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Bold and single underline = new language since preliminary adoption

~~Bold, strikeout and single underline~~ = new language at preliminary adoption that is being deleted (the board will not be requested to final adopt this language)

TITLE 326 AIR POLLUTION CONTROL BOARD

PROPOSED RULE AS PRELIMINARILY ADOPTED WITH IDEM'S SUGGESTED CHANGES INCORPORATED

LSA Document #05-332

Adds 326 IAC 4-3 concerning outdoor hydronic heaters. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: December 1, 2005, Indiana Register (29 IR 901). Comment period ended January 3, 2006.

Continuation of First Notice of Comment Period: February 1, 2006, Indiana Register (29 IR 1762). First Notice comment period extended through March 3, 2006.

Second Notice of Comment Period: January 6, 2010, Indiana Register (DIN: 20100106-IR-326050332SNA).

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Change in Notice of First Hearing: May 5, 2010, Indiana Register (DIN: 20100505-IR-326050332CHA).

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Change of Notice of Second Hearing: February 9, 2011, Indiana Register (DIN: 20110209-IR-326050332CHA).

Date of Second Hearing: March 2, 2011.

326 IAC 4-3

SECTION 1. 326 IAC 4-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. Outdoor Hydronic Heaters

326 IAC 4-3-1 Applicability

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec. 1. (a) Except as provided in subsection (b), this rule applies to any manufacturer, supplier, distributor, or person that:

- (1) distributes or sells;**
 - (2) markets;**
 - (3) installs;**
 - (4) operates; or**
 - (5) owns;**
- an outdoor hydronic heater in Indiana.**

(b) Sections 3 and 6 of this rule do not apply to the following:

(1) An outdoor hydronic heater that:

(A) is or has been owned by a person for his or her own personal use; and

(B) is distributed or sold within three (3) years of the effective date of this rule to another for his or her own personal use.

For purposes of this subdivision, "personal use" means the use of an outdoor hydronic heater by an individual solely for residential space or domestic water heating, and not to service a commercial or institutional establishment.

(2) An outdoor hydronic heater available for sale in an Indiana dealer's inventory before the effective date of this rule.

(3) Homemade units.

(4) An outdoor hydronic heater where the manufacturer has demonstrated that the unit is designed for a thermal output of three hundred fifty thousand (350,000) British thermal units per hour (Btu/hr) or more.

(Air Pollution Control Board; 326 IAC 4-3-1)

326 IAC 4-3-2 Definitions

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec 2. The following definitions apply throughout this rule:

(1) "Clean wood" means untreated wood that has no paint, stains, coatings, glues, or any chemical treatment.

(2) "Distribute or sell" means to:

(A) distribute;

(B) sell;

(C) advertise for sale;

(D) offer for sale;

(E) lease;

(F) ship;

(G) deliver for shipment;

(H) release for shipment; or

(I) receive and deliver, or offer to deliver.

The term does not include the distribution or sale by a manufacturer of an outdoor hydronic heater that is installed outside of Indiana.

- (3) “Homemade unit” means an outdoor hydronic heater built by a person for the builder’s personal use. The term does not include installation kits.
- (4) “Manufacturer” means any person who constructs or imports into the United States an outdoor hydronic heater.
- (5) “Outdoor hydronic heater” means a fuel burning device:
- (A) designed to burn wood or other approved renewable solid fuels;
 - (B) that is intended for outdoor installation or installation in structures not normally occupied by humans; and
 - (C) that heats building space or water, or both, by the distribution, typically through pipes, of a fluid heated in the device, typically water or a water and antifreeze mixture.
- (6) “Start-up period” means the time period beginning with flame stability after first charge of wood fuel and lasts no longer than two (2) hours. The term includes only initial start-up where no previous wood coal bed exists and does not include refueling.

(Air Pollution Control Board; 326 IAC 4-3-2)

326 IAC 4-3-3 Emission limit for outdoor hydronic heaters installed after the effective date of this rule

Authority: IC 13-17-1-1; IC 13-17-3-4; IC 13-14-8-7
Affected: IC 13-17-1-3; IC 13-17-3

Sec. 3. After the effective date of this rule, except as provided in section 1(b) of this rule, no person shall distribute or sell or install an outdoor hydronic heater unless:

- (1) it has been certified qualified through U.S. EPA’s voluntary outdoor hydronic heater program to meet the Phase 2 particulate matter emission limit of thirty-two hundredths (0.32) pounds per million British thermal units (lb/MMBtu) heat output, with no individual test run exceeding eighteen (18) grams per hour; and
- (2) a U. S. EPA white tag is affixed to the unit in a readily visible or accessible location. The white tag signifies that the unit meets the Phase 2 emission limit for U.S. EPA’s voluntary outdoor hydronic heater program.

