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**TITLE 326 AIR POLLUTION CONTROL BOARD****SECOND NOTICE OF COMMENT PERIOD**

LSA Document #06-284

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM IN LAKE AND PORTER COUNTIES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 13-1.1](#) concerning amendments to the motor vehicle inspection and maintenance (I/M) program in Lake and Porter counties. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: August 16, 2006, Indiana Register ([20060816-IR-326060284FNA](#)).

**CITATIONS AFFECTED:** [326 IAC 13-1.1](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-14-9](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

The Lake and Porter County I/M program began in 1984, and it continues to contribute to the improvement in air quality in these counties. To help ensure continued compliance with the National Ambient Air Quality Standard for ozone in Lake and Porter counties and to contribute to regional attainment efforts, IDEM is considering certain enhancements to this program. These include an alternate test to the second generation on-board diagnostics test (OBDII) and the addition of a leak test procedure for 1976 through 1995 model vehicles to help detect gasoline leaks that contribute to volatile organic compounds (VOCs) in the air.

**Second Generation On-Board Diagnostics (OBDII)**

All automotive manufacturers are required to meet federal OBDII vehicle emission standards that went into effect in 1996. OBDII requires that the on-board computer monitors actively perform diagnostic tests on vehicle emission systems. The system detects emission system malfunctions which could result in emissions at or above the applicable vehicle emission standard. A Malfunction Indicator Lamp (MIL) on the vehicle's dashboard should illuminate if a system or component either fails or deteriorates to the point where the vehicle emissions could rise above the applicable vehicle emission standards. If a vehicle's MIL is on, the gas cap pressure test will be performed as part of the initial I/M test, but the vehicle test result will be "fail". OBDII equipped vehicles will also be rejected as "OBD System Not Ready" if the vehicle has three or more readiness monitors that are not set for vehicles model year 1996 through model year 2000, or two or more readiness monitors that are not set for vehicles model year 2001 and later. If the MIL is off and no diagnostic trouble codes are detected, the vehicle passes the OBD test, the test is complete, and the Vehicle Inspection Report is printed, informing the motorist that the vehicle passed the test.

Some OBDII equipped vehicles are currently rejected because their readiness monitors will not set correctly or have other nonemission related problems (i.e., electrical short, MIL malfunction, computer problems). IDEM is considering an amendment to [326 IAC 13-1.1-17.1](#) to provide the option of retesting an OBDII equipped vehicle on the dynamometer to determine whether or not the vehicle's emissions actually exceed the applicable vehicle emission standards. The vehicle may be tested on the dynamometer if the vehicle has failed three consecutive OBDII test procedures and the owner has made a good faith effort to repair the vehicle in accordance with the applicable diagnostic trouble codes. If the vehicle's emissions are at or below the applicable vehicle emission standards, the vehicle shall pass the test.

IDEM does not anticipate that this rule amendment will have a negative impact on air quality since OBDII equipped vehicles are required to meet more stringent vehicle emission standards than older vehicles and tend to have lower emissions as a result. IDEM also does not anticipate that a large number of vehicles will be affected by this rule amendment, and it will result in a convenience to the motorist.

**Leak Test Procedure (formerly Gross Liquid Leaks)**

Leaks can originate from a number of points on a vehicle, such as leaking fuel injectors, carbureted fuel systems with leaking gaskets, defective fuel shut-off valves, or faulty fuel pumps, fuel tanks, or tank connectors, or other possible sources. Many leaks are readily detectable either visually or by odor. Tank pressure testing and the use of leak detection sniffers are effective methods in determining the source of leaks. Vehicles leaking gasoline and gasoline vapor are a major contributor of excessive VOC emissions, and correcting these leaks

through a leak inspection program will significantly reduce the amount of VOC emissions from these vehicles. U.S. EPA's emissions model, Mobile 6.2, projects leaks from vehicles defined as having liquid leaks to be 70% of the mobile on-road evaporative emissions inventory. Evaporative emissions increase substantially during high temperature episodes that are often associated with high ozone levels.

IDEM is proposing to amend [326 IAC 13-1.1-7](#) to require I/M inspection stations ("Clean Air Car Check") to conduct a leak test on all vehicles model year 1976 through 1995, since these vehicles typically exhibit the majority of the leaks. Leak testing shall be accomplished by automatically screening vehicles during the transient exhaust test. Suspect vehicles shall then proceed to the waiver bay or other designated area for follow-up inspection using special equipment and visual inspection. All identified leaking vehicles must be repaired before the vehicle can receive an additional vehicle emissions test. Waivers shall not be issued to vehicles that have leaks due to concerns for the vehicle owners safety and the environment.

#### **Clarification and Corrections**

Clarifications and corrections to the existing rule language are also being proposed in this rulemaking, including the following:

- Language has been added to exempt antique vehicles, show vehicles, and ceremonial vehicles from the rule requirements. Definitions have also been added for clarity. These vehicles have never been included in the program. This change is to accurately reflect the status of these types of vehicles in relation to the program.
- Language has been added to clarify criteria for waivers for OBDII equipped vehicles (model year 1996 and newer vehicles). These waivers provide greater flexibility and convenience to the customer, and equity with current procedures for pre-1996 model year vehicles.
- References to the federal I/M 240 test are deleted because the I/M 93 test covers all the same parameters.
- Language in [326 IAC 13-1.1-10\(a\)\(7\)](#) concerning owner repairs has been deleted because the costs of owner performed repairs do not count toward the minimum expenditure waiver. However, owners are still permitted to perform their own repairs.
- The incorporated by reference material has been updated.
- Federal citations have been clarified.
- Minor corrections and clarifications have been made where necessary.

IDEM is seeking comments on these changes to the Lake and Porter counties motor vehicle inspection and maintenance program.

#### **[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed Under Federal Law**

The following elements of the draft rule impose either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL elements).

