the vessel shall be considered an initial fill for purposes of this subdivision.

(2) Determine gap widths and areas in the primary and secondary seals individually by the following procedures:

(A) Measure seal gaps, if any, at one (1) or more floating roof levels when the roof is floating off the roof leg supports.

(B) Measure seal gaps around the entire circumference of the vessel in each place where a one-eighth ($\frac{1}{8}$) inch diameter uniform probe passes freely (without forcing or binding against seal) between the seal and the wall of the vessel and measure the circumferential distance of each such location.

(C) The total surface area of each gap described in clause (B) shall be determined by using probes of various widths to measure accurately the actual distance from the vessel wall to the seal and multiplying each such width by its respective circumferential distance.

(3) Add the gap surface area of each gap location for the primary seal and the secondary seal individually and divide the sum for each by the nominal diameter of the vessel and compare each ratio to the respective standards in subdivision (4).

(4) Make necessary repairs or empty the vessel within forty-five (45) days of identification of seals not meeting the requirements listed in clauses (A) and (B) as follows:

(A) The accumulated area of gaps between the vessel wall and the mechanical shoe or liquid-mounted primary seal shall not exceed ten (10) square inches per foot of vessel diameter, and the width of any portion of any gap shall not exceed one and five-tenths (1.5) inches. There shall be no holes, tears, or other openings in the shoe, seal fabric, or seal envelope.

(B) The secondary seal shall meet the following requirements:

(i) The secondary seal shall be installed above the primary seal so that it completely covers the space between the roof edge and the vessel wall except as provided in subdivision (2)(C).

(ii) The accumulated area of gaps between the vessel wall and the secondary seal used in combination with a metallic shoe or liquid-mounted primary seal shall not exceed one (1) square inch per foot of vessel diameter, and the width of any portion of any gap shall not exceed five-tenths (0.5) inch. There shall be no gaps between the vessel wall and the secondary seal when used in combination with a vapor-mounted primary seal.

(iii) There shall be no holes, tears, or other openings in the seal or seal fabric.

(C) If a failure that is detected during inspections required in subdivision (1) cannot be repaired within forty-five (45) days and if the vessel cannot be emptied within forty-five (45) days, a thirty (30) day extension may be requested from the department in the inspection report required in section 6(d)(3) of this rule. Such extension request must include a demonstration of unavailability of alternate storage capacity and a specification of a schedule that will assure that the control equipment will be repaired or the vessel will be emptied as soon as possible.

(5) Notify the department thirty (30) days in advance of any gap measurements required by subdivision (1) to afford the department the opportunity to have an observer present.

(6) Visually inspect the external floating roof, the primary seal, secondary seal, and fittings each time the vessel is emptied and degassed. For all visual inspections, the following requirements apply:

(A) If the external floating roof has defects, the primary seal has holes, tears, or other openings in the seal or the seal fabric, or the secondary seal has holes, tears, or other openings in the seal fabric, the owner or operator shall repair the items as necessary so that none of the conditions specified in this clause exist before filling or refilling the vessel with VOL.

(B) The owner or operator shall notify the department in writing at least thirty (30) days prior to the filling or refilling of each

vessel to afford the department the opportunity to inspect the vessel prior to the filling. If the inspection required by this subdivision is not planned and the owner or operator could not have known about the inspection thirty (30) days in advance of refilling the vessel, the owner or operator shall notify the department at least seven (7) days prior to the refilling of the vessel. Notification shall be made by telephone immediately followed by written documentation demonstrating why the inspection was unplanned. Alternatively, this notification including the written documentation may be made in writing and sent by express mail so that it is received by the department at least seven (7) days prior to the refilling.

(d) The owner or operator of each vessel that is equipped with a closed vent system and control device described in section 4(a)(1)(B), 4(a)(2)(B), or 4(a)(3)(B) of this rule and meeting the requirements of section 4(d) of this rule, other than a flare, shall meet the following requirements:

(1) On or before January 1, 1996, submit to the department an operating plan containing the following information:

(A) Documentation demonstrating that the control device will achieve the required control efficiency during maximum loading conditions. This documentation shall include a description of the gas stream that enters the control device, including flow and VOC content under varying liquid level conditions (dynamic and static) and manufacturer's design specifications for the control device. If the control device or the closed vent capture system receives vapor gases, or liquid other than fuels from sources that are not subject to this rule, the efficiency demonstration shall include consideration of all vapors, gases, and liquids received by the closed vent capture system and control device. If an enclosed combustion device with a minimum residence time of seventy-five hundredths (0.75) second and a minimum temperature of eight hundred sixteen degrees Centigrade (816°C) is used to meet the ninety-five percent (95%) requirement, documentation that those conditions will exist is sufficient to meet the requirements of this subdivision.

(B) A description of the parameter or parameters to be monitored to ensure that the control device will be operated in conformance with its design and an explanation of the criteria used to monitor the parameter or parameters.

(2) Operate the closed vent system and control device and monitor the parameters of the closed vent system and control device in accordance with the operating plan submitted to the department in accordance with subdivision (1) unless the plan was modified by the department during the review process. In this case, the modified plan applies.

(e) The owner or operator of each source that is equipped with a closed vent system and a flare to meet the requirements in section 4(a)(4) or 4(d) of this rule shall meet the requirements specified in the general control device requirements in 40 CFR 60.18(e) and 40 CFR 60.18(f)*.

*Copies of 40 CFR 60.18(e) and 40 CFR 60.18(f) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-9-5; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1059*)

SECTION 24. 326 IAC 8-9-6 IS BEING CONSIDERED FOR READOPTED AS FOLLOWS:

326 IAC 8-9-6 Record keeping and reporting requirements

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

Affected: IC 13-12

Sec. 6. (a) The owner or operator of each vessel subject to this rule shall keep all records required by this section for three (3) years unless specified otherwise. Records required by subsection (b) shall be maintained for the life of the vessel.

(b) The owner or operator of each vessel to which section 1 of this rule applies shall maintain a record and submit to the department a report containing the following information for each vessel:

(1) The vessel identification number.

(2) The vessel dimensions.

(3) The vessel capacity.

(4) A description of the emission control equipment for each vessel described in section 4(a) and 4(b) of this rule, or a schedule for installation of emission control equipment on vessels described in section 4(a) or 4(b) of this rule with a certification that the emission control equipment meets the applicable standards.

(c) The owner or operator of each vessel equipped with a permanently affixed roof and internal floating roof shall comply with the following record keeping and reporting requirements:

(1) Keep a record of each inspection performed as required by section 5(b)(1) through 5(b)(4) of this rule. Each record shall

identify the following:

- (A) The vessel inspected by identification number.
- (B) The date the vessel was inspected.
- (C) The observed condition of each component of the control equipment, including the following:
 - (i) Seals.
 - (ii) Internal floating roof.
 - (iii) Fittings.

(2) If any of the conditions described in section 5(b)(2) of this rule are detected during the required annual visual inspection, a record shall be maintained and a report shall be furnished to the department within thirty (30) days of the inspection. Each report shall identify the following:

- (A) The vessel by identification number.
- (B) The nature of the defects.
- (C) The date the vessel was emptied or the nature of and date the repair was made.

(3) After each inspection required by section 5(b)(3) of this rule that finds holes or tears in the seal or seal fabric, or defects in the internal floating roof, or other control equipment defects listed in section 5(b)(3)(B) of this rule, a record shall be maintained and a report shall be furnished to the department within thirty (30) days of the inspection. The report shall identify the following:

- (A) The vessel by identification number.
- (B) The reason the vessel did not meet the specifications of section 4(a)(1)(A), 4(a)(2)(A), or 5(b) of this rule and list each repair made.

(d) The owner or operator of each vessel equipped with an external floating roof shall comply with the following record keeping and reporting requirements:

(1) Keep a record of each gap measurement performed as required by section 5(c) of this rule. Each record shall identify the vessel in which the measurement was made and shall contain the following:

- (A) The date of measurement.
- (B) The raw data obtained in the measurement.
- (C) The calculations described in section 5(c)(2) and 5(c)(3) of this rule.

(2) Within sixty (60) days of performing the seal gap measurements required by section 5(c)(1) of this rule, furnish the department with a report that contains the following:

- (A) The date of measurement.
- (B) The raw data obtained in the measurement.
- (C) The calculations described in section 5(c)(2) and 5(c)(3) of this rule.

(3) After each seal gap measurement that detects gaps exceeding the limitations specified in section 5(c) of this rule, submit a report to the department within thirty (30) days of the inspection. The report shall identify the vessel and contain the information specified in subdivision (2) and the date the vessel was emptied or the repairs made and date of repair.

(e) The owner or operator of each vessel equipped with a closed vent system with a control device shall comply with the following record keeping and reporting requirements:

(1) Owner or operators that equip the vessel with a control device other than a flare shall do the following:

- (A) On or before January 1, 1996, submit an operating plan as required by section 4(d) of this rule.
- (B) Maintain records of the following:
 - (i) The operating plan.
 - (ii) Measured values of the parameters monitored according to section 5(d)(2) of this rule.

