

Document: IC 13-14-9 Notice, **Register Page Number:** 28 IR 1077

Source: December 1, 2004, Indiana Register, Volume 28, Number 3

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TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-8 AND DRAFT RULE #04-300(APCB)

DEVELOPMENT OF NEW RULES CONCERNING STATIONARY COMBUSTION ENGINES; LIME MANUFACTURING PLANTS; IRON AND STEEL FOUNDRIES; INTEGRATED IRON AND STEEL MANUFACTURING; MERCURY CELL CHLOR-ALKALI PLANTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for new rules to incorporate by reference the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for stationary combustion engines; lime manufacturing plants; iron and steel foundries; integrated iron and steel manufacturing; and mercury cell chlor-alkali plants and has scheduled a public hearing/meeting before the air pollution control board (board) for consideration of preliminary adoption of these rules.

CITATIONS AFFECTED: 326 IAC 20-90; 326 IAC 20-91; 326 IAC 20-92; 326 IAC 20-93; 326 IAC 20-94.

AUTHORITY: IC 13-14-8-7; IC 13-14-9-8; IC 13-17-3-4; IC 13-17-3-11.

STATUTORY REQUIREMENTS

IC 13-14-9-8 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that there is no anticipated benefit from the first and second public comment periods, IDEM may forgo these comment periods and proceed directly to the public hearing and board meeting at which the draft rule is considered for preliminary adoption. Two (2) opportunities for public comment (at the public hearings prior to preliminary and final adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by IC 13-14-9-8, the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for preliminary adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-8.

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in IC 13-14-9-7(a)(2) from:

(A) exposing the rule to diverse public comment under section IC 13-14-9-3 or IC 13-14-9-4;

(B) affording interested or affected parties the opportunity to be heard under IC 13-14-9-3 or IC 13-14-9-4; and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under IC 13-14-9-3 and IC 13-14-9-4.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The 1990 Amendments to the Clean Air Act require the United States Environmental Protection Agency (U.S. EPA) to regulate

major sources of hazardous air pollutants (HAPs). A major source is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that has the potential to emit, considering controls, ten (10) tons per year or more of any single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of HAPs. HAPs are listed by U.S. EPA because they are either known or suspected to cause cancer or other serious health effects. There are currently one hundred eighty-eight (188) HAPs listed in the Clean Air Act. On July 16, 1992, (57 FR 311576), U.S. EPA published a list of industrial groups or source categories that emit one (1) or more of the one hundred eighty-eight (188) listed HAPs. The Clean Air Act requires U.S. EPA to develop emission standards, referred to as national emission standards for hazardous air pollutants (NESHAPs), that require the application of air pollution reduction measures based on maximum achievable control technology (MACT) for the listed source categories. The “MACT floor” is the minimum control level allowed for NESHAPs and ensures that the standard is set at a level that assures that all existing major sources achieve a level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source.

For most NESHAPs, the final compliance deadline is three (3) years after the rule promulgation date. Most NESHAPs have intermediate compliance dates and require a compliance plan prior to the final compliance deadline. For NESHAPs where only minor changes are required in order to comply with the promulgated NESHAP, the compliance date is less than three (3) years.

IDEM must incorporate the federal requirements into state rules or establish state requirements that are no less stringent than the federal requirements. This rulemaking will incorporate by reference the following NESHAPs:

Stationary Combustion Turbines (40 CFR 63, Subpart YYYY)

This NESHAP applies to stationary combustion turbines, which are used by the electric utility industry and also by independent power producers to produce electricity, the gas pipeline industry to maintain pressure in gas pipelines, and at chemical and industrial plants to produce both heat and shaft power. Combustion turbines are also used in standby and emergency modes to provide electric power when the normal electric power is lost. A new source is defined as commencing construction of the stationary combustion turbine after January 14, 2003. New sources are subject to applicable requirements including emission limitations, add-on controls, maintenance, reporting, and notification requirements. Existing sources are subject to maintenance and reporting requirements only. U.S. EPA considered establishing more stringent requirements for existing sources but determined the costs of adding controls to be cost prohibitive and excessive based on the very small reduction in HAP emissions that would result. For new sources, the MACT standards cannot be less stringent than the emission control that is achieved in practice by the best controlled similar source. New sources are required to install add-on controls such as an oxidation catalyst system. For new sources, this NESHAP is predicted to reduce emissions nationwide from formaldehyde, toluene, and benzene by an estimated 98 tons per year (or ninety percent (90%), due to additional control requirements) in the fifth year after the NESHAP is promulgated. Fifteen (15) Indiana sources are potentially subject to this NESHAP. New sources must comply six (6) months after rule is final or six (6) months after startup, whichever is later.

Lime Manufacturing (40 CFR 63, Subpart AAAAA)

This NESHAP applies to commercial and captive (produced and used internally; not sold on open market) lime manufacturing plants that are major or are located at a major source. Lime is produced by crushing limestone and then heating it in a kiln. The kiln is a large furnace fueled by coal, natural gas, oil, or coke. Main emissions are from the burning of the fuels and the heating of feed materials. The primary air toxics produced are arsenic, cadmium, chromium, nickel, and hydrogen chloride. U.S. EPA predicts that air toxic metal emissions will be reduced nationally by three and six-tenths (3.6) tons per year and hydrogen chloride will be reduced by two hundred forty (240) tons per year by the fifth year after promulgation of the NESHAP. There are at least two (2) potential Indiana sources. Sources must comply by February 26, 2007.