The following information is provided with each NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect human health and the environment in Indiana, and examples in which federal law is inadequate to provide this protection for Indiana.
- (2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.
- (3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element A: [326 IAC 13-1.1-10\(a\)\(7\)](#), Second Generation On-Board Diagnostics (OBDII)

- (1) Some OBDII equipped vehicles are currently rejected because their readiness monitors will not set correctly or have other nonemission related problems (i.e., electrical short, MIL malfunction, computer problems). Allowing the retesting of an OBDII equipped vehicle on the dynamometer after it has failed three consecutive OBDII test procedures will show whether or not the vehicle's emissions actually exceed the applicable vehicle emission standards so that repairs can be made only when they are actually needed.
- (2) Because this alternative is not expected to affect many vehicles, IDEM anticipates that the fiscal impact to the state and regulated community will be negligible. For motorists affected by this option, there should be a savings in cost and time because a determination on whether the vehicle actually needs repairs can be made more quickly.
- (3) The proposed rule change for the I/M program is designed to enhance customer safety and convenience. Currently, OBDII equipped vehicles (1996 and newer) have to pass an OBDII test, without exception. The proposed rule changes for OBDII equipped vehicles are to allow IDEM the ability to issue minimum expenditure and mechanical waivers for OBDII equipped vehicles that are eight model years old or greater, and to default to a tailpipe test if the vehicle has failed three consecutive OBDII tests, and has been driven at least 150,000 miles, as some vehicles fail for reasons unrelated to the emission control system. These revisions clearly provide greater flexibility, convenience to the customer and equity with procedures for pre-1996 model year vehicles. IDEM has used U.S. EPA's emission factor model (Mobile 6.2) to evaluate whether these changes will affect program effectiveness and have determined there will be no adverse

impact or significant cost increase.

NIFL Element B: [326 IAC 13-1.1-7, Leak Test Procedure](#)

(1) Addition of the leak test procedure at the beginning of the vehicle testing process for 1976 through 1995 model vehicles will identify vehicles with leaks more quickly, thereby reducing the time they take to go through the testing procedure and reducing the wait time for other cars being tested.

(2) Because this alternative is not expected to affect many vehicles, IDEM anticipates that the fiscal impact to the state and regulated community will be negligible.

(3) The Air Quality Subcommittee of the Environmental Management Policy Committee of the Northwestern Indiana Regional Planning Commission carefully reviewed and considered all reasonably available control measures to help increase efficiency in air quality mitigation efforts. The leak test procedure was one of the recommended control measures and is considered an enhancement to the existing vehicle inspection and maintenance program. IDEM is proposing to incorporate a leak test since it has the potential to maximize emission reduction efficiency from the affected vehicles, increase customer convenience, enhance public safety, will not require any additional vehicles to be tested, and will not significantly increase cost.

IDEM has evaluated the impact of the leak test procedure using U.S. EPA's emission factor model (Mobile 6.2) and the output from the region's travel-demand model and determined that increased emission reduction efficiency can be achieved as well as increased overall program cost effectiveness (cost per ton of pollutant reduced).

**Potential Fiscal Impact**

Because these enhancements to the existing program are not expected to affect many vehicles, IDEM anticipates that the fiscal impact to the state and regulated community will be negligible. Motorists should experience a savings in cost and time because of the quicker identification of needed repairs and potentially shorter wait times at the testing location.

**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 Christine Pedersen, Rules Development Section, Office of Air Quality at (317) 233-6868 or (800) 451-6021 (in Indiana).

**SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from August 16, 2006, through September 15, 2006, 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:

- John Ihnat (JI)
- Tom Mauger (TM)
- Mike Moryl (MM)
- Pam Pinkonse[sic] (PP)
- Charlotte J. Read (CJR)
- Curtis B. Weimer (CBW)

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

*Comment:* I served as a member of the Air Quality Subcommittee of the Environmental Management Policy Committee of the Northwestern Indiana Regional Planning Commission in 2004 and 2005, when the Committee was investigating additional control measures needed to bring the two ozone nonattainment counties into attainment of the eight-hour ozone standard. Inspection and maintenance enhancements topped the list. In addition to assisting in reduction of VOCs, the enhancements proposed would also reduce NOx, PM, and HAPs.

The inspection and maintenance enhancements approved by the Subcommittee include the following:

1. Reduce the model year exemption from four years to two years. The rationale was that cars that failed the test during that shorter exemption period were likely still under warranty, so that needed repairs or adjustments would be covered. IDEM should support this change.
2. Change the I/M program by adding inspection for liquid leaks under the undercarriage. The First Notice of Comment Period notes that these leaks contribute to ozone formation. Our Subcommittee recommendation also included checking under the hood for liquid leaks, an addition that IDEM should support.

The Subcommittee also proposed two additional measures IDEM should consider:

3. Eliminate the diesel-fueled vehicle exemption for the I/M program.
4. Raise the testing weight limits from the current 8999 pounds to 11000 pounds, effectively bringing in light duty trucks and SUVs, and those that are misplated.

The test option to OBDII discussed under Alternative 1 seems reasonable. IDEM should also change the model year exemption from four to two years for the reasons state above. The Alternative 2 option to add inspection for liquid leaks should be extended to all cars and should also include an under the hood inspection as well. I strongly urge IDEM to add the two additional changes discussed above, to provide greater reductions in air pollutants. (CJR)

*Response:* IDEM has recently submitted an 8-Hour Ozone Redesignation Petition and Maintenance Plan for

Lake and Porter counties to the U.S. EPA requesting that these counties be redesignated to attainment of the 8-hour ozone standard. Indiana's petition includes a long-term maintenance plan that will be implemented to ensure that the area continues to meet the 8-hour standard for ground-level ozone through the year 2020. Indiana also committed to maintain all emission control measures necessary to ensure continued compliance with the standard following redesignation. The vehicle inspection and maintenance program was one of those emission control measures.

IDEM is proposing to require vehicle testing facilities to conduct a leak test procedure on 1976 through 1995 model year and older vehicles since these vehicles typically exhibit the majority of leaks. The incorporation of a leak test will significantly reduce the amount of VOC emissions from the affected vehicles, increase customer convenience, enhance public safety, and will not increase stringency or require any additional vehicles to be tested.

Model year 1996 and newer vehicles are required to meet federal OBDII vehicle emission standards. OBDII requires that the on-board computer monitors actively perform diagnostic tests on vehicle emission systems. The system is an effective and efficient means of identifying in-use vehicles with excessive evaporative emissions. Therefore, IDEM does not believe a leak test procedure is necessary for newer model vehicles. IDEM did not include an under the hood inspection as part of this test since it is unnecessary to identify leaks. IDEM is also concerned about the additional liabilities associated with an under the hood inspection.

Since Lake and Porter counties are currently demonstrating attainment with the 8-hour ozone standard, IDEM does not believe it is necessary to implement any additional control measures at this time. If any of these additional vehicle and maintenance enhancements were to be implemented in Lake and Porter counties it would require additional vehicles to be tested and would result in significant cost increases to the State.