(2) Owner or operators that equip the vessel with a closed vent system and a flare shall meet the following requirements:

- (A) Keep records of all periods of operation during which the flare pilot flame is absent.
- (B) Furnish the department with a report containing the measurements required by 40 CFR 60.18(f)(1) through 40 CFR 60.18(f)(5)* as required by 40 CFR 60.8. This report shall be submitted within six (6) months of the initial start-up date.
- (C) Furnish the department with a semiannual report of all periods recorded under 40 CFR 60.115* in which the pilot flame was absent.

(f) The owner or operator of each vessel equipped with a closed vent system and control device meeting the standards of section 4 of this rule is exempt from the requirements of subsections (g) and (h).

(g) Except as provided in subsections (f) and (j), the owner or operator of each vessel either with a design capacity greater than or equal to thirty-nine thousand (39,000) gallons storing a VOL with a maximum true vapor pressure greater than or equal to five-

tenths (0.5) pound per square inch absolute (psia) but less than seventy-five hundredths (0.75) psia shall maintain a record of the maximum true vapor pressure of the VOL stored in each vessel. The record for each vessel shall contain the following information:

- (1) The type of VOL stored.
- (2) The dates of the VOL storage.
- (3) For each day of VOL storage, the average stored temperature for VOLs stored above or below the ambient temperature or average ambient temperature for VOLs stored at ambient temperature, and the corresponding maximum true vapor pressure.

(h) Except as provided in subsection (f), the owner or operator of each vessel with a design capacity greater than or equal to thirty-nine thousand (39,000) gallons storing a liquid with a maximum true vapor pressure that is normally less than seventy-five hundredths (0.75) psia shall maintain a record and notify the department within thirty (30) days when the maximum true vapor pressure of the liquid exceeds seventy-five hundredths (0.75) psia.

(i) Available data on the storage temperature may be used to determine the maximum true vapor pressure as follows:

(1) The maximum true vapor pressure for VOLs stored at temperatures above or below the ambient temperature shall correspond to the highest calendar-month average storage temperature. The maximum true vapor pressure for VOLs stored at the ambient temperature shall correspond to the local maximum monthly average temperature, as reported by the National Weather Service.

(2) For local crude oil or refined petroleum products, the maximum vapor pressure may be determined as follows:

(A) Available data on the Reid vapor pressure and the maximum expected storage temperature based on the highest expected calendar month average temperature of the stored product may be used to determine the maximum true vapor pressure from nomographs contained in API Bulletin 2517* unless the department specifically requests that the liquid be sampled, the actual storage temperature determined, and the Reid vapor pressure determined from the samples.

(B) The maximum true vapor pressure of each type of crude oil with a Reid vapor pressure less than two (2) pounds per square inch or with physical properties that preclude determination by the recommended method shall be determined from available data and recorded if the estimated maximum true vapor pressure is greater than five-tenths (0.5) psia.

(3) For other liquids, the maximum true vapor pressure may be determined by any of the following methods:

(A) Standard reference texts.

(B) ASTM Method D2879-92*.

(C) Calculated or measured by a method approved by the department.

(j) The owner or operator of each vessel storing a waste mixture of indeterminate or variable composition shall be subject to the following requirements:

(1) Prior to the initial filling of the vessel, the highest maximum true vapor pressure for the range of anticipated liquid compositions to be stored will be determined using the methods described in subsection (i).

(2) For vessels in which the vapor pressure of the anticipated liquid composition is above the cutoff for monitoring but below the cutoff for controls as defined in section 4(a) of this rule, tests are required as follows:

(A) An initial physical test of the vapor pressure is required.

(B) A physical test at least once every six (6) months thereafter is required using one (1) of the following methods:

(i) ASTM Method D2879-92*.

(ii) ASTM Method D323-82*.

(iii) As measured by an appropriate method as approved by the department.

*Copies of the Code of Federal Regulations (CFR), ASTM Method D2879-92, ASTM Method D2879-92, ASTM Method D323-82, and API Bulletin 2517 referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-9-6; filed Dec 19, 1995, 3:10 p.m.: 19 IR 1061; errata filed Dec 19, 1995, 3:15 p.m.: 19 IR 1141; errata filed Apr 9, 1996, 2:30 p.m.: 19 IR 2045*)

SECTION 25. 326 IAC 8-11-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-1 Applicability

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

Affected: IC 13-12

Sec. 1. This rule applies to any person performing wood furniture manufacturing operations in Lake, Porter, Clark, or Floyd County meeting the following criteria:

- (1) The wood furniture manufacturing operations have potential emissions of volatile organic compounds (VOCs) of twenty-five (25) tons or more per year.
- (2) The wood furniture manufacturing operations occur at a source classified by any of the following Standard Industrial Classification (SIC) codes:
 - (A) SIC code 2434: wood cabinets (kitchen, bath and vanity).
 - (B) SIC code 2511: wood household furniture, including tables, beds, chairs, sofas (nonupholstered).
 - (C) SIC code 2512: wood household furniture (upholstered).
 - (D) SIC code 2517: wood television, radios, phonographs, and sewing machine cabinets.
 - (E) SIC code 2519: household furniture, not elsewhere classified.
 - (F) SIC code 2521: wood office furniture.
 - (G) SIC code 2531: public building and related furniture.
 - (H) SIC code 2541: wood office and store fixtures, partitions, shelving, and lockers.
 - (I) SIC code 2599: furniture and fixtures and any other coated furnishings made of solid wood, wood composition, or simulated wood material not elsewhere classified.

(Air Pollution Control Board; 326 IAC 8-11-1; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1063)

SECTION 26. 326 IAC 8-11-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-2 Definitions

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

Affected: IC 13-12

Sec. 2. The following definitions apply throughout this rule:

- (1) "Adhesive" means any chemical substance that is applied for the purpose of bonding two (2) surfaces together other than by mechanical means.
- (2) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but that has been demonstrated to the satisfaction of the commissioner and the U.S. EPA to, in specific cases, produce results adequate for a determination of compliance.
- (3) "As-applied" means the VOC and solids content of the finishing material that is actually used for coating the substrate. It includes the contribution of materials used for in-house dilution of the finishing material.
- (4) "Basecoat" means a coat of colored material, usually opaque, that is applied before graining inks, glazing coats, or other opaque finishing materials and is usually topcoated for protection.
- (5) "Capture device" means a hood, enclosed room, floor sweep, or other means of collecting solvent emissions or other pollutants into a duct. The pollutant can be directed to a pollution control device such as an incinerator or carbon adsorber.
- (6) "Capture efficiency" means the fraction of all organic vapors generated by a process that are directed to and captured by a control device.
- (7) "Cleaning operations" means operations that use an organic solvent to remove coating materials from equipment used in wood furniture manufacturing operations.
- (8) "Commissioner" means the commissioner of the Indiana department of environmental management, or the commissioner's duly authorized representative.
- (9) "Continuous coater" means a finishing system that continuously applies finishing materials onto furniture parts moving along a conveyor system. Finishing materials that are not transferred to the part are recycled to the finishing material reservoir. Several types of application methods can be used with a continuous coater, including spraying, curtain coating, roll coating, dip coating, and flow coating.
- (10) "Control device" means any equipment, including, but not limited to, incinerators, carbon adsorbers, and condensers, that reduces the quantity of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery.
- (11) "Conventional air spray" means a spray coating method that atomizes the coating by mixing it with compressed air at an pressure greater than ten (10) pounds per square inch (psi) (gauge) at the point of atomization. Airless and air assisted airless spray technologies are not conventional air spray because the coating is not atomized by mixing it with compressed air.
- (12) "Day" means a period of twenty-four (24) consecutive hours beginning at midnight local time, or beginning at a time consistent with a facility's operating schedule.
- (13) "Department" means the Indiana department of environmental management.
- (14) "Enamel" means a coat of colored material, usually opaque, that is applied as a protective topcoat over a basecoat, primer, or a previously applied enamel coat. In some cases, another finishing material may be applied as a topcoat over the enamel.
- (15) "Equipment leak" means emissions of volatile organic compounds from pumps, valves, flanges, or other equipment used to

transfer or apply finishing materials or organic solvents.

(16) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the satisfaction of the commissioner and the U.S. EPA to have a consistent and quantitatively known relationship to the reference method under specific conditions.

(17) "Final touch-up and repair" means the application of finishing materials after completion of the finishing operation to cover minor imperfections.

(18) "Finishing application station" means the part of a finishing operation where the finishing material is applied, such as a spray booth.

(19) "Finishing material" means a coating other than an adhesive. For the wood furniture manufacturing industry, such materials include, but are not limited to, the following:

(A) Basecoats.

(B) Stains.

(C) Washcoats.

(D) Sealers.

(E) Topcoats.

(F) Enamels.

(20) "Finishing operation" means those activities in which a finishing material is applied to a substrate and is subsequently air-dried, cured in an oven, or cured by radiation.

