

ARTICLE 8. VOLATILE ORGANIC COMPOUND RULES
Rule 15. Standards for Consumer and Commercial Products

326 IAC 8-15-5 Innovative products exemption
Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 5. (a) A consumer product is exempt from the VOC limit requirements of section 3(a) of this rule if the manufacturer has been granted an innovative product exemption by one (1) of the following:

- (1) The CARB under the Innovative Products provisions in:
 - (A) Subchapter 8.5, Article 2, Section 94511 of Title 17 of the California Code of Regulations; or
 - (B) Subchapter 8.5, Article 1, Section 94503.5 of Title 17 of the California Code of Regulations.
- (2) The air pollution control agency of another state that has adopted a consumer and commercial product rule with an innovative products exemption provision substantially equivalent to the OTC "Model Rule for Consumer Products", September 13, 2006.

(b) An innovative products exemption in accordance with subsection (a) shall be valid for use in Indiana when all of the following requirements are met:

- (1) The innovative product exemption is still in effect and has not expired.
- (2) The manufacturer claiming an innovative products exemption in accordance with subsection (a)(1) shall do the following:
 - (A) Submit to the department a copy of the CARB innovative product exemption decision, that is, the Executive Order, including all conditions established by CARB applicable to the exemption.
 - (B) Maintain all information specified in the innovative product exemption approving an innovative product application for a minimum of three (3) years after the expiration of the exemption.
 - (C) Make all records available to the department or the U.S. EPA upon request.
- (3) The manufacturer claiming an innovative products exemption in accordance with subsection (a)(2) shall certify to the department the following:
 - (A) The product (including its form) for which the innovative products exemption is being used to comply with this rule satisfies the following requirements:
 - (i) The product belongs to a chemically formulated consumer product category that is subject to a VOC content limit in section 3(a) of this rule.
 - (ii) The VOC content limit promulgated for this product by the air pollution control agency that issued the innovative products exemption is equal to or more stringent than the most stringent applicable VOC content limit specified in section 3(a) of this rule.
 - (B) The manufacturer must demonstrate to the department by clear and convincing evidence that, due to some characteristic of the product formulation, design, delivery systems, or other fact, the use of the product will result in less VOC emissions compared to either the VOC emissions from a representative chemically formulated consumer product that complies with the VOC content limits in section 3(a) of this rule, or as compared to the calculated VOC emissions from a noncomplying representative product, if the product has been reformulated to comply with the VOC limits specified in section 3(a) of this rule.
 - (C) Prior to relying on an innovative products exemption for compliance, the manufacturer must submit to the department the following information:
 - (i) A statement that, for a specified chemically formulated consumer product that it manufactures, the manufacturer intends to comply with this section under an innovative products exemption rather than meet the applicable VOC content limits in section 3(a) of this rule.
 - (ii) The brand name of the consumer product, and the specific chemically formulated consumer product category in section 3(a) of this rule that the product belongs to, including its forms (if applicable).
 - (iii) A copy of the following:
 - (AA) The documents setting forth the innovative products exemption.
 - (BB) The issuing state's air pollution control agency's approval.

(CC) The issuing state's air pollution control agency's conditions of approval.

(DD) The demonstration of clause (B).

(EE) Any documents from the issuing state's air pollution control agency that subsequently modifies or terminates its conditions of approval.

(FF) Documentation demonstrating compliance with the innovative products exemption.

(iv) A statement that the innovative products exemption and the product or products for which the innovative products exemption is being used conform with the requirements of clauses (A) and (B) and this clause.

(c) If the VOC limits specified in section 3(a) of this rule are lowered for a product category through any subsequent rulemaking, all innovative product exemptions granted for products in the product category shall have no force and effect as of the effective date of the modified VOC standard. This subsection shall not apply to those innovative products that have VOC emissions less than the applicable lowered VOC limit and for which a written notification of the product's emissions status versus the lowered VOC limit has been submitted to and approved by the department at least sixty (60) days before the effective date of the limits.

(d) If the consumer product for which an exemption has been granted no longer meets the criteria for an innovative product exemption, the department may revoke the exemption as necessary. (*Air Pollution Control Board; 326 IAC 8-15-5; filed Nov 1, 2010, 12:38 p.m.: 20101201-IR-326070351FRA*)