The Air Quality Subcommittee's (AQSC's) list of potential control measures as adopted by the Northwestern Indiana Regional Planning Commission (NIRPC) on October 20, 2005 via Resolution 05-29 are listed as contingency measures in Section 8.3 of the redesignation and maintenance plan. This is consistent with the direction of the AQSC per the December 19, 2005 meeting. NIRPC submitted these nine prioritized control measures to IDEM as recommendations for consideration for inclusion in rule development to meet the Rate of Further Progress (RFP) and Rate of Progress (ROP) plan requirements for the State Implementation Plan (SIP) with the stipulation that only those measures necessary to meet SIP requirements should be implemented. Since the area has attained the standard, RFP and ROP plans are no longer required. Additionally, photochemical modeling conducted to support the redesignation petition shows the area will continue attainment of the standard without implementation of additional controls.

IDEM would solicit input from all interested and affected persons in the maintenance area prior to selecting appropriate contingency measures. If contingency measures should ever be necessary, it is unlikely that a significant number would be required. No contingency measure would be implemented without providing the opportunity for full public participation during which the relative costs and benefits of individual measures, at the time they are under consideration, can be fully evaluated.

*Comment:* I believe that IDEM must ask the NIRPC Air Quality Subcommittee to hold local meetings on these proposals. Auto inspections are not a particularly popular requirement for Lake and Porter county car owners. Developing rules outside the only area affected by them and without the input of affected citizens would make IDEM appear to be insensitive to local interests and concerns. (CJR)

*Response:* IDEM believes the draft rule is consistent with the resolutions and guidance provided by the NIRPC AQSC to date. IDEM has discussed these program enhancements with the NIRPC AQSC on several occasions during 2005 and 2006. IDEM is available to participate in further NIRPC AQSC meetings if invited to do so. These rule revisions represent minor enhancements to the existing vehicle inspection and maintenance program, will result in greater convenience and safety for customers and station staff, and do not increase stringency or increase the number of vehicles tested. Interested parties are welcome to provide comments to IDEM concerning this matter and/or participate in the public hearings held at the Air Pollution Control Board concerning these rule revisions.

*Comment:* It has been suggested that car owners subject to inspection, especially an enhanced inspection, should be handed information at the time of inspection on the positive impacts on air quality that the inspection program produces. Also, IDEM should fund a broader public education campaign aimed at Lake and Porter county drivers on the importance of clean cars and how they help improve air quality. (CJR)

*Response:* The current vehicle inspection and maintenance contractor (Environmental Systems Products) has developed an innovative and proactive public information program in response to the requirements contained within the recently issued state contract. The public information program will inform the public on an ongoing basis of the air quality problems in the area, the requirements of federal and state law, notify the target audience of any changes to the testing program, the role of motor vehicles in the air quality problem, the need for and benefits of a centralized vehicle inspection program in Lake and Porter counties, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician and the requirements of the vehicle emissions program.

The contractor will do the following:

- Offer motorists that fail the I/M test a list of repair facilities in the area and information on the results of

repairs performed by repair facilities in the area. Motorists who fail the I/M test will also be provided with software-generated, interpretative diagnostic information based on the particular portions of the test that were failed.

- Respond to inquiries and complaints regarding the centralized vehicle emissions testing program. This will include a telephone answering system or "hot line" to be used by the public for (but not limited to) general information and inquiries on inspection facility operating hours, queuing times and complaints.
- Develop and distribute bilingual general information brochures on the centralized vehicle emissions program to the public in Lake and Porter counties. Brochures will include discussions of potential fuel savings, tampering, fuel switching and vehicle warranties.
- Develop, operate, monitor, and maintain a multi-purpose bilingual website to support all public outreach and education activities of the centralized vehicle emissions testing program.

*Comment:* I don't think we should have to continue testing let alone have more put on. We have more traffic flowing through our area every year. The State of Illinois and specially all the traffic heading in and out of Chicago is not tested. The state has requested to designate Lake and Porter counties as meeting federal Clean Air Act standards for ozone. If we meet the standards for one agency, why are we still being only one in four counties subjected to the emissions testing? Have any studies been done to see what percentage of tested vehicles actually fail this testing? Is it necessary to have all citizens in these four counties tested just because possibly a few are failing the test? (JI)

*Comment:* I am very sad to read that vehicle testing in Porter/Lake counties will continue and actually become more expensive and inconvenient for the taxpayers in these counties. Clean air is very important, but the people who live in these counties are not responsible for the majority of pollution created in these counties. It is very wrong to make these people who have no lobbyists suffer the most. I work in the steel industry and see the pollution created by vehicles that travel through Porter county every day. Many employees and suppliers of the steel industry do not live in either of these counties. These new pollution testing regulations are wrong and target the wrong people. (MM)

*Comment:* This will make the inspection process even more onerous than it has been. It is sad that 96% of the car owners are to be harassed to find the 4% who aren't in compliance. These new rules are ridiculous. The amount of pollution saved will be minuscule and not worth the cost of inspection and repair. The only thing this inspection process accomplishes is keeping the poor people in poverty without transportation. The 3 or 4 percent of cars that fail the inspection mainly belong to poor people who cannot afford a better car or to get theirs repaired. It keeps them on welfare and from getting jobs because they have no transportation. This entire program is discrimination against all poor people and should be totally scrapped.

Every year more cars pass the inspection the first time. The people of this country should rise up and demand that ordinary citizens should not have to prove they are obeying the law. The IDEM should have to prove which ones are violating the law. These new rules are onerous to the taxpayers of this state and should not be considered for approval in any way, shape, or form. Further, since Porter county has been in compliance with the IDEM test standards in recent years, emissions inspections should be eliminated immediately. (CBW)

*Response:* The vehicle emissions testing program for Lake and Porter counties is a requirement of the federal Clean Air Act and is a vital component of the air quality control plan in Indiana, northeast Illinois and southeast Wisconsin, to meet the health standard for ozone. The program yields reductions of over 4,000 pounds of ozone precursor emissions per summer day.

Even though Lake and Porter counties monitor attainment of the health standard for ozone, they do because of the Clean Air Car Check and the controls on industrial sources of pollution. All of these controls must remain in effect for Lake and Porter counties to continue to meet the ozone standard.

These rule revisions are enhancements to the existing vehicle inspection and maintenance program that will increase customer convenience and safety for the citizens of Lake and Porter counties, and will not increase stringency of the program or the number of vehicles tested. In fact, nearly 17% of the vehicle tests conducted exceed the applicable vehicle emission standards. Identifying and repairing these vehicles is important because a vehicle without properly working pollution controls can emit as much as 100 vehicles with properly operating emission controls. If only one percent of the vehicles on the road are gross polluters, total mobile source emissions could double, resulting in unacceptable air quality in northwest Indiana.