(21) "Incinerator" means an enclosed combustion device that thermally oxidizes volatile organic compounds to carbon monoxide (CO) and carbon dioxide (CO₂). The term does not include devices that burn municipal or hazardous waste material.

(22) "Material safety data sheet" or "MSDS" means the documentation required by the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1910)* for a solvent, cleaning material, finishing material, or other material that identifies select reportable hazardous ingredients of the material, safety and health considerations, and handling procedures.

(23) "Normally closed container" means a container that is closed unless an operator is actively engaged in activities such as emptying or filling the container.

(24) "Operating parameter value" means a minimum or maximum value established for a control device or process parameter that, if achieved by itself or in combination with one (1) or more other operating parameter values, determines that an owner or operator has complied with an applicable emission limit.

(25) "Organic solvent" means a liquid containing volatile organic compounds that is used for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, or cleaning equipment. When used in a coating, the organic solvent evaporates during drying and does not become a part of the dried film.

(26) "Overall control efficiency" means the efficiency of a control system, calculated as the product of the capture and control device efficiencies, expressed as a percentage.

(27) "Recycled on-site" means the reuse of an organic solvent in a process other than cleaning or washoff.

(28) "Reference method" means any method of sampling and analyzing for an air pollutant that is published in 40 CFR 60, Appendix A*.

(29) "Responsible official" has the meaning given in 326 IAC 2-7-1(33).

(30) "Sealer" means a finishing material used to seal the pores of a wood substrate before additional coats of finishing material are applied. Special purpose finishing materials that are used in some finishing systems to optimize aesthetics are not sealers.

(31) "Stain" means any color coat having a solids content by weight of no more than eight percent (8.0%) that is applied in single or multiple coats directly to the substrate. Stains include, but are not limited to, the following:

(A) Nongrain raising stains.

(B) Equalizer stains.

(C) Sap stains.

(D) Body stains.

(E) No-wipe stains.

(F) Penetrating stains.

(G) Toners.

(32) "Storage containers" means vessels or tanks, including mix equipment, used to hold finishing or cleaning materials.

(33) "Strippable booth coating" means a coating that:

(A) is applied to a booth wall to provide a protective film to receive overspray during finishing operations;

(B) is subsequently peeled off and disposed; and

(C) by means of clauses (A) and (B), reduces or eliminates the need to use organic solvents to clean booth walls.

(34) "Substrate" means the surface onto which coatings are applied or into which coatings are impregnated.

- (35) “Topcoat” means the last film-building finishing material applied in a finishing system.
- (36) “Touch-up and repair” means the application of finishing materials to cover minor imperfections.
- (37) “Washcoat” means a transparent special purpose coating having a solids content by weight of twelve percent (12.0%) or less. Washcoats are applied over initial stains to protect and control color and to stiffen wood fibers to aid sanding.
- (38) “Washoff operations” means those operations that use an organic solvent to remove coating from a substrate.
- (39) “Waterborne coating” means a coating that contains more than five percent (5.0%) water by weight in its volatile fraction.
- (40) “Wood furniture manufacturing operations” means the finishing and cleaning operations conducted at a wood furniture source.
- (41) “Wood furniture source” means all of the pollutant emitting activities that belong to the same wood furniture industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control. The wood furniture industrial grouping includes the following standard industrial classification (SIC) codes: 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, and 2599.
- (42) “Working day” means a day, or any part of a day, in which a facility is engaged in manufacturing.

*Copies of the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1910); and 40 CFR 60, Appendix A, may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are also available from the Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-11-2; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1064*)

SECTION 27. 326 IAC 8-11-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-3 Emission limits

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

Affected: IC 13-12

Sec. 3. (a) On and after January 1, 1996, each owner or operator of a wood furniture manufacturing operation subject to this rule shall limit VOC emissions from finishing operations by doing one (1) of the following:

- (1) Using topcoats with a VOC content no greater than eight-tenths (0.8) kilogram of VOC per kilogram of solids (kg VOC/kg solids) or eight-tenths (0.8) pound of VOC per pound of solids (lb VOC/lb solids), as-applied.
- (2) Using a finishing system of sealers with a VOC content no greater than one and nine-tenths (1.9) kg VOC/kg solids (one and nine-tenths (1.9) lb VOC/lb solids), as-applied and topcoats with a VOC content no greater than one and eight-tenths (1.8) kg VOC/kg solids (one and eight-tenths (1.8) lb VOC/lb solids), as-applied.
- (3) Using sealers and topcoats based on the following criteria, for sources using acid-cured alkyd amino vinyl sealers or acid-cured alkyd amino conversion varnish topcoats:
 - (A) For wood furniture manufacturing operations using acid-cured alkyd amino vinyl sealers and acid-cured alkyd amino conversion varnish topcoats, the following:
 - (i) The sealer shall contain no more than two and three-tenths (2.3) kg VOC/kg solids, (two and three-tenths (2.3) lb VOC/lb solids), as-applied.
 - (ii) The topcoat shall contain no more than two (2.0) kg VOC/kg solids, (two (2.0) lb VOC/lb solids), as-applied.
 - (B) For wood furniture manufacturing operations using a sealer other than an acid-cured alkyd amino vinyl sealer and acid-cured alkyd amino conversion varnish topcoats, the following:
 - (i) The sealer shall contain no more than one and nine-tenths (1.9) kg VOC/kg solids (one and nine-tenths (1.9) lb VOC/lb solids), as-applied.
 - (ii) The topcoat shall contain no more than two (2.0) kg VOC/kg solids, (two (2.0) lb VOC/lb solids), as-applied.
 - (C) For wood furniture manufacturing operations using an acid-cured alkyd amino vinyl sealer and a topcoat other than an acid-cured alkyd amino conversion varnish topcoat, the following:
 - (i) The sealer shall contain no more than two and three-tenths (2.3) kg VOC/kg solids (two and three-tenths (2.3) lb VOC/lb solids), as-applied.
 - (ii) The topcoat shall contain no more than one and eight-tenths (1.8) kg VOC/kg solids (one and nine-tenths (1.8) *[sic.]* lb VOC/lb solids), as-applied.

(4) Using finishing materials such that actual emissions are less than or equal to allowable emissions using one (1) of the following averaging equations:

Equation 1:

$$0.9 (\sum_{i=1-N} (0.8)(TC_i)) \geq \sum_{i=1-N} ER_{TC_i} (TC_i)$$

Equation 2:

$$0.9 (\sum_{i=1-N} (1.8)(TC_i) + (1.9)(SE_i) + (9.0)(WC_i) + (1.2)(BC_i) + (0.791) (ST_i)) \geq \sum_{i=1-N} ER_{TC_i}(TC_i) + ER_{SE_i}(SE_i) + ER_{WC_i}(WC_i) + ER_{BC_i}(BC_i) + ER_{ST_i}(ST_i)$$

Where: N = number of finishing materials participating in averaging.

TC_i = kilograms of solids of topcoat “i” used.

SE_i = kilograms of solids of sealer “i” used.

WC_i = kilograms of solids of washcoat “i” used.

BC_i = kilograms of solids of basecoat “i” used.

ST_i = liters of stain “i” used.

ER_{TC_i} = VOC content of topcoat “i” in kg VOC/kg solids, as-applied.

ER_{SE_i} = VOC content of sealer “i” in kg VOC/kg solids, as-applied.

ER_{WC_i} = VOC content of washcoat “i” in kg VOC/kg solids, as-applied.

ER_{BC_i} = VOC content of basecoat “i” in kg VOC/kg solids, as-applied.

ER_{ST_i} = VOC content of stain “i” in kg VOC/liter (kg/l), as-applied.

(5) Using a control system that will achieve an equivalent reduction in emissions as the requirements of subdivision (1), (2), or (3), as calculated using the compliance provisions in section 6(a)(2) of this rule, as appropriate.

(6) Using a combination of the methods presented in this subsection.

(b) On and after January 1, 1996, each owner or operator of a wood furniture manufacturing operation subject to this rule shall limit VOC emissions from cleaning operations when using a strippable booth coating. A strippable booth coating shall contain no more than eight-tenths (0.8) kg VOC/kg solids (eight-tenths (0.8) lb VOC/lb solids), as-applied. (*Air Pollution Control Board; 326 IAC 8-11-3; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1066*)

SECTION 28. 326 IAC 8-11-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-4 Work practice standards

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

Affected: IC 13-12

Sec. 4. (a) On and after July 23, 1995, the owner or operator of a source or facility subject to this rule shall implement housekeeping practices that include the following:

- (1) All equipment shall be maintained according to the manufacturer’s specifications.
- (2) All fresh or used solvent shall be stored in closed containers.
- (3) All organic solvents used for line cleaning shall be pumped or drained into a closed container.
- (4) Finishing materials and cleaning materials shall be stored in closed containers.

(b) On and after July 23, 1995, emissions from washoff operations shall be controlled by the following:

- (1) Using closed tanks for washoff.
- (2) Minimizing dripping by tilting or rotating the part to drain as much organic solvent as possible.