Iron and Steel Foundries (40 CFR 63, Subpart EEEEE)

This NESHAP applies to iron and steel foundries melt scrap, ingot, and other forms of iron and steel and pour the molten metal into molds to produce products. The rule will reduce emissions of benzene, chromium, dioxin, lead, manganese, mercury, methanol, nickel, and triethylamine. Overall air emissions will be reduced nationally by one thousand eight hundred fifty (1,850) tons per year. The NESHAP includes emission limits from manufacturing processes and pollution prevention-based requirements to reduce emissions from furnace charge materials and coating formulations. There are at least nineteen (19) potential Indiana sources. Sources must comply by April 22, 2007.

Integrated Iron and Steel Manufacturing (40 CFR 63, Subpart FFFFF)

This NESHAP applies to integrated iron and steel manufacturing sources that produce steel from iron ore. HAPs emitted include metals and trace amounts of organic HAPS such as benzene. Emission limits apply to the sinter plant windbox exhaust, sinter discharge, and sinter cooler. Emission limits also apply to the blast furnaces and basic oxygen process furnace shops. The NESHAP includes particulate matter emission limits and opacity limits which are a surrogate for metal emissions. Reductions from the final NESHAP are difficult to estimate, but for the proposed rule, U.S. EPA estimated a reduction nationally of particulate matter of one thousand five hundred (1,500) tons from 1999 levels. There are at least four (4) potential Indiana sources. Sources must comply by May 20, 2006.

Mercury Cell Chlor-Alkali Plants (formerly Chlorine Production) (40 CFR 63, Subpart IIII)

This NESHAP applies to mercury and chlorine emissions from mercury cell chlor-alkali plants. Mercury cells are electrically connected together in series with circuits of thirty (30) or more cells. Each cell involves two (2) operations. The electrolytic cell produces chlorine gas, and a separate decomposer produces hydrogen gas and caustic solution. There is one (1) decomposer associated with each cell. Caustic soda (NaOH) and chlorine are produced by the electrolysis of an aqueous solution of sodium chloride (brine). Mercury emissions will be reduced nationally by one thousand five hundred (1,500) tons per year from current levels. There was one (1) potential source based on the original chlorine production parameters, however this NESHAP was narrowed to focus on mercury cells, and there are no expected sources in Indiana for this NESHAP as it is currently written. Sources must comply by December 19, 2006.

Identification of Restrictions and Requirements Not Imposed Under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. Affected entities must comply with the federal rule, and IDEM does not propose to add more stringent requirements.

Public Participation and Workgroup Information

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Gayl Killough, Rules Development Section, Office of Air Quality at (317) 233-8628 or (800) 451-6021 (in Indiana).

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on the incorporation by reference of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for hazardous air pollutants for stationary combustion engines; lime manufacturing plants; iron and steel foundries; integrated iron and steel manufacturing; and mercury cell chlor-alkali plants. These findings are prepared under IC 13-14-9-8 and are as follows:

- (1) The draft rule is the direct adoption of federal requirements that are applicable to Indiana and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana is required by federal law and state law to adopt NESHAPs or adopt rules that are as stringent as the federal regulations.
- (3) The citizens and regulated community of Indiana will benefit from prompt adoption of this rule because the state will have the legal authority to enforce these NESHAPs.
- (4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from the first and second public comment periods.
- (5) The draft rule is hereby incorporated into these findings.

Lori F. Kaplan

Commissioner

Indiana Department of Environmental Management

ADDITIONAL INFORMATION

Additional information regarding this action may be obtained from Gayl Killough, Rule Development Section, Office of Air Quality (317) 233-8628 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 20-90 IS ADDED TO READ AS FOLLOWS:

Rule 90. Stationary Combustion Turbines

326 IAC 20-90-1 Applicability; incorporation by reference of federal standards

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.6085*(69 FR 10537, March 5, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart YYYY* (69 FR 10537, March 5, 2004, National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines).

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 20-90-1)**

SECTION 2. 326 IAC 20-91 IS ADDED TO READ AS FOLLOWS:

Rule 91. Lime Manufacturing Plants

326 IAC 20-91-1 Applicability; incorporation by reference of federal standards

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.7081* (69 FR 416, January 5, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart AAAAA* (69 FR 416, January 5 2004, National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-91-1*)

SECTION 3. 326 IAC 20-92 IS ADDED TO READ AS FOLLOWS:

Rule 92. Iron and Steel Foundries

326 IAC 20-92-1 Applicability; incorporation by reference of federal standards

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.7681* (69 FR 21924, April 22, 2004).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart EEEEE* (69 FR 21923, April 22, 2004, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-92-1*)

SECTION 4. 326 IAC 20-93 IS ADDED TO READ AS FOLLOWS:

Rule 93. Integrated Iron and Steel Manufacturing

326 IAC 20-93-1 Applicability; incorporation by reference of federal standards

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.7781* (68 FR 27663, May 20, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart FFFFF* (68 FR 27663, May 20, 2003, National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-93-1*)

SECTION 5. 326 IAC 20-94 IS ADDED TO READ AS FOLLOWS:

Rule 94. Mercury Cell Chlor-Alkali Plants

326 IAC 20-94-1 Applicability; incorporation by reference of federal standards

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to sources as provided in 40 CFR 63.8182* (68 FR 70928, December 19, 2003).

(b) The air pollution control board incorporates by reference 40 CFR 63, Subpart IIII* (68 FR 70928, December 19, 2003, National Emission Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 20-94-1*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8, and IC 13-14-9, notice is hereby given that on February 2, 2005, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Air Pollution Control Board will hold a public hearing on new rules 326 IAC 20-90, 326 IAC 20-91, 326 IAC 20-92, 326 IAC 20-93, and 326 IAC 20-94.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rule. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Gayl Killough, Rules Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-0855, TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

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