Lake and Porter counties' air quality is affected by vehicles traveling through these counties to a certain extent. However, concentrations peak during off-peak periods of the day, when the majority of vehicle miles traveled are locally-driven. Therefore, local mobile source emission reductions are essential to continued improvements in Lake and Porter counties air quality.

The current vehicle inspection and maintenance contract expires at the close of December 31, 2006. The State of Indiana has recently finalized a new contract with the current contractor (Environmental Systems Products) that will allow for the continuation of the vehicle inspection and maintenance contract in Lake and Porter counties. The new contract will reduce the annual costs to the State to operate the Lake and Porter vehicle inspection and maintenance program by approximately 1.3 million dollars annually. As before, no fees are imposed on motorists for the cost of the inspection, unlike most other states. Not only will the State save money,

the new contract also requires the contractor to provide a number of new services that will result in greater customer convenience and safety (i.e. leak test procedure, OBD waiver mechanisms, Technical Repair Advice (Referee) Program Administration and website maintenance).

The Contractor may issue a minimum expenditure waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as prescribed criteria are met. Motorists with 1980 and newer model year vehicles must spend at least \$450 dollars to qualify for a minimum expenditure waiver. Motorists

with 1976 through 1981 model year vehicles must spend at least \$75 dollars in repairs in order to qualify for a minimum expenditure waiver. No minimum expenditure waivers will be issued to vehicles for tampering-related repairs and no vehicle shall be issued more than one waiver during its lifetime. As such, IDEM does not believe these rules are onerous or discriminatory to any citizen or group of citizens residing in Lake and Porter counties.

*Comment:* I am totally opposed to additional restrictions on vehicle testing for the IDEM. Cars are not the problem (for the most part), trucks are. (I see the smoke bellow out of their stacks!) Though I do believe in improved air quality, there are limits. Low income residents will be the ones to suffer if this passes. Also, additional money spent by the state (really the taxpayers!) for more restrictions on our lives. (PP)

*Response:* In July 2000, U.S. EPA issued a final rule for Highway Heavy Duty Engines which will substantially reduce local and regional diesel truck emissions. This program includes low-sulfur diesel fuel standards, which will be phased in from 2004 through 2007. This rule applies to heavy-duty gasoline and diesel trucks and buses. This rule will result in approximately a forty percent (40%) reduction in oxides of nitrogen (NO<sub>x</sub>) from diesel trucks and buses, a large sector of the mobile sources NO<sub>x</sub> inventory.

Historically it had been demonstrated that reducing volatile organic compound (VOC) at the local level is the most effective means of controlling ozone at the local level. The vehicle inspection and maintenance program was implemented as a local VOC emission control measure specifically for the 1-hour ozone standard. The vehicle inspection and maintenance program in Lake and Porter counties tests more than 250,000 gasoline powered vehicles per year and has helped reduce air pollution in the region to the point where measured air quality in these counties currently meets all ozone air quality standards. Gasoline powered vehicles are major emitters of VOC while diesel powered vehicles are major emitters of NO<sub>x</sub>. Since Lake and Porter counties are currently demonstrating attainment with the 8-hour ozone standard, IDEM does not believe it is necessary to implement any additional control measures at this time.

It should be noted that the State of Indiana has recently finalized a new contract with the current contractor (Environmental Systems Products) that will allow for the continuation of the vehicle and inspection and maintenance program in Lake and Porter counties. The new contract will not only save the State money, but provide a number of new services that will result in greater customer convenience and safety (i.e. leak test procedure and OBD waiver mechanisms).

This program is not designed to be discriminatory to any citizen or group of citizens residing in Lake and Porter counties. As long as a vehicle owner meets prescribed criteria, the contractor may issue a minimum expenditure waiver which allows a motorist to comply without meeting the applicable test standards.

*Comment:* We already pay a tax required by the federal government relating to the street water. This new inspection rule would provide for duplication. Based on my reading of the article in the Times there are only a few people involved in pushing this new rule. Please provide me with any further information if you feel I have been misled by the Times. (TM)

*Response:* These rule revisions are enhancements to the existing vehicle inspection and maintenance program, and do not increase stringency of the program, increase the number of vehicles tested, or impose any fees on the motorists. The vehicle inspection and maintenance program was implemented as a local volatile organic compound (VOC) emission control measure specifically in association with the 1-hour ozone standard. A vehicle with a true liquid leak will fail an OBD or tailpipe test due to the associated evaporative leak. If this is not detected before the vehicle enters the test lane, the time that the customer is at the station is increased by eight to ten minutes, as is the wait time for all other customers in the lane. Therefore, if the leak is identified during a pre-inspection, the wait time for the customer and all other customers in the lane is decreased by eight to ten minutes. In addition, liquid leaks pose a tremendous safety hazard to the motorist and station personnel. Having the leak diagnosed and repaired promptly is in everyone's best interest. If a vehicle is not properly maintained it could leak fluids that may be carried away with storm water. Repairing these vehicles will help reduce this risk.

### **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:

#06-284(APCB) Lake & Porter I/M Program  
Christine Pedersen 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 receptionist on duty at the tenth floor reception desk, Office of Air Quality, 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 Development Section at (317) 233-0426.

### COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by January 19, 2007.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

### DRAFT RULE

SECTION 1. [326 IAC 13-1.1-1](#) IS AMENDED TO READ AS FOLLOWS:

#### [326 IAC 13-1.1-1](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. The following definitions apply throughout this rule:

~~(1)~~ "2500/idle" means a two (2) speed idle test as described in 40 CFR 51, Appendix B\*.

~~(2)~~ **(1)** "Basic inspection/maintenance (I/M)" means an I/M program that meets the requirements for a basic I/M program as defined in 40 CFR 51, **Subpart S\***.

~~(3)~~ **(2)** "Bureau" means the bureau of motor vehicles.

**(3)** "Centralized" means a vehicle emissions testing facility capable of performing enhanced I/M, OBDII, and basic I/M idle testing on motor vehicles.

**(4)** "Ceremonial vehicle" means a vehicle operated exclusively for parade or ceremonial purposes on a not-for-profit basis by:

**(A)** military veterans; or

**(B)** a fraternal or civic organization.

~~(4)~~ **(5)** "Certificate of compliance" means a certificate issued to motor vehicle owners or operators:

**(A)** passing the emissions test and tampering inspection; or

**(B)** receiving a waiver pursuant to this rule, which must be presented to the bureau in order to receive a certificate of registration.

~~(5)~~ **(6)** "Certified configuration" means an engine or engine-chassis design ~~which~~ **that** has been certified by the U.S. EPA under 40 CFR 86\* prior to the production of vehicles with that design.