(c) On and after July 23, 1995, conventional air spray guns shall not be used for applying finishing materials except under the following circumstances:

- (1) To apply finishing materials that have a VOC content no greater than one (1.0) kilogram of VOC per kilogram of solids (kg VOC/kg solids) (one (1.0) pound of VOC per pound of solid (lb VOC/lb solids)), as-applied.
- (2) For final touch-up and repair under one (1) of the following circumstances:
 - (A) The finishing materials are applied after completion of the finishing operation.
 - (B) The finishing materials are applied after the stain and before any other type of finishing material is applied, and the finishing materials are applied from a container that has a volume of no more than two (2) gallons.
- (3) If spray is automated, that is, the spray gun is aimed and triggered automatically, not manually.
- (4) If emissions from the finishing application station are directed to a control device.
- (5) The conventional air gun is used to apply finishing materials and the cumulative total usage of that finishing material is less than five percent (5.0%) of the total number of gallons of finishing material used during that semiannual reporting period.
- (6) The conventional air gun is used to apply stain on a part for which it is technically or economically infeasible to use any other spray application technology. Technical or economic infeasibility shall be demonstrated by submitting to the department a videotape, a technical report, or other documentation that supports the claim of technical or economic infeasibility. The following criteria shall be used, either independently or in combination, to support the claim of technical or economic infeasibility:

- (A) The production speed is too high or the part shape is too complex for one (1) operator to coat the part, and the application station is not large enough to accommodate an additional operator.
- (B) The excessively large vertical spray area of the part makes it difficult to avoid sagging or runs in the stain.

(d) On and after May 1, 1996, the owner or operator of a wood furniture manufacturing operation subject to this rule shall ensure that spray guns are cleaned in an enclosed device that does the following:

- (1) Minimizes solvent evaporation during cleaning, rinsing, and draining operations.
- (2) Recirculates solvents during the cleaning operation so that the solvent is reused.
- (3) Collects solvent so that it is available for proper disposal or recycling.

(e) On and after July 23, 1995, the owner or operator of a wood furniture manufacturing operation subject to this rule shall not use organic solvents containing more than eight percent (8.0%) by weight of VOC for cleaning spray booth components other than conveyors, continuous coaters and their enclosures, or metal filters, unless the spray booth is being refurbished. If the spray booth is being refurbished, that is, the spray booth coating or other material used to cover the booth is being replaced, no more than one (1.0) gallon of organic solvent shall be used to clean the booth.

(f) On and after May 1, 1996, the owner or operator of a wood furniture manufacturing operation shall implement a written training program for all new and existing personnel, including contract personnel, involved in the implementation of this rule and shall provide initial and thereafter annual training. Records of training programs shall be kept on-site with the continuous compliance plan (CCP) for a minimum of three (3) years. Documentation of the training program shall include, at a minimum, the following:

- (1) A list of all personnel who are required to be trained by name and job description.
- (2) An outline of the topics to be addressed in the initial and annual training program for each person, or group of personnel. Topics to be addressed shall include, at a minimum, the following:

- (A) Applicable application techniques.
- (B) Applicable cleaning procedures.
- (C) Applicable equipment setup and adjustment to minimize finishing material usage and overspray.
- (D) Appropriate management of clean-up wastes.

(3) Documentation of successful training completion for personnel involved in implementing this rule shall include the following:

- (A) A listing of topics addressed at the initial or annual training. At a minimum, topics addressed shall include those listed in subdivision (2).
- (B) A hands-on demonstration of the following:
 - (i) Correct coating application techniques.
 - (ii) Correct cleaning procedures.
 - (iii) Correct equipment setup and adjustment to minimize coating usage and overspray.
 - (iv) Appropriate management of clean-up wastes.

(g) On and after May 1, 1996, each owner or operator of a wood furniture manufacturing operation subject to this rule shall implement a written leak inspection and maintenance plan that specifies the following:

- (1) A minimum visual inspection frequency of once per month for all equipment used to transfer or apply finishing materials or organic solvents.
- (2) An inspection schedule.
- (3) Methods for documenting the date and results of each inspection and any repairs that were made.
- (4) The time frame between identifying a leak and making the repair that adheres to the following schedule:
 - (A) A first attempt at repair (such as tightening of packing glands) shall be made no later than five (5) working days after the leak is detected.
 - (B) Final repairs shall be made within fifteen (15) working days, unless the leaking equipment is to be replaced by a new purchase, in which case repairs shall be completed within three (3) months.

(h) On and after May 1, 1996, an organic solvent accounting form shall be maintained to record the following:

- (1) The quantity and type of organic solvent used each month for washoff and cleaning.
- (2) The number of pieces washed off, and the reason for the washoff.
- (3) The quantity of spent organic solvent generated from each activity, and the quantity that is recycled on-site or disposed off-site each month.

(Air Pollution Control Board; 326 IAC 8-11-4; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1066; errata filed Apr 9, 1996, 2:30 p.m.: 19 IR 2045)

SECTION 29. 326 IAC 8-11-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-5 Continuous compliance plan

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

Affected: IC 13-12

Sec. 5. (a) On or before May 1, 1996, each owner or operator of a source or facility subject to this rule shall submit to the department a continuous compliance plan (CCP). The CCP shall address, at a minimum, the topics addressed in section 4 of this rule.

(b) The CCP shall include a statement signed by a responsible official certifying that the wood furniture manufacturing operation is in compliance with the following:

- (1) The emission limits of section 3 of this rule.
- (2) The work practice standards of section 4 of this rule.

(c) A copy of the CCP shall be maintained on-site and shall be available for inspection by the department upon request.

(d) If the department determines that the CCP does not adequately address each of the topics specified in subsection (a), the department shall require the owner or operator of the wood furniture manufacturing operation to modify the CCP. (*Air Pollution Control Board; 326 IAC 8-11-5; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1068*)

SECTION 30. 326 IAC 8-11-6 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-6 Compliance procedures and monitoring requirements

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

Affected: IC 13-12

Sec. 6. (a) The owner or operator of a wood furniture manufacturing operation subject to the emission limits in section 3 of this rule shall demonstrate compliance with the provisions of section 3 of this rule by using any of the following methods:

(1) To support that each sealer, topcoat, and strippable booth coating meets the requirements of section 3(a)(1) through 3(a)(3) or 3(b) of this rule, maintain documentation that uses EPA Method 24* data, or data from an equivalent or alternative method, to determine the VOC and solids content of the as-supplied finishing material. If solvent or other VOC is added to the finishing material before application, the wood furniture manufacturing operation shall maintain documentation showing the VOC content of the finishing material as-applied, in kilograms of VOC per kilogram of solids (kg VOC/kg solids).

(2) To comply through the use of a control system as described in section 3(a)(5) of this rule the following are required:

(A) Determine the overall control efficiency needed to demonstrate compliance using Equation 3:

$$\text{Equation 3: } O = ((V - E)/V)(100)$$

Where: O = overall control efficiency of the capture system and control device as percentage.

V = actual VOC content of the finishing system material or, if multiple finishing materials are used, the daily weighted average VOC content of all finishing materials, as-applied to the substrate in pounds of VOC per pound of solids (lbs VOC/lb solids).

E = equivalent VOC emission limits in lbs VOC/lb solids.

(B) Document that the value of V in Equation 3 is obtained from the VOC and solids content of the as-applied finishing material.

(C) Calculate the overall efficiency of the capture system and control device, using the procedures in section 7 of this rule, and demonstrate that the value of the overall control efficiency thus estimated is equal to or greater than the value of O calculated by Equation 3.

(b) Initial compliance shall be demonstrated as follows:

(1) Owners or operators of a wood furniture manufacturing operation subject to the provisions of section 3(a)(1) through 3(a)(3) or 3(b) of this rule that are complying through the procedures established in subsection (a)(1) shall submit an initial compliance status report, as required by sections 5 and 9 of this rule, stating that compliant sealers and topcoats and strippable booth coatings are being used by the wood furniture manufacturing operations.

(2) Owners or operators of a wood furniture manufacturing operation subject to the provisions of section 3(a)(1) through 3(a)(3) or 3(b) of this rule that are complying through the procedures established in subsection (a)(1) and are applying sealers and topcoats using continuous coaters shall demonstrate initial compliance by either of the following:

(A) Submitting an initial compliance status report stating that compliant sealers and topcoats, as determined by the VOC content of the finishing material in the reservoir and the VOC content as calculated from records, are being used.

(B) Submitting an initial compliance status report stating that compliant sealers or topcoats, as determined by the VOC content of the finishing material in the reservoir, are being used and the viscosity of the finishing material in the reservoir is being monitored. The wood furniture manufacturing operation shall also provide data that demonstrates the correlation between the viscosity of the finishing material and the VOC content of the finishing material in the reservoir.

(3) Owners or operators of a wood furniture manufacturing operation using a control system or capture or control device to comply with the requirements of this rule, as allowed by section 3(a)(5) of this rule and subsection (a)(2) shall demonstrate initial compliance by doing the following:

(A) On or before January 1, 1996, conducting an initial compliance test using the procedures and test methods listed in section 7 of this rule.

