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TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD #05-165(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING VOLATILE ORGANIC COMPOUNDS IN ORGANIC SOLVENT DEGREASERS IN CENTRAL INDIANA

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 326 IAC 8-3 concerning organic solvent degreasers in nine (9) ozone nonattainment counties in Central Indiana. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 8-3-1; 326 IAC 8-3-8.

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

In the April 30, 2004, Federal Register (69 FR 23858), the United States Environmental Protection Agency (U.S. EPA) designated nine (9) counties in the central Indiana region as nonattainment for the 8-hour ozone National Ambient Air Quality Standard (8-hour standard). The affected counties are: Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby.

Ozone is not emitted directly into the air, but is created by a chemical reaction between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of heat and sunlight. While ozone that occurs naturally in the stratosphere approximately ten (10) to thirty (30) miles above the earth's surface forms a layer that protects life on earth from the sun's harmful rays, ground-level ozone contributes to a variety of health problems. Ozone is a lung irritant and can be harmful, especially for people with asthma or other respiratory problems. Ozone also damages plants and ecosystems and reduces visibility.

Ozone and the pollutants that form ozone, NO_x and VOC, can be transported hundreds of miles from the pollution sources. Motor vehicle exhaust, industrial emissions, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC that help to form ozone. Sunlight and hot weather cause ground-level ozone to form in harmful concentrations in the air. As a result, ozone is known as a summertime air pollutant. Indiana's ozone season is May 1 to September 30.

In the July 18, 1997 Federal Register (62 FR 38856), U.S. EPA published a revised 8-hour ozone standard. This standard is more protective of public health and more stringent than the previous 1-hour standard. U.S. EPA published nonattainment designations for the 8-hour standard on April 30, 2004 (69 FR 23858) that became effective on June 15, 2004. Each state must put control measures into place to bring these areas into attainment by June 15, 2009. The 1-hour ozone standard was revoked on June 15, 2005.

A nonattainment designation means that ozone levels, measured by air monitors in the area, have exceeded federal health standards on at least some days during the summer ozone season in recent years. The ozone designations are based on monitoring data collected from 2001 to 2003. The 8-hour ozone standard is eight-hundredths (.08) parts per million (ppm) and is based on an average 4th high 8-hour ozone value over a three (3) year period. Counties with values exceeding this standard are considered to be in violation of the standard.

A nonattainment designation triggers planning requirements for existing sources of air pollution, stricter requirements for certain types of new and expanding facilities that emit air pollution, and certain changes in transportation planning and funding and, potentially, additional clean air measures. Indiana must develop a plan detailing the steps necessary to comply with the standard by the attainment date. Although new national and regional controls, including the nitrogen oxides control rule for power plants, new diesel engine standards, and new diesel fuel standards, will help Central Indiana attain the standard, additional local controls will be necessary.

IDEM is working with local government, businesses, and citizens and other interested groups to develop a strategy that will achieve attainment in Central Indiana with feasible and cost-effective programs. IDEM established the Central Indiana Air Quality Advisory Group (CIAQAG) in September 2003 to study alternatives for inclusion in the Central Indiana state implementation plan (SIP). The CIAQAG met sixteen (16) times between September 2003 and May 2005, and heard numerous presentations on options to reduce

ozone to meet the new air quality standard. Discussions focused on alternatives for the control of volatile organic compounds (VOCs) locally because of the importance of VOCs in the creation of ozone. Adoption of multiple regulatory strategies will likely be required in Central Indiana to achieve the necessary emissions reductions. The strategies will have different costs and will affect different constituencies. One of the regulatory measures recommended by the CIAQAG, and the subject of this rulemaking, is VOC controls on degreasing operations at commercial and industrial sources. IDEM has estimated that implementation of degreasing requirements in Central Indiana will provide a two and seven-tenths percent (2.7%) total annualized reduction of VOCs or a reduction of six (6) tons per summer day.

In order to demonstrate attainment in Central Indiana by June 15, 2009, controls would need to be implemented by the summer of 2006 to provide three (3) years of ozone season data prior to the attainment date. This rule is being initiated now to provide sufficient time to complete it by the summer of 2006. IDEM seeks comments from potentially affected sources in the nine (9) county region regarding the timing of implementation of this rule and other control measures to demonstrate attainment in Central Indiana by June 15, 2009.