~~(6)~~ **(7)** "Certified inspection and maintenance (I/M) emissions repair technician" means a technician that has satisfactorily completed approved department certified I/M emission repair technician training.

~~(7)~~ **(8)** "Certified inspector" means a contracted employee that has satisfactorily completed approved department certified inspector training.

~~(8)~~ **(9)** "Contractor" means any:

**(A)** offeror or organization selected as a result of the state procurement process to operate a vehicle emission testing program; and ~~any~~

**(B)** employees of that contractor.

~~(9)~~ **(10)** "Dedicated alternative fuel vehicle" means a vehicle that is not capable of running on gasoline at any time.

~~(10)~~ **(11)** "Department" means the department of environmental management or its contractor.

**(12)** "Diagnostic trouble code" means a code number generated by a vehicle's on-board computer that corresponds to a specific vehicle component malfunction.

~~(11)~~ **(13)** "Dual fuel vehicle" means a vehicle capable of operating on either:

**(A)** gasoline; or

**(B)** one (1) of the fuels stated in section 4(b) of this rule.

~~(12)~~ **(14)** "Enhanced I/M" means an I/M program that meets the requirements for an enhanced I/M program as defined in 40 CFR 51, **Subpart S\***.

~~(13)~~ **(15)** "Facility" means a motor vehicle testing location, either mobile or stationary:

**(A)** operated by the contractor; and

- (B) established in accordance with this rule.
- ~~(14)~~ **(16)** "Fleet" means a group of light-duty motor vehicles, medium-duty motor vehicles, or a combination thereof owned or operated by:
- (A) an individual;
  - (B) a company;
  - (C) a corporation; or
  - (D) a federal, state, or local government unit.
- ~~(15)~~ **(17)** "Heavy-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating (GVWR) greater than nine thousand (9,000) pounds.
- ~~(16)~~ **(18)** "Idle test" means a single speed idle test as described in 40 CFR 51, **Subpart S**, Appendix B\*.
- ~~(17)~~ **(19)** "I/M" means inspection/maintenance.
- ~~(18)~~ **(20)** "I/M 240" means a transient emission test as described in 40 CFR 51, **Subpart S**, Appendix B\*.
- ~~(19)~~ **(21)** "I/M 93" means a version of I/M 240 that:
- (A) is shorter in duration by utilizing only phase I (ninety-three (93) second drive trace) of the I/M 240 driving cycle; **and**
  - (B) allows a second attempt to pass. ~~and~~
  - ~~(C) eliminates both the purge and pressure tests.~~
- ~~(20)~~ **(22)** "Light-duty motor vehicle" means a motor vehicle with a GVWR less than or equal to six thousand (6,000) pounds.
- ~~(21)~~ **(23)** "Medium-duty motor vehicle" means a motor vehicle with a GVWR of:
- (A) six thousand one (6,001) pounds or greater; and
  - (B) less than or equal to nine thousand (9,000) pounds.
- ~~(22)~~ **(24)** "Motor vehicle" means a self-propelled vehicle used on the public roads.
- ~~(23)~~ **(25)** "Motor vehicle emission inspector" means an individual meeting the requirements of section 15 of this rule.
- ~~(24)~~ **(26)** "Motor vehicle model year" or "model year" means the date of manufacture of the original motor vehicle within the annual production period of such ~~the~~ motor vehicle as designated by the manufacturer.
- ~~(25)~~ **(27)** "Motorcycle" means a motor vehicle:
- (A) having a seat or saddle for the rider; and
  - (B) designed to travel on not more than three (3) wheels in contact with the ground.
- ~~(26)~~ **(28)** "OBDII" means second generation on-board diagnostics systems.
- ~~(27)~~ "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications (dated April 1994)\*\* and 40 CFR 51\*.
- ~~(28)~~ **(29)** "Pressure test" means a test that pressurizes the evaporative system to check for leakage as described in High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications (dated April 1994)\*\* **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\*\*** and 40 CFR 51\*.
- (30)** "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\*\*** and 40 CFR 51\*.
- ~~(29)~~ **(31)** "Recall" means a voluntary emissions recall as described in 40 CFR 85.1902(d)\*.
- (32)** "Show vehicle" means a vehicle that meets the following criteria:
- (A) The vehicle must be exhibited at a car show at least twice a year as verified through registration or entrance forms.
  - (B) The vehicle shall be restricted to the addition of three thousand (3,000) miles per year to the vehicle.
  - (C) The condition of the vehicle must be show quality as demonstrated by the following:
    - (i) Paint maintained in good condition.
    - (ii) Interior maintained in good condition.
    - (iii) No body damage or rust on the vehicle.
    - (iv) Cleanliness of the vehicle.
  - (D) The vehicle must be presented at a clean air car check vehicle emission test site every two (2) years to verify that it is still a "show car".
- ~~(30)~~ **(33)** "Tampering check" means a visual inspection of **the following**:
- (A) Catalytic converters.
  - (B) Fuel filler caps.
  - (C) Positive crankcase ventilation (PCV) systems. ~~and~~
  - (D) Evaporative systems.
- ~~(31)~~ **(34)** "VIN" means vehicle identification number.



\*These documents are 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.

\*\*This document is incorporated by reference. Copies 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 13-1.1-1](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2730; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1463; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 76)*

SECTION 2. [326 IAC 13-1.1-2](#), PROPOSED TO BE AMENDED AT [20061122-IR-326060285PRA](#), SECTION 1, IS AMENDED TO READ AS FOLLOWS:

### [326 IAC 13-1.1-2](#) Applicability

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 2. (a) The following motor vehicles in Lake and Porter counties are subject to the requirements of this rule unless ~~such~~ **the** vehicles are exempt or have received a waiver from the requirements as specified in section 10 of this rule:

- (1) Vehicle model years 1976 and newer.
- (2) ~~Light~~ **Light-duty** and medium-duty motor vehicles.
- (3) Vehicles registered or reregistered for highway use.
- (4) Fleets primarily operated within Lake **County** or Porter County.
- (5) Leased vehicles that have the registration or titling in the name of the equity owner other than the lessee or user.
- (6) Vehicles that are operated on federal installations located within Lake **County** or Porter County, regardless of whether the vehicles are registered with the federal installation or in Lake **County** or Porter County. This requirement applies to all employee-owned or leased vehicles, including vehicles owned, leased, or operated by civilian and military personnel on federal installations, ~~as well as~~ **and** agency-owned or operated vehicles operated on the installation. This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as the visits do not exceed sixty (60) calendar days per year.

(b) Motor vehicles subject to this rule in Lake and Porter counties shall be tested under the parameters specified for ~~I/M 240~~ or I/M 93 found at section 7 of this rule.