(B) On or before January 1, 1996, calculating the overall control efficiency.

(C) On or before January 1, 1996, determining those operating conditions critical to determining compliance and establishing operating parameters that will ensure compliance with the standards as follows:

(i) For compliance with a thermal incinerator, minimum combustion temperature shall be the operating parameter.

(ii) For compliance with a catalytic incinerator equipped with a fixed catalyst bed, the minimum gas temperature both upstream and downstream of the catalyst bed shall be the operating parameter.

(iii) For compliance with a catalytic incinerator equipped with a fluidized catalyst bed, the minimum gas temperature upstream of the catalyst bed and the pressure drop across the catalyst bed shall be the operating parameters.

(iv) For compliance with a carbon adsorber, the operating parameters shall be either the total regeneration mass stream flow for each regeneration cycle and the carbon bed temperature after each regeneration, or the concentration level of organic compounds exiting the adsorber, unless the owner or operator requests and receives approval from the commissioner to establish other operating parameters.

(v) For compliance with a control device not listed in this rule, the owner or operator shall submit to the department a description of the control device, test data, verifying the performance of the device, and appropriate operating values that will be monitored to demonstrate continuous compliance with the standard. Compliance using this device is subject to the commissioner's approval.

(D) Owners or operators complying with this subdivision shall calculate the site-specific operating parameter value as the arithmetic average of the maximum or minimum operating parameter values, as appropriate, that demonstrate compliance with the standards, during the initial compliance test required in subsection (c)(3)(A)(iv).

(E) On or before May 1, 1996, submitting a monitoring plan that identifies the operating parameter to be monitored for the capture device and discusses why the parameter is appropriate for demonstrating ongoing compliance.

(4) Owners or operators of a wood furniture manufacturing operation subject to the continuous compliance plan (CCP) in section 5 of this rule shall submit an initial compliance status report, as required by section 9(b) of this rule, stating that the CCP has been developed and procedures have been established for implementing the provisions of the plan.

(c) Continuous compliance shall be demonstrated as follows:

(1) Owners or operators of a wood furniture manufacturing operation subject to the provisions of section 3 of this rule that are complying through the procedures established in subsection (a)(1) shall demonstrate continuous compliance by using compliant materials, maintaining records that demonstrate the finishing materials are compliant, and submitting a compliance certification with the semiannual report required by section 9(c) of this rule. The compliance certification requirements shall be as follows:

(A) State that compliant sealers and topcoats and strippable booth coatings have been used each day in the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance. A wood furniture manufacturing operation is in violation of the standard whenever a noncompliant material, as determined by records or by a sample of the finishing material, is used. Use of a noncompliant material is a separate violation for each day the noncompliant material is used.

(B) The compliance certification shall be signed by a responsible official.

(2) Owners or operators of a wood furniture manufacturing operation subject to the provisions of section 3 of this rule that are complying through the procedures established in subsection (a)(1) and are applying sealers and topcoats using continuous coaters shall demonstrate continuous compliance by use of the following procedures:

(A) Using compliant materials, as determined by the VOC content of the finishing material in the reservoir and the VOC content as calculated from records, and submitting a compliance certification with the semiannual report required by section 9(c) of this rule. The compliance certificate requirements shall be as follows:

(i) State that compliant sealers and topcoats have been used each day in the semiannual reporting period, or should otherwise identify the days of noncompliance and the reasons for noncompliance. A wood furniture manufacturing operation is in violation of the standard whenever a noncompliant material, as determined by records or by a sample of the finishing material, is used. Use of a noncompliant material is a separate violation for each day the noncompliant material is used.

(ii) The compliance certification shall be signed by a responsible official.

(B) Using compliant materials, as determined by the VOC content of the finishing material in the reservoir, maintaining a viscosity of the finishing material in the reservoir that is no less than the viscosity of the initial finishing material by monitoring the viscosity with a viscosity meter or by testing the viscosity of the initial finishing material and retesting the material in the reservoir each time solvent is added, maintaining records of solvent additions, and submitting a compliance certification with the semiannual report required by section 9(c) of this rule. The compliance certification requirements shall be as follows:

(i) State that compliant sealers and topcoats, as determined by the VOC content of the finishing material in the reservoir, have been used each day in the semiannual reporting period. Additionally, the certification shall state that the viscosity of the finishing material in the reservoir has not been less than the viscosity of the initial finishing material, that is, the material that is initially mixed and placed in the reservoir, for any day in the semiannual reporting period.

(ii) The compliance certification shall be signed by a responsible official.

(iii) A wood furniture manufacturing operation is in violation of the standard when a sample of the as-applied finishing material exceeds the applicable limit established in section 3(a)(1) through 3(a)(3) of this rule, as determined using EPA Method 24*, or an equivalent or alternative method, or the viscosity of the finishing material in the reservoir is less than the viscosity of the initial finishing material.

(3) Owners or operators of a wood furniture manufacturing operation subject to the provisions of section 3 of this rule that are complying through the use of a control system or a capture or control device shall demonstrate continuous compliance by complying with the control system operation, maintenance, and testing, and control system monitoring, record keeping, and reporting requirements as follows:

(A) For sources choosing to meet the emission limit requirements of section 3(a)(5) of this rule at any facility using a control device or devices, the following requirements apply:

(i) The control system shall be operated and maintained according to the manufacturer's recommendations but may be modified based upon the results of the initial or subsequent compliance test or upon the written request of the department.

(ii) The operating and maintenance procedures shall be followed beginning no later than January 1, 1996. A copy of the procedures shall be submitted to the department no later than May 1, 1996.

(iii) A copy of the operating and maintenance procedures shall be maintained in a convenient location at the source property and as close to the control system as possible for the reference of plant personnel and department inspectors.

(iv) The control system shall be tested according to the following schedule and under the following situations:

(AA) An initial compliance test shall be conducted on or before January 1, 1996, and every two (2) years after the date of the initial test.

(BB) A compliance test shall also be conducted whenever the owner or operator chooses to operate a control system under conditions different from those that were in place at the time of the previous compliance test.

(CC) If the owner or operator chooses to change the method of compliance with section 3 of this rule, a compliance test shall be performed within three (3) months of the change.

(DD) A compliance test shall also be performed within ninety (90) days of the receipt of a written request from the department or the U.S. EPA.

(EE) All compliance tests shall be conducted according to a protocol approved by the department at least thirty (30) days before the test. The protocol shall contain, at a minimum, the following information:

(aa) Test procedures.

(bb) Operating and control system parameters.

(cc) Type of VOC containing process material being used.

(dd) The process and control system parameters that will be monitored during the test.

(B) Control system monitoring, record keeping, and reporting requirements are as follows:

(i) Sources that choose to meet the emission limit requirements of section 3 of this rule with the use of a control device or devices shall install, calibrate, maintain, and operate, according to the manufacturer's specification, the following monitoring equipment unless an alternative monitoring procedure has been approved by the commissioner:

(AA) If a thermal incinerator is used for VOC reduction, a temperature monitoring device capable of continuously recording the temperature of the gas stream in the combustion zone of the incinerator shall be used. The temperature monitoring device shall have an accuracy of one percent (1%) of the temperature being measured in degrees centigrade or plus or minus five-tenths degree Centigrade (0.5°C), whichever is greater.

(BB) If a catalytic incinerator is used for VOC reduction, a temperature device capable of continuously recording the temperature in the gas stream immediately before and after the catalyst bed of the incinerator shall be used. The temperature monitoring device shall have an accuracy of one percent (1%) of the temperature being measured in degrees centigrade plus or minus five-tenths degree Centigrade (0.5°C), whichever is greater.

(CC) If a carbon adsorber is used to remove and recover VOC from the gas stream, a VOC monitoring device capable of

continuously recording the concentration level of VOC at the outlet of the carbon bed shall be used. The monitoring device shall be based on a detection principle such as infrared, photoionization, or thermal conductivity.

(DD) Where a VOC recovery device other than a carbon adsorber is used, the source shall provide to the department information describing the operation of the device and the process parameters that would indicate proper operation and maintenance of the control device. The department may request further information and will specify appropriate monitoring procedures and reporting requirements.

(ii) Sources subject to the requirements of this rule shall maintain the following records:

(AA) A log of the operating time of the facility, the facility's capture system, control device, and monitoring equipment.

(BB) A maintenance log for the capture system, the control device, and the monitoring equipment detailing all routine and nonroutine maintenance performed. The log shall include the dates and duration of any outages of the capture system, the control device, or the monitoring system.

(CC) The following additional records shall be maintained for facilities using thermal incinerators:

(aa) Continuous records of the temperature in the gas stream in the combustion zone of the incinerator.

(bb) Records of all three (3) hour periods of operation for which the average combustion temperature of the gas stream in the combustion zone was more than fifty degrees Fahrenheit (50°F) below the combustion zone temperature that existed during the most recent compliance test that demonstrated that the facility was in compliance.