(Air Pollution Control Board; 326 IAC 4-3-3)

326 IAC 4-3-4 General requirements for existing outdoor hydronic heaters

Authority: IC 13-17-1-1; IC 13-17-3-4; IC 13-14-8-7
Affected: IC 13-17-1-3; IC 13-17-3

Sec. 4. (a) After ~~August 31, 2011~~ November 30, 2011, all outdoor hydronic heaters that have not been certified qualified to meet the Phase 2 emission limit in section 3 of this rule must have a permanent stack extending five (5) feet higher than the peak of the roof of any occupied building:

- (1) located within one hundred fifty (150) feet of the unit; and
- (2) not located on the same property on which the heater is installed.

(b) The maximum stack height required under this rule is twenty-two (22) feet above the ground.

(Air Pollution Control Board; 326 IAC 4-3-4)

326 IAC 4-3-5 Operating standards

Authority: IC 13-17-1-1; IC 13-17-3-4; IC 13-14-8-7

Affected: IC 13-17-1-3; IC 13-17-3

Sec. 5. (a) No person shall operate an outdoor hydronic heater from May 1 through September 30 if the unit is located less than three hundred (300) feet away from an occupied building not located on the same property on which the heater is installed, unless the outdoor hydronic heater has been certified qualified to meet the Phase 2 emission limit in section 3 of this rule.

(b) A person shall burn only clean wood or other approved renewable solid fuel in an outdoor hydronic heater.

(c) No person shall burn any of the following items in an outdoor hydronic heater:

- (1) Any wood that does not meet the definition of clean wood.**
- (2) Garbage.**
- (3) Tires.**
- (4) Lawn clippings or yard waste.**
- (5) Materials containing plastic.**
- (6) Materials containing rubber.**
- (7) Waste petroleum products.**
- (8) Paints and paint thinners.**
- (9) Chemicals.**
- (10) Coal.**
- (11) Glossy or colored papers.**
- (12) Construction and demolition debris.**
- (13) Plywood.**
- (14) Particleboard.**
- (15) Manure.**
- (16) Animal remains.**
- (17) Asphalt products.**

(d) Home heating oil, natural gas, or other fuels recommended by the manufacturer may be used as a starter or supplemental fuel for dual-fired outdoor hydronic heaters.

(e) No person shall cause or allow the emission of a smoke plume from an outdoor hydronic heater to exceed an average of twenty percent (20%) opacity, a measure of the amount of light obscured by particulate pollution, for six (6) consecutive minutes in any one (1) hour period. Upon initial firing of the unit where no wood coal bed exists, visible emissions may not exceed forty percent (40%)

opacity for twenty (20) consecutive minutes during the start-up period.
Measurements of opacity shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9* by a representative of the commissioner.

(f) Outdoor hydronic heaters must comply with all applicable:

- (1) state and federal laws, and**
- (2) local ordinances.**

***This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 4-3-5)**

326 IAC 4-3-6 Notice to buyers

Authority: IC 13-17-1-1; IC 13-17-3-4; IC 13-14-8-7
Affected: IC 13-17-1-3; IC 13-17-3

Sec. 6. (a) After the effective date of this rule, no person shall distribute or sell, or install, any outdoor hydronic heater unless the seller or dealer provides the buyer or lessee with a copy of this rule.

(b) The buyer or lessee shall sign a notice at the time of purchase or lease that includes the following:

- (1) A statement acknowledging receipt of the rule, as follows: “I, (buyer or lessee’s name), have been provided a copy of 326 IAC 4-3 (Outdoor Hydronic Heater Indiana Air Pollution Control Board rule) from (seller or dealer’s name) at the time of my purchase or lease.”.**
- (2) The name, address, and telephone number of both the seller or dealer and the buyer or lessee.**
- (3) The address of the location where the outdoor hydronic heater will be installed.**
- (4) The make and model of the outdoor hydronic heater.**

(c) Within seven (7) days of making delivery of the outdoor hydronic heater into the possession of the buyer or lessee, the seller or dealer shall mail or otherwise provide a copy of the signed notice to the department. (Air Pollution Control Board; 326 IAC 4-3-6)