(c) ~~Light~~ **Light-duty** and medium-duty motor vehicles in Lake and Porter counties of model year 1996 or newer are subject to the provisions of the ~~second-generation on-board diagnostics systems~~ OBDII check found at section 17.1 of this rule. ~~starting January 1, 2001.~~

(d) The following motor vehicles are exempt from the testing requirements of this rule:

- (1) Heavy-duty motor vehicles **of nine thousand (9,000) pounds or more.**
- (2) Motorcycles.
- (3) Motor vehicles with engine displacement less than two hundred (200) cubic centimeters.
- (4) Farm tractors, farm trucks, and farm equipment used in connection with agricultural pursuits usual and normal to the user's primary operation.
- (5) Motor vehicles registered as recreational vehicles (RV).
- (6) Motor vehicles using diesel fuel.
- (7) All motor vehicles with a chassis year and engine year prior to 1976 as identified by the:
  - (A) vehicle identification number; and
  - (B) engine identification number.
- (8) Electric vehicles or vehicles that have been certified by the department as being electric.
- (9) Off highway construction equipment.
- (10) Vehicles registered as antiques.**

**(11) Show vehicles.**

**(12) Ceremonial vehicles.**

(e) Motor vehicles registered in Lake **County** or Porter County but operated in another I/M area shall be:

(1) tested where they are primarily operated; or

(2) given an extension by the department so that testing can occur when the vehicle is brought into the county of registration.

The bureau may accept a certificate of compliance from another U.S. EPA approved I/M program.

(f) Model year vehicles 1996 and newer shall be tested beginning four (4) calendar years after the model year of the vehicle in order to demonstrate initial compliance. After the initial demonstration of compliance, model year vehicles 1996 and newer shall be tested in the calendar year that corresponds to the model year of the vehicle as specified at section 5 of this rule.

(g) Owners or operators of vehicles registered in a state other than Indiana who are subject to their state's I/M regulations may have their vehicles tested in Lake **County** or Porter County under either of the following conditions:

(1) The owner or operator of the vehicle has resided in Lake **County** or Porter County for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.

(2) The owner or operator of the vehicle has operated the vehicle in Lake **County** or Porter County for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.

*(Air Pollution Control Board; [326 IAC 13-1.1-2](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2731; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1464; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 3. [326 IAC 13-1.1-5](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 13-1.1-5](#) Issuance of certificates of compliance; testing and inspection schedule**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) Effective January 1, 1990, an owner or operator of a motor vehicle subject to the testing and inspection requirements of this rule shall present ~~such the~~ motor vehicle to a facility for an emissions test and tampering inspection during the month and year, or within three (3) months ~~prior to such~~ **before the** year, determined as follows:

(1) The month that corresponds to the registration month for ~~such the~~ vehicle as determined by the bureau.

(2) The model year of the vehicle as follows:

(A) If the model year of the vehicle is an even number, ~~such the~~ vehicle shall be tested in even-numbered calendar years.

(B) If the model year of the vehicle is an odd-numbered year, ~~such the~~ vehicle shall be tested in odd-numbered calendar years.

(b) A certificate of compliance shall be issued to owners or operators of motor vehicles that pass the emissions test and tampering inspection and to motor vehicles that are granted a waiver in accordance with this rule. Upon successful completion of an I/M test, **an electronic or** paper based certificate of compliance shall be issued to the owner or operator and shall clearly indicate the certificate is for the purposes of registration. The certificate shall indicate the following:

(1) **The** expiration date of the certificate.

(2) Unambiguous vehicle identification information.

(3) Whether the vehicle passed or received a waiver.

Except as provided in section 2(f) of this rule, ~~such the~~ certificate shall be presented to the bureau in order to obtain registration only during the year that testing is required based on the model year of the vehicle. The certificate of compliance shall be valid through the end of the month and year indicated on the certificate.

(c) The department may notify motorists in advance of the required test; however, each owner or operator of a

motor vehicle subject to this rule is responsible for ensuring that the vehicle is tested.

(Air Pollution Control Board; [326 IAC 13-1.1-5](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2732; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1465; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 4. [326 IAC 13-1.1-7](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 13-1.1-7](#) Test parameters**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) The parameters for I/M 240 are as follows:

Test Type	
I/M 240	1981 and newer model years
Purge	1981 and newer model years
Pressure	1976 and newer model years
Idle	1976 through 1980 model years
Tampering check	1976 and newer model years
Items	PCV system disablements, catalyst removals, evaporative system disablements, and damaged or missing fuel filler cap
OBDII	1996 and newer model years, starting January 1, 2001

(b) (a) The parameters for basic I/M are as follows:

Test Type	
2500/idle	1981 and newer model years
Idle	1976 through 1980 model years
Fuel filler cap pressure	1976 and newer model years
Tampering check	1976 and newer model years
Items	PCV system disablements, Catalyst removals evaporative system disablements, and damaged or missing fuel filler caps

(c) (b) The parameters for I/M 93 are as follows:

Test Type	
I/M 93	1981 and newer <b>through 1995</b> model years
<del>Idle</del> <b>Liquid leaks</b>	1976 through 1980 <b>1995</b> model years
Fuel filler cap pressure	1976 and newer model years
Tampering check	1976 and newer model years
Items	Catalyst removals and damaged or missing fuel filler caps
OBDII	1996 and newer model years <del>starting January 1, 2001</del>

(Air Pollution Control Board; [326 IAC 13-1.1-7](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2732; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1466; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 5. [326 IAC 13-1.1-8](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 13-1.1-8](#) Testing procedures and standards**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) Each motor vehicle shall be presented for testing and inspection at a facility with its certificate of registration or proof of ownership that identifies the motor vehicle by **the following:**

- (1) Make.

- (2) Model year.
- (3) Vehicle identification number. and
- (4) License number.

- (b) The contractor shall only test vehicles if all of the following conditions are met:
- (1) The exhaust system is intact and without leaks.
  - (2) The vehicle is in safe condition for testing.
  - (3) **For an I/M 93 test only**, the motorist ~~has~~ **and any passengers have** exited from the vehicle.

(c) All tests shall be performed by a certified inspector.

(d) Test procedures for I/M emission testing shall comply with ~~"High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996\*~~. **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\***.

(e) Emission standards shall comply with ~~"High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996\*~~. **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\***.

(f) Vehicles shall be retested after repair for any portion of the inspection that was failed. To the extent that repairs to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emission retest. Exhaust emission retests shall not be conducted unless the owner or operator of the vehicle demonstrates that the vehicle has had appropriate repairs for the reason of failure. In the case of tampering failures, the owner or operator must demonstrate that the tampered condition or equipment has been repaired or replaced before a retest is performed.