(DD) The following additional records shall be maintained for facilities using catalytic incinerators:

(aa) Continuous records of the temperature of the gas stream both upstream and downstream of the catalyst bed of the incinerator.

(bb) Records of all three (3) hour periods of operation for which the average temperature measured at the process vent stream immediately before the catalyst bed is more than fifty degrees Fahrenheit (50°F) below the average temperature of the process vent stream that existed during the most recent compliance test that demonstrated that the facility was in compliance.

(cc) Records of all three (3) hour periods of operation for which the average temperature difference across the catalyst bed is less than eighty percent (80%) of the temperature difference measured during the most recent compliance test that demonstrated that the facility was in compliance.

(EE) The following additional records shall be maintained for facilities using carbon adsorbers:

(aa) Continuous records of the VOC concentration level or reading in the exhaust stream of the carbon adsorber.

(bb) Records of all three (3) hour periods of operation during which the average VOC concentration level or reading in the exhaust gas is more than twenty percent (20%) greater than the average exhaust gas concentration level or reading measured by the organic monitoring device during the most recent determination of the recovery efficiency of the carbon adsorber that demonstrated that the facility was in compliance.

(FF) Facilities using VOC recovery devices other than carbon adsorbers shall maintain the monitoring records and meet the reporting requirements specified by item (i)(DD).

(GG) Information requirements in subitems (BB), (CC)(bb), (DD)(bb), (DD)(cc), and (EE)(bb) shall be submitted to the department within thirty (30) days of occurrence. The following information shall accompany the submittal:

(aa) The name and location of the facility.

(bb) Identification of the control system where the excess emission occurred and the facility it served.

(cc) The time, date, and duration of the exceedance.

(dd) Corrective action taken.

(4) Owners or operators of a wood furniture manufacturing operation subject to the CCP in section 5 of this rule shall demonstrate continuous compliance by following the provisions of the CCP and submitting a compliance certification with the semiannual report required by section 9(c) of this rule. The compliance certification requirements shall be as follows:

(A) State that the CCP is being followed, or shall otherwise identify the periods of noncompliance with the work practice standards. Each failure to implement an obligation under the plan during any particular day is a separate violation.

(B) The compliance certification shall be signed by a responsible official.

*Copies of EPA Method 24 may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are also available from the Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-11-6; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1068; errata filed Apr 9, 1996, 2:30 p.m.: 19 IR 2045*)

SECTION 31. 326 IAC 8-11-7 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-7 Test procedures

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

Affected: IC 13-12

Sec. 7. (a) Compliance with the emission limits in section 3 of this rule shall be determined by the procedures and methods contained in 326 IAC 8-1-4 and 40 CFR 60, Appendix A*. The owner or operator of the wood furniture manufacturing operation may request approval from the department and the U.S. EPA to use an equivalent or alternative method.

(b) If it is demonstrated to the satisfaction of the department and the U.S. EPA that a finishing material does not release VOC byproducts during the cure, for example, all VOC is solvent, then batch formulation information shall be accepted. In the event of any inconsistency between an EPA Method 24* test and a facility's formulation data, that is, if the EPA Method 24* value is higher, the EPA Method 24* shall govern.

(c) Owners or operators complying with the provision of this rule through use of a control system shall demonstrate initial compliance by demonstrating the overall control efficiency determined by using procedures in 326 IAC 8-1-4 and 40 CFR 60*, Appendix A, is at least equal to the required overall control efficiency determined by using the equation in section 6(a)(2)(A) of this rule.

(d) All tests required in this section shall be conducted according to protocol developed in consultation with the department.

*Copies of 40 CFR 60, Appendix A may be obtained from the Government Printing Office, Washington, D.C. 20402. Copies of pertinent sections of the referenced materials are also available from the Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 8-11-7; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1072*)

SECTION 32. 326 IAC 8-11-8 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-8 Record keeping requirements

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

Affected: IC 13-12

Sec. 8. (a) The owner or operator of a wood furniture manufacturing operation subject to the emission limits in section 3 of this rule shall maintain records of the following:

- (1) A list of each finishing material and strippable booth coating subject to the emission limits in section 3 of this rule.
- (2) The VOC and solids content, as-applied, of each finishing material and strippable booth coating subject to the emission limits in section 3 of this rule, and copies of data sheets documenting how the as-applied values were determined.

(b) The owner or operator of a wood furniture manufacturing operation following the compliance procedures of section 6(c)(2) of this rule shall maintain the records required by subsection (a) and daily records of the following:

- (1) Solvent and finishing material additions to the continuous coater reservoir.
- (2) Viscosity measurements.

(c) The owner or operator of a wood furniture manufacturing operation following the compliance method of section 6(a)(2) of this rule in addition to complying with the record keeping requirement of section 6(c)(3)(B) of this rule shall maintain the following records:

- (1) Copies of the calculations to support the equivalency of using a control system, as well as the data that are necessary to support the calculation of the required overall control efficiency and actual determined control efficiency.
- (2) Records of the daily average value of each continuously monitored parameter for each operating day. If all recorded values for a monitored parameter are within the range established during the initial performance test, the owner or operator may record that all values were within the range rather than calculating and recording an average for that day.

(d) The owner or operator of a wood furniture manufacturing operation subject to the work practice standards in section 4 of this rule shall maintain on-site the continuous compliance plan (CCP) and all records associated with fulfilling the requirements of that plan, including, but not limited to, the following:

- (1) Records demonstrating compliance with the operator training program.
- (2) Records maintained in accordance with the leak inspection and maintenance plan.

- (3) Records associated with the cleaning solvent accounting system.
- (4) Records associated with the limitation on the use of conventional air spray guns showing total finishing material usage and the percentage of finishing materials applied with conventional air spray guns for each semiannual reporting period.
- (5) Records showing the VOC content of solvent used for cleaning booth components, except for solvent used to clean conveyors, continuous coaters and their enclosures, or metal filters.
- (6) Copies of logs and other documentation developed to demonstrate that the other provisions of the CCP are followed.

(e) In addition to the records required by subsection (a), the owner or operator of a wood furniture manufacturing operation shall maintain a copy of the compliance certifications submitted in accordance with section 9(c) of this rule for each semiannual period following the compliance date.

(f) The owner or operator of a wood furniture manufacturing operation source shall maintain a copy of all other information submitted with the initial report required by section 9(b) of this rule and the semiannual reports required by section 9(c) of this rule.

(g) The owner or operator of a wood furniture manufacturing operation shall maintain all records for a minimum of three (3) years.

(h) Failure to maintain the records required by this section shall constitute a violation of the rule for each day records are not maintained. (*Air Pollution Control Board; 326 IAC 8-11-8; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1072*)

SECTION 33. 326 IAC 8-11-9 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-9 Reporting requirements

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

Affected: IC 13-12

Sec. 9. (a) The owner or operator of a wood furniture manufacturing operation using a control system to fulfill the requirements of this rule is subject to the reporting requirements of section 6(c)(3)(B)(ii)(GG) of this rule.

(b) On or before May 1, 1996, the owner or operator of a wood furniture manufacturing operation shall submit to the department the following:

- (1) The continuous compliance plan required by section 5 of this rule.
- (2) The initial compliance report for sources using add-on controls as required by section 6(b)(3) of this rule.

(c) The owner or operator of a wood furniture manufacturing operation subject to this rule and demonstrating compliance in accordance with section 6(a)(1) or 6(a)(2) of this rule shall submit a semiannual report covering the previous six (6) months of wood furniture manufacturing operations according to the following schedule:

- (1) The first report shall be submitted thirty (30) calendar days after the end of the first six (6) month period following the compliance date.
- (2) Subsequent reports shall be submitted within thirty (30) calendar days after the end of each six (6) month period following the first report.
- (3) Each semiannual report shall include the information required by section 6(c) of this rule, a statement of whether the wood furniture manufacturing operation was in compliance or noncompliance, and, if the wood furniture manufacturing operation was not in compliance, the measures taken to bring the wood furniture manufacturing operation source into compliance.

(*Air Pollution Control Board; 326 IAC 8-11-9; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1073*)

SECTION 34. 326 IAC 8-11-10 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 8-11-10 Provisions for sources electing to use emissions averaging

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

Affected: IC 13-12

Sec. 10. (a) The owner or operator of the wood furniture manufacturing operation electing to comply with the emissions standards in section 3(a)(4) of this rule shall submit to the department for approval a plan addressing the following provisions:

- (1) Program goals and rationale as follows:
 - (A) Provide a summary of the reasons why the wood furniture manufacturing operation would like to comply with the emission

limitation through the procedures established in section 3(a)(4) of this rule.

(B) Provide a summary of how averaging can be used to meet the emission limitation.

(C) Document that the additional environmental benefit requirement is being met through the use of the equations in section 3(a)(4) of this rule. These equations ensure that the wood furniture manufacturing operation achieves an additional ten percent (10%) reduction in emissions when compared to wood furniture manufacturing operations using a compliant coatings approach to meet the requirements of the rule.

(2) Program scope as follows:

(A) Include the types of finishing materials that will be included in the wood furniture manufacturing operations' averaging program.