The Clean Air Act requires that states develop measures to bring nonattainment areas into attainment. This rule is one of those measures. These requirements already apply to degreasing operations in other ozone nonattainment and maintenance areas in Indiana. The rule will be submitted to U.S. EPA for approval into the state implementation plan (SIP) for Central Indiana.

Alternatives To Be Considered Within the Rulemaking

Degreasing operations refers to a process that uses a solvent to remove grease, oil, or dirt from the surface of a part usually prior to surface coating or welding. Cold cleaning is a form of degreasing where the part is dipped into or sprayed with a heated solvent. Sources that commonly have cold cleaning degreasers include auto repair shops, auto body shops, and industrial sources. Vapor degreasing operations heat the solvent to the boiling point. More vapor becomes fugitive but can also be captured and reused.

Alternative 1. Amending existing applicability section for degreasers under 326 IAC 8-3-1 and 326 IAC 8-3-8 to add nine (9) additional counties in Central Indiana.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, it is not an incorporation by reference of a federal standard.
- Is this alternative imposed by federal law or is there a comparable federal law? No, this alternative is not imposed by federal law, but U.S. EPA gives Indiana the flexibility to select appropriate alternatives in order to meet the requirements of the federal law in a timely manner. This alternative controls volatile organic compounds as defined at 40 CFR 50. Amendments to existing degreasing rules that are already approved into the SIP is one such method of control.
- If it is a federal requirement, is it different from federal law? No, it is not different from federal law.
- If it is different, describe the differences. Not applicable.

Alternative 2. No rulemaking.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No
- Is this alternative imposed by federal law or is there a comparable federal law? No
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

40 CFR 50 (National Primary and Secondary Ambient Air Quality Standards) and 40 CFR 81 (Designation of Areas for Air Quality Planning Purposes) are both applicable federal laws impacting this rulemaking. 40 CFR 50 (amended on July 18, 1997 (62 FR 38856)) contains the standards for criteria pollutants. Ozone is considered a criteria pollutant and air pollution controls reduce emissions of volatile organic compounds (VOC) to reduce ozone formation. 40 CFR 81 (amended on April 30, 2004 (69 FR 23858)) lists the areas of the United States, specific to each state that U.S. EPA considers are not attaining the standards (nonattainment) for criteria pollutants such as ozone.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. No estimate of fiscal impact. A previous rulemaking in 1998 that added the degreasing compliance requirements at 326 IAC 8-3-8 for four (4) counties, estimated a low fiscal impact. That rule making action would have been more costly to suppliers and sources who use the solvents because the required solvents were not readily available in this state. This rule action is adding nine (9) additional counties to the list of affected sources in that rule. Sources will have to purchase different solvents as required by the rule and provide record keeping and reporting of new solvent use and purchase. It is not known what additional costs the sources will incur because the solvents will have lower vapor pressure limits and lower emissions. Sources may save money by having less evaporation of solvents. Those solvents should be available in the state now because they are required in four (4) other counties. No capital costs for equipment is anticipated.

Potential Fiscal Impact of Alternative 2. No fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-

5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

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

Sandra El-Yusuf

IDEM Compliance and Technical Assistance Program

OPPTA - MC60-04

100 North Senate Avenue

W-041

Indianapolis, IN 46204-2251

(317) 232-8578

selyusuf@idem.IN.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen

IDEM Small Business Assistance Program Ombudsman

External Affairs - MC50-01

100 North Senate Avenue

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Indianapolis, IN 46204-2251

(317) 234-3386

elevenha@idem.IN.gov

Public Participation and Workgroup Information

The Central Indiana Air Quality Advisory Group (CIAQAG) was established September 2003, to study alternatives for reducing ozone in Central Indiana to demonstrate attainment. This group is comprised of business, government officials, and citizens and has met fourteen (14) times between September 2003 and February 2005 to hear presentations, discuss regulatory and voluntary alternatives to reduce ozone, and make recommendations on alternatives appropriate in Central Indiana. These meetings are open to the public.

At this time, no additional workgroup is planned for this rulemaking, but the department is planning outreach efforts to affected sources during the course of the rulemaking and to provide compliance assistance. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Suzanne Whitmer, Rules Section, Office of Air Quality at (317) 232-8229 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

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

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

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

Mailed comments should be addressed to:

#05-165(APCB) Central Indiana VOC-Degreasers

Suzanne Whitmer Mail Code 61-50

c/o Administrative Assistant

Rules Development Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the Tenth Floor-East Wing reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by August 1, 2005.

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

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