~~(g) Vehicles that are subject to an emissions recall but have not had recall repairs shall not be tested until such repairs have been made.~~

~~(h)~~ (g) If the U.S. EPA has granted a waiver in accordance with Section 182(f) of the Clean Air Act\* for any county or counties subject to this rule, the department may determine that during the period when the NO<sub>x</sub> waiver is in effect, failure of the NO<sub>x</sub> portion of the I/M test is not grounds for denial of a certificate of compliance for vehicles within that county or counties. Upon making such a determination, the department shall notify the contractor in writing indicating the effective dates of the determination.

\*These documents are incorporated by reference. Copies 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 13-1.1-8](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2733; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1466; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 77)*

SECTION 6. [326 IAC 13-1.1-9](#) IS AMENDED TO READ AS FOLLOWS:

### **[326 IAC 13-1.1-9](#) Tampering inspection**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) Each motor vehicle subject to the requirements of this rule shall be subjected to a visual tampering inspection at the facility. The motor vehicle shall be inspected for the presence and good operating condition of emission control devices included in the manufacturer's original design. At a minimum, emission control devices subject to inspection shall include the following:

- (1) For I/M 240 emission testing:
  - (A) Catalytic converters.

- ~~(B) Fuel filler caps.~~
- ~~(C) Positive crankcase ventilation (PCV) systems.~~
- ~~(D) Evaporative systems.~~
- ~~(2) (1) For I/M 93 emission testing:~~
  - ~~(A) Catalytic converters.~~
  - ~~(B) Fuel filler caps.~~
- ~~(3) (2) For basic I/M emissions testing:~~
  - ~~(A) Catalytic converters.~~
  - ~~(B) Fuel filler caps.~~

If any emission control devices are found in a tampered condition, ~~such~~ **the** devices shall be repaired or replaced prior to any initial testing, retesting, or reinspection as provided in section 8(f) of this rule.

(b) Alteration of a vehicle's chassis configuration from a certified to a noncertified configuration is prohibited. In the inspection process, vehicles that have been altered from their original, certified configuration are to be tested in the same manner as other subject vehicles as follows:

- (1) Vehicles with engines other than the engine originally installed by the manufacturer or an identical replacement of ~~such~~ **the** engine shall be subject to the inspection standards for the chassis type and model year for all parts that are part of the original or now-applicable certified configuration.
- (2) Vehicles in which the engine of one (1) fuel type has been replaced or modified to an engine of a different fuel type that is subject to the I/M program, such as from a diesel engine to a gasoline engine, shall be subject to **the following**:
  - (A)** The test procedures and standards for the current fuel type. ~~and to~~
  - (B)** The requirements in subdivision (1).
- (3) Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent I/M gasoline emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the department determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for the model year without ~~such~~ **the** devices.

(c) Mixing vehicle classes, such as light-duty with heavy-duty, and certification types, such as California with federal, within a single vehicle configuration shall be considered tampering.

(d) All vehicles must comply with [326 IAC 13-2.1](#).

*(Air Pollution Control Board; [326 IAC 13-1.1-9](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2733; errata filed Sep 9, 1995, 9:00 a.m.: 19 IR 42; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1467; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 7. [326 IAC 13-1.1-10](#), PROPOSED TO BE AMENDED AT [20061122-IR-326060285PRA](#), SECTION 3, IS AMENDED TO READ AS FOLLOWS:

### **[326 IAC 13-1.1-10](#) Waivers and compliance through diagnostic inspection**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 10. (a) A waiver of the requirement that a motor vehicle obtain a certificate of compliance may be issued only under the following conditions:

- (1) A waiver shall be issued only after a vehicle has failed a retest performed after all emission-related repairs as described in subdivisions (3) through (5) have been completed. Vehicles that are subject to an emissions recall but have not had recall repairs shall not be eligible for a waiver until the repairs have been made.
- (2) Waivers shall not be issued to vehicles for tampering-related repairs. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in subdivision (5). The department may issue exemptions for tampering-related repairs if the motorist can verify that the part in question or one similar to it is no longer available for sale.
- (3) Repairs shall be appropriate to the cause of the test failure, and a visual check shall be made at the time of retest to determine if repairs were actually made. Receipts shall be submitted for review at the test site to further verify that qualifying repairs were performed.

(4) Repairs shall be performed at a certified I/M emission repair facility. A certified I/M emission repair facility shall meet the following criteria:

- (A) Employ at least one (1) certified I/M emission repair technician as defined in this rule.
- (B) For all I/M emission testing, possess the following:
  - (i) Reference material.
  - (ii) Digital multimeter.
  - (iii) Vacuum and fuel pressure testing equipment.
  - (iv) Carbon/fuel injection cleaning equipment.
  - (v) Ignition scope with distributorless ignition (DIS) capability.
  - (vi) 2, 3, 4, or 5 gas analyzer.
  - (vii) Scan tool.

~~(C) For all I/M emission testing beginning January 1, 2000, possess the following:~~

- ~~(i) All equipment listed in clause (B).~~
- ~~(ii) (viii) Digital storage oscilloscope (DSO).~~
- ~~(iii) (ix) OBDII scan tool.~~

~~(D) For I/M 240 emission testing, possess the following:~~

- ~~(i) All equipment listed in clauses (A) and (B).~~
- ~~(ii) Purge flow tester.~~

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair facility if the facility fails to adhere to program requirements.

(5) In order to qualify for a waiver, repairs shall be performed by a certified I/M emission repair technician who:

- ~~(A) is certified and maintains current certification as an Automotive Service Excellence (ASE) A6 (Electrical/Electronic Systems) technician and an A8 (Engine Performance) technician;~~
- ~~(B) on and after January 1, 2000, (A) is certified and maintains current certification as an ASE L1 (Advanced Engine Performance) technician;~~
- ~~(C) (B) has successfully completed the department approved emission and driveability training program;~~
- ~~(D) (C) is professionally engaged in emission/driveability repair; and~~
- ~~(E) (D) is employed at a certified I/M emission repair facility.~~

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair technician if the technician fails to adhere to program requirements.

(6) Repairs appropriate to the reason for the failure may be performed by nontechnicians, such as owners, to apply toward the waiver limit for model year vehicles 1976 through 1980.