(B) Stains, basecoats, washcoats, sealers, and topcoats may be used in the averaging program.

(C) Finishing materials that are applied using continuous coaters may only be used in an averaging program if the wood furniture manufacturing operation can determine the amount of finishing material used each day.

(3) For program baseline, each finishing material included in the averaging program shall be the lower of the actual or allowable emission rate as of the effective date of this rule.

(4) Quantification procedures as follows:

(A) Describe how emissions and changes in emissions will be quantified, including methods for quantifying usage of each finishing material. Quantification procedures for VOC content are included in section 7 of this rule.

(B) Quantification methods used shall be accurate enough to ensure that the wood furniture manufacturing operations' actual emissions are less than the allowable emissions, as calculated using Equation 1 or 2 in section 3(a)(4) of this rule, on a daily basis.

(5) Monitoring, record keeping, and reporting as follows:

(A) Provide a summary of the monitoring, record keeping, and reporting procedures that will be used to demonstrate daily compliance with the equations presented in section 3(a)(4) of this rule.

(B) Monitoring, record keeping, and reporting procedures shall be structured in such a way that the department and facility owners can determine a wood furniture manufacturing operations' compliance status for any day.

(b) Pending approval by the department and the U.S. EPA of the proposed emissions averaging plan, the owner or operator shall continue to comply with the provisions of this rule. (*Air Pollution Control Board; 326 IAC 8-11-10; filed Dec 5, 1995, 8:30 a.m.: 19 IR 1073*)

SECTION 35. 326 IAC 9-1-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 9-1-1 Applicability of rule

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

Affected: IC 13-17-1; IC 13-12-3-1; IC 13-14-8-3; IC 13-14-8-4

Sec. 1. This rule (326 IAC 9-1) is applicable to all stationary sources of carbon monoxide (CO) emissions commencing operation after March 21, 1972. (*Air Pollution Control Board; 326 IAC 9-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2547*)

SECTION 36. 326 IAC 9-1-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 9-1-2 Carbon monoxide emission limits

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

Affected: IC 13-15; IC 13-17

Sec. 2. Emission of carbon monoxide shall be limited to the following unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24:

(1) Petroleum refining emissions. No person shall cause or allow the discharge of carbon monoxide from any catalyst regeneration of a petroleum cracking system or from any petroleum fluid coker into the atmosphere unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the commissioner.

(2) Ferrous metal smelters. No person shall cause or allow the discharge of carbon monoxide from any grey iron cupola, blast furnace, basic oxygen steel furnace, or other ferrous metal smelting equipment, having a capacity of ten (10) tons per hour or more process weight unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the commissioner. In instances where carbon monoxide destruction is not required, carbon monoxide emissions shall be released at such elevation that the maximum ground level concentration from a single source shall not exceed twenty percent

(20%) of the maximum one (1) hour Indiana ambient air quality value for carbon monoxide.

(3) Refuse incineration and burning equipment. No person shall cause or allow the discharge of carbon monoxide from refuse incineration or burning equipment, unless the waste gas stream is burned in a direct-flame afterburner or is controlled by other means approved by the commissioner.

(Air Pollution Control Board; 326 IAC 9-1-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2547; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2370)

SECTION 37. 326 IAC 19-1-1 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-1 Applicability of rule

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

Affected: IC 13-17-3

Sec. 1. This article applies to all employers in Lake and Porter Counties which meet the following requirements:

(1) Employ one hundred (100) or more employees at a single worksite.

(2) Have thirty-three (33) or more employees reporting to work at a worksite between 6 a.m. and 10 a.m. on any single day, Monday through Friday.

(Air Pollution Control Board; 326 IAC 19-1-1; filed Oct 28, 1993, 5:00 p.m.: 17 IR 334)

SECTION 38. 326 IAC 19-1-2 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-2 Definitions

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

Affected: IC 13-17-3

Sec. 2. (a) The definitions in this section apply throughout this article.

(b) “Applicable employee population” means all employees who report to work weekdays between 6 a.m. and 10 a.m., including all employees who are telecommuting or who have a scheduled weekday off as part of a compressed work week. For the purpose of calculating APO, the applicable employee population shall exclude the following:

(1) Employees who are off because of jury duty, work action, vacation, or sick leave.

(2) Employees not working at their primary worksite.

(3) Contract employees if they are included in another employer’s commute option plan or plan update.

(c) “Average passenger occupancy” or “APO” means the number derived by dividing the applicable employee population at a worksite by the number of vehicles driven by employees commuting from home to the worksite. APO may be calculated using either weekly or biweekly averaging periods. National holidays may be excluded from the average period. The sum of the applicable employee population, each weekday, in the selected averaging period is divided by the total number of vehicles driven by the employees to the worksite during the same averaging period. The term “vehicle”, as used in this subsection, does not refer to any specific vehicle. Examples of the proper method of calculating APO will be provided to all applicable employers at the time of initial notification by the department.

(d) “Average vehicle occupancy” or “AVO” means the number derived by dividing the number of employees who report to worksites or other related activity centers between 6 a.m. and 10 a.m., inclusive, Monday through Friday, by the number of vehicles in which the employees report over a five (5) day period. Commuters who work for employers with less than one hundred (100) employees shall be included. In the survey used to determine the AVO, the time period shall exclude any holidays and occur during a time without holidays bordering the weekend on either side of the selected week. Using an approach consistent with procedures developed for monitoring vehicle occupancy in California (Caltrans District 7, March 1991), the AVO for Lake and Porter Counties has been determined to be 1.17.

(e) “Board” means the air pollution control board.

(f) “Department” means the Indiana department of environmental management.

(g) “Employee” means any person employed by any:

(1) firm;

- (2) person;
- (3) business;
- (4) educational institution;
- (5) nonprofit agency or corporation;
- (6) government department or agency; or
- (7) other entity.

“Employee” refers to any full-time or part-time person working ten (10) or more days per thirty (30) day period, permanent or temporary, contract or employed, excluding volunteers, who reports to work or is assigned primarily to a worksite on a regular schedule over a thirty (30) day period.

(h) “Employer” means any:

- (1) person;
- (2) firm;
- (3) business;
- (4) educational institution;
- (5) government department or agency;
- (6) nonprofit agency or corporation; or
- (7) other entity;

which employs one hundred (100) or more persons at a single worksite. Only such worksites are subject to the employee commute options requirement; smaller worksites of the same employer are not subject to the employee commute options requirement. Several subsidiaries or units that occupy the same worksite and report to one (1) common governing board or governing entity are considered to be one (1) employer.

(i) “Peak travel period” means the time between 6 a.m. and 10 a.m., Monday through Friday.

(j) “Target average passenger occupancy” or “target APO” means the APO that an employer must achieve to show compliance with this article.

(k) “Trained employee transportation coordinator” means a person:

- (1) who has completed a training program in transportation management approved by the department; or
- (2) who can demonstrate experience equivalent to that covered in an approved transportation management program.

(l) “Vehicle” means a highway vehicle powered by an internal combustion engine with fewer than nine (9) seating positions for adults. Vehicles powered by compressed natural gas (CNG), liquified natural gas (LNG), or electricity shall not be considered a vehicle in this article.

(m) “Verifiable estimate of average passenger occupancy” means an acceptable method of estimating APO. In order to provide full documentation, the recommended method is weekly or biweekly employee trip record surveys of all employees reporting to work weekdays between 6 a.m. and 10 a.m. This includes employees who are absent due to jury duty, vacation or sick leave, and those not working at their primary worksite, but excluding employees who are absent because of work action, and contract employees if they are included in another employer’s commute option plan or plan update. A suggested survey format will be provided to all applicable employers at the time of initial notification by the department.

(n) “Work action” means any action taken by the employer or an employee which results in an employee not reporting to work. Examples include any of the following:

- (1) A strike.
- (2) A temporary employee layoff.
- (3) A temporary plant shutdown.

(o) “Worksite” means the following:

- (1) A building or group of buildings located within the same ozone nonattainment area which are in actual physical contact or separated only by a private or public roadway or other private or public right-of-way.
- (2) A building or group of buildings which are owned or operated by the same employer or by employers under common control as described under subsection (h).

(Air Pollution Control Board; 326 IAC 19-1-2; filed Oct 28, 1993, 5:00 p.m.: 17 IR 334)

SECTION 39. 326 IAC 19-1-3 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-3 Compliance schedule

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

Affected: IC 13-17-3

Sec. 3. (a) The department shall begin requesting compliance plans one (1) year after the effective date of this article. Requests will be made using certified mail.

(b) Upon receiving written notice from the department by certified mail, employers meeting the applicability requirements of section 1 of this rule shall submit to the department within one hundred twenty (120) days of receipt of the notice, two (2) copies of an employee commute options plan which meets the requirements of this article. If the employer feels that it does not meet the applicability requirements of section 1 of this rule, it shall notify the department within thirty (30) days after receipt of the written notice from the department. It will be the responsibility of the employer to demonstrate to the satisfaction of the department that it does not meet the applicability requirements of section 1 of this rule. If the employer does not agree with the final decision of the department, the employer may appeal the decision to the air pollution control board under IC 4-21.5. The board's final action is subject to judicial review under IC 4-21.5.

