Document: Proposed Rule
Source: August 1, 2001, Indiana Register, Volume 24, Number 11
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TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #01-249

DIGEST

Amends 326 IAC 2-6, Emission Reporting, to add definitions to clarify the requirements, revise existing definitions for clarification and consistency, change applicability, and to require the reporting of hazardous air pollutants (HAPs). Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: November 1, 1997, Indiana Register (21 IR 801).

First Notice of Comment Period: (LSA# 00-44, Readoption of Rules in title 326 under IC 13-14-9.5): March 1, 2000, Indiana Register, (23 IR 1488).

Continuation of First Notice of Comment Period: (LSA# 00-44): May 1, 2000, Indiana Register (23 IR 2109).

Second Notice of Comment Period and First Notice of Hearing: February 1, 2001, Indiana Register (24 IR 1462).

Date of First Hearing: April 12, 2001.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on February 1, 2001 at 24 IR 1462. The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule that make the proposed rule sufficiently different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestions for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Mailed comments should be addressed to:

#01-249 Emission Reporting
Kathryn Watson, Chief
Air Programs Branch
Office of Air Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

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, Monday through Friday, between 8:15 a.m. and 4:45 p.m.

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, hand delivered, or faxed by August 22, 2001.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from February 1, 2001 through March 5, 2001 on IDEM's draft rule language. IDEM received comments from the following parties:

Accra Pac Group, (APG)

American Electric Power, (AEP)
Bethlehem Steel Corporation, (BSC)
BP Amoco Oil, (BP)
Citizens Gas & Coke Utility, (CGCU)
City of Indianapolis, (INDPLS)
Coachmen Industries, Inc., (CII)
Countrymark Cooperative, Inc., (CCI)
Eli Lilly and Company, (ELC)
Essroc Cement Corporation, (ECC)
Ferro Corporation, (FC)
GE Plastics Mt. Vernon, Inc., (GEP)
General Cable Corporation, (GCC)
Indiana Cast Metals Association, (INCMA)
Indiana Manufacturers Association, (IMA)
Indiana Petroleum Council, (IPC)
Indianapolis Power & Light Company, (IPL)
Knauf Fiber Glass GMBH, (KFG)
Kimball International, (KI)
K-T Corporation, (KTC)
Milestone Contractors, L.P., (MCLP)
Monaco Coach Corporation, (MCC)
National Starch & Chemical, (NSC)
NiSource, (NS)
Purdue University, (PU)
Quemetco, Inc., (QI)
Richmond Power & Light Company, (RPL)
The Society of the Plastics Industry, (SPI)

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

GENERAL

Comment: On May 23, 2000, the U.S. EPA issued a proposed rule on consolidated emissions reporting (CER). U.S. EPA also requested comments on the viability of requiring the emission reporting of HAPs. At a minimum, IDEM should await the outcome of the CER rulemaking before finalizing its amendments to the air emission reporting rule. In their current form, the IDEM amendments are less stringent than the proposed CER rule because IDEM exempts mobile sources from reporting. (FC) (SPI)

Response: The purpose of the proposed CER was to improve and simplify emissions reporting by states to U.S. EPA. IDEM agrees that consistent, national minimum requirements, for HAP reporting would be beneficial and commented to that effect to U.S. EPA. However, it is uncertain when U.S. EPA will complete the CER rule. IDEM's rule has been in development for some time, and is now on a schedule to be completed due to the sunset statute. The draft rule was developed based on Indiana specific information. Mobile sources are not included in this rule because the rule applies to point sources and not to mobile sources. Mobile source emissions are estimated by the state using vehicle miles traveled and speed of the vehicles. If a federal rule is ultimately finalized that contains requirements that go beyond Indiana's rule, IDEM would start the process to amend the rule.

Comment: Sources in other states (New Jersey and Illinois) are only required to report HAPs if they are a potential major source for any parameter or have a percentage thereof. Only the larger sites need to report. IDEM should consider adopting similar rules. (NSC)

Response: The draft Indiana rule does focus on the larger sources. The draft rule is only applicable to Title V and FESOP sources. A FESOP source is only required to report HAPs if that is the pollutant for which it has taken a permit limit. Emissions from insignificant activities as defined in 326 IAC 2-7-1(21) are excluded from the draft rule. IDEM has established applicability and reporting thresholds and reporting levels in the revised draft rule.

Comment: IDEM's proposal to increase the reporting burden of stationary sources is unnecessary given the dramatic improvements in air quality observed throughout the United States over the past twenty (20) years. These reductions occurred while the economy doubled in size and total energy consumption increased. Thus, new reporting requirements are unnecessary and may be harmful in the current slowing and contracting economy. (SPI)

Response: It is true that Indiana's air quality has improved in the last decade with respect to certain pollutants. Carbon monoxide levels are down by twenty-nine percent (29%), large particle soot and dust pollution has been cut by thirty-five percent (35%), four counties have been given a clean air rating for sulfur dioxide, and four cities have been taken off the bad air list for smog by meeting the one hour ozone standard, while the state's economy has grown at a healthy rate. In order to assess continued improvement for

these pollutants, evaluate air quality impacts of new construction and to have the most accurate information available when considering future control strategies and policies, accurate emissions data continue to be necessary.

In contrast to the pollutants just