(7) In order to qualify for a minimum expenditure waiver, motorists in Lake **County** or Porter County with 1981 through 1995 model year ~~or newer~~ vehicles shall expend the following:

(A) At least four hundred fifty dollars (\$450) in repairs ~~on or after January 1, 1999.~~ **at a certified emissions repair facility.**

(B) Motorists in Lake **County** or Porter County with 1976 through 1980 model year vehicles shall expend at least seventy-five dollars (\$75) in repairs in order to qualify for a minimum expenditure waiver.

~~The costs of owner performed repairs shall not include labor costs. Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits. The operator of a vehicle within the statutory age and mileage coverage under Section 207(b) of the Clean Air Act\* shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.~~

**(8) For vehicles in Lake County or Porter County that are 1996 model year or newer to qualify for a minimum expenditure waiver, the following criteria shall be met:**

- (A) The vehicle must be at least eight (8) model years of age.**
- (B) The vehicle must have been driven at least one hundred fifty thousand (150,000) miles.**
- (C) The owner or operator of the vehicle must have spent at least four hundred fifty dollars (\$450) for repairs at a certified emissions repair facility.**

~~(8) (9) Vehicles subject to an enhanced I/M emission test at the cutpoints established in 40 CFR 51.351\* may be issued a certificate of compliance without meeting the prescribed emission cutpoints if, after failing a retest, a complete, documented physical and functional diagnosis and inspection performed by the contractor shows no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to EPA approval.~~

~~(9) (10) After an initial I/M emission test failure, a vehicle may be retested up to four (4) additional times. A vehicle shall not be retested a fifth time until the type of repairs or modifications necessary has been fully evaluated by department and contractor personnel.~~

~~(10) (11) Waivers shall be issued only by the test site manager or other employee specifically designated for this purpose.~~

~~(11) (12) A waiver shall be valid for not more than one (1) test cycle.~~

(b) No vehicle in its lifetime shall receive more than one (1) waiver.

\*These documents are 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 13-1.1-10](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2734; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1468; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 78)

SECTION 8. [326 IAC 13-1.1-16](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 13-1.1-16](#) Facility quality assurance program**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 16. (a) No emission tests shall be conducted with any analyzer that is not operating within all specifications developed or approved by the department. The following practices, in addition to those described in ~~High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications dated June 1996\*~~, **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\***, shall be followed:

- (1) Preventive maintenance on all inspection equipment shall be performed to ensure accurate and repeatable operation.
- (2) Computerized analyzers shall automatically record:
  - (A) quality control check information;
  - (B) lockouts; and
  - (C) attempted tampering;which shall be monitored to ensure proper quality control.

(b) The contractor shall maintain the equipment according to demonstrated good engineering practices to assure test accuracy. The calibration and adjustment requirements in ~~"High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996\*~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000\***, shall apply to all steady-state test equipment. Calibration schedules and other quality control frequencies may be adjusted by using statistical process control to monitor equipment performance on an ongoing basis. Additional requirements shall be as follows:

- (1) For analyzers that use ambient air as the starting point for emission readings, the air shall be drawn from the air outside the inspection bay or lane in which the analyzer is situated.
- (2) The analyzer housing shall be constructed to protect the analyzer bench and electrical components from ambient temperature and humidity fluctuations that exceed the range of the analyzer's design specifications.
- (3) Analyzers shall automatically purge the analytical system after each test.

(c) Measures shall be instituted to maintain the security of all documents by which compliance with the inspection requirement is established, including, but not limited to, inspection certificates and waiver certificates. This section shall in no way require the use of paper documents (except for certificates of compliance and waivers) but shall apply if they are used by the program for these purposes.

(d) Compliance documents are to be counterfeit-resistant through the use of:

- (1) special fonts;
- (2) watermarks;
- (3) ultraviolet inks;
- (4) encoded magnetic strips;
- (5) unique bar coded identifiers;
- (6) difficult to acquire materials; or
- (7) other measures;

as approved by the department.

(e) All inspection certificates and waiver certificates shall be printed with:

- (1) a unique serial number; and
- (2) an official program seal.

\*This document is incorporated by reference. Copies 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 13-1.1-16](#); filed Jun 21, 1995, 4:00 p.m.: 18 IR 2736; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1470; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 81)*

SECTION 9. [326 IAC 13-1.1-17.1](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 13-1.1-17.1](#) On-board diagnostic check**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 17.1. (a) A certified inspector shall check ~~second-generation on-board diagnostic~~ OBDII systems to determine if the self-diagnostic system is functioning properly and within the parameters specified at 40 CFR 85.2207\*. ~~Beginning January 1, 2004,~~ Failure of the OBDII test shall be a basis for failure of the I/M emission test. For vehicles that are 1996 model year or newer, reasons for failure of the OBDII test include any of the following conditions:

- (1) The vehicle's OBDII connector:
  - (A) is missing;
  - (B) has been tampered with; or
  - (C) is otherwise inoperable.
- (2) The malfunction indicator light (MIL) does not illuminate upon vehicle startup.
- (3) The MIL is:
  - (A) commanded to be illuminated; and ~~it is~~
  - (B) not illuminated based on visual inspection.
- (4) The MIL is commanded to be illuminated by any of the OBDII codes specified at 40 CFR 85.2207(c)\*.

(b) The test sequence for the inspection of OBDII systems shall consist of the steps described at 40 CFR 85.2222\*.

(c) Motorists whose vehicles fail the OBDII test described in subsection (b) shall be provided with the OBDII test result as specified at 40 CFR 85.2223\*, including the following information:

- (1) The various OBDII codes retrieved.
- (2) The status of the MIL illumination command.
- (3) The customer alert statement.

Any retrieved codes listed at 40 CFR 85.2223(b)\* shall be listed on the test report as specified in that paragraph.

**(d) An OBDII equipped vehicle is eligible for the I/M 93 test procedure under the following circumstances:**

- (A) The OBDII equipped vehicle has failed three (3) consecutive OBDII test procedures.**
- (B) The owner or operator of the OBDII equipped vehicle has made a good faith effort to repair the vehicle in accordance with the applicable diagnostic trouble codes.**
- (C) The OBDII equipped vehicle is tested based on applicable vehicle emission standards under the I/M 93 test procedure.**

~~(d)~~ **(e)** The air pollution control board incorporates by reference the following:

- (1) 40 CFR 51, Subpart S, "Requirements for Preparation, Adoption, and Submittal of Implementation Plans: **Inspection/Maintenance Program Requirements**".
- (2) 40 CFR 85, Subpart W, "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines: **Mobile Sources, Emission Control System Performance Warranty Short Tests**".



\*These documents are 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 Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; [326 IAC 13-1.1-17.1](#); filed Dec 23, 1998, 4:44 p.m.: 22 IR 1471; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3083)*

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