(c) Employers with multiple worksites shall submit a separate plan for each affected worksite upon receiving a single notice. An employer with multiple worksites may submit the common parts of separate plans in a single, comprehensive plan. Such a submission shall only be acceptable upon prior written approval from the department and shall be considered as a separate plan when determining fees under section 6 of this rule.

(d) In the event that the employer reasonably needs more time to prepare a plan, additional time may be sought from the department. A request for an extension must be made, in writing, at least thirty (30) days prior to the plan submittal deadline and shall include an explanation of the need for additional time and an anticipated plan submittal date. Additional time may be granted by the department for good cause, but such an extension shall only be effective upon written notification from the department specifying a new plan submittal deadline. The department shall notify the employer whether or not the extension has been granted within ten (10) calendar days of receipt of the written request for extension.

(e) After the employer submits the employee commute options plan, the department shall approve, conditionally approve, or disapprove the plan. If the department fails to respond to the plan, in writing, within sixty (60) days, the plan shall be deemed approved. Conditional approval may be granted for a plan with minor deficiencies. Notice of a disapproved plan shall be made by certified mail, and the notice shall contain the reasons for disapproval. If the employer believes that the disapproved plan meets the requirements of this article, the employer may appeal the decision to the air pollution control board under IC 4-21.5. The board's final agency action is subject to judicial review under IC 4-21.5. A disapproved plan must be revised by the employer and resubmitted to the department within sixty (60) days of receipt of the notice of disapproval or within sixty (60) days of the board's decision to uphold the disapproval by the department.

(f) The employee commute options plan shall be implemented within one (1) year of the plan's approval by the department. (*Air Pollution Control Board; 326 IAC 19-1-3; filed Oct 28, 1993, 5:00 p.m.: 17 IR 336*)

SECTION 40. 326 IAC 19-1-4 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-4 General requirements

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

Affected: IC 13-17-3

Sec. 4. (a) Any employer meeting the applicability requirements of this article shall submit an employee commute options plan. This plan, at a minimum, shall increase the APO per vehicle in commuting trips between home and the workplace during peak travel periods to a level not less than twenty-five percent (25%) above the area wide AVO for all such trips.

(b) Each employee commute options plan shall contain the following information:

(1) A cover letter signed by the highest ranking official with direct management responsibility for the worksite indicating commitment to implement the plan.

- (2) Designation of a trained employee transportation coordinator responsible for implementing the plan including a specific staffing commitment. It is recommended that the trained employee transportation coordinator be located on-site and that a minimum of one (1) hour per week for every fifty (50) employees be spent on administering the employee commute options program.
 - (3) A brief description of the employer and the worksite including the following:
 - (A) The general type of business and any unique aspects such as seasonal fluctuation in the number of employees or the employer's business cycles.
 - (B) An approximation of the percent of employees by type, for example, clerical, professional, part-time, and contract.
 - (C) A site map showing the building and, where applicable, location and number of preferential parking spaces for ridesharing vehicles and placement of bicycle lockers or racks.
 - (D) Public transit services serving the worksite including the specific locations of nearby transit stops.
 - (4) A verifiable estimate of the existing APO at the worksite, prior to implementation of the employee commute options plan.
 - (5) A brief description of the factors influencing the existing APO including any existing employer-provided commute option measures.
 - (6) A list of specific commute option measures the employer shall provide which can reasonably be expected to be achieved within one (1) year after the plan submittal deadline and maintained continuously thereafter as the target APO. The list shall include a detailed description of each measure specifying the following:
 - (A) When they will be provided.
 - (B) How they will be presented to employees.
 - (C) The estimated cost.
 - (7) A method of monitoring the progress of the implementation of the plan and the individual strategies included within the plan.
- (Air Pollution Control Board; 326 IAC 19-1-4; filed Oct 28, 1993, 5:00 p.m.: 17 IR 336)*

SECTION 41. 326 IAC 19-1-5 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-5 Employee commute options plan update

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

Affected: IC 13-17-3

Sec. 5. (a) The employee commute options plan must be updated by each employer by submitting two (2) copies of a plan update to the department one (1) year after the initial plan submittal deadline and annually thereafter. The department shall notify the employer of the plan update deadline one hundred twenty (120) days prior to the deadline. A request for an extension must be made at least thirty (30) days prior to the plan update deadline. The department shall notify the employer, in writing, whether or not the extension has been granted within ten (10) calendar days after receipt of the written request for extension.

(b) The department may postpone a plan update at any time and for any reason including the need to change the annual plan update schedule to coincide with seasonal fluctuations in the number of employees or the employer's business cycle. A postponement made by the department shall be in writing and shall specify a new plan update deadline.

(c) The plan update shall focus on commute option measures provided by the employer. The plan update shall contain the following:

- (1) A verifiable estimate of the APO attained.
- (2) A description of each commute option measure provided specifying when each was offered and how each was presented to employees.
- (3) An evaluation of the plan's effectiveness in attaining the prescribed APO.
- (4) A list of additional commute option measures which, when implemented, will allow a company to meet its target APO. These measures are to be achieved within one (1) year of the plan update deadline. The list shall include a detailed description of each additional measure specifying the following:
 - (A) When they will be provided.
 - (B) How they will be marketed to employees.
 - (C) The estimated cost.
- (5) An explanation of why the additional measures are likely to achieve and maintain the target APO.
- (6) Any changes in the strategies used to achieve the target APO or any changes to the method of monitoring progress in implementing the strategies.
- (7) A new cover letter signed by the highest ranking official with direct management responsibility for the worksite, indicating the employer's commitment to implement the plan update.

(8) If applicable, as a result of personnel changes, designation of a new trained transportation coordinator responsible for implementing the plan update.

(9) If applicable, as a result of company relocation, merger, or acquisition, a new brief description of the employer and the worksite including the items listed in section 4(b)(3) of this rule.

(d) After the employer submits the plan update, the department shall approve, conditionally approve, or disapprove the plan update. If the department fails to respond to the plan update, in writing, within sixty (60) days, it shall be deemed approved. If the employer believes that a disapproved plan meets the requirements of this article, the employer may appeal the disapproval to the board under IC 4-21.5. The board's final action is subject to judicial review under IC 4-21.5. A disapproved plan must be revised by the employer and resubmitted to the department within sixty (60) days of receipt of the notice of disapproval or within sixty (60) days of the board's decision to uphold the disapproval by the department. (*Air Pollution Control Board; 326 IAC 19-1-5; filed Oct 28, 1993, 5:00 p.m.: 17 IR 337*)

SECTION 42. 326 IAC 19-1-7 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-7 Employee commute options plan revision

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

Affected: IC 13-17-3

Sec. 7. (a) An approved plan or approved plan update may be revised by submitting a plan revision or a plan update to the department. The revision shall not be effective until approved by the department.

(b) An employer submitting a plan revision or plan update revision shall not be required to pay a fee. (*Air Pollution Control Board; 326 IAC 19-1-7; filed Oct 28, 1993, 5:00 p.m.: 17 IR 338*)

SECTION 43. 326 IAC 19-1-8 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-8 Violations

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

Affected: IC 13-17-3

Sec. 8. (a) Failure to comply with any provision of this article constitutes a violation of this article. The following are violations of this article and are punishable under the authority of IC 13-7-13-1(a):

- (1) Failure to submit an approvable plan or to submit an approvable plan update.
- (2) Failure to implement an approved plan or to implement an approved plan update.
- (3) Failure to provide any measure in an approved plan or to provide any measure in an approved plan update.
- (4) Falsification of information on a plan or information on a plan update.
- (5) Falsification of information on employment.
- (6) Failure to respond to an order to comply.

(b) If the employer complies with all provisions of the approved employee commute options plan or plan update, but fails to meet the target APO, such failure is not a violation of this rule. (*Air Pollution Control Board; 326 IAC 19-1-8; filed Oct 28, 1993, 5:00 p.m.: 17 IR 338*)

SECTION 44. 326 IAC 19-1-9 IS BEING CONSIDERED FOR READOPTION AS FOLLOWS:

326 IAC 19-1-9 Banking and trading of average passenger occupancy credits

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

Affected: IC 13-17-3

Sec. 9. (a) Within one (1) year of the effective date of this article, the department shall study and make a recommendation to the board regarding the feasibility of an APO credit banking or trading program for incorporation into this article.

(b) An APO credit banking or trading program will be considered as a means of encouraging excess vehicle trip reductions by individual employers or as a means of assisting employers who fail to meet the required number of trip reductions to meet the target

APO through application of trip reduction credits. (*Air Pollution Control Board; 326 IAC 19-1-9; filed Oct 28, 1993, 5:00 p.m.: 17 IR 339*)

Notice of First Meeting/Hearing

These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the Change in Notice section of the Indiana Register.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Management, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana).

Copies of these rules are now on file at the Office of Air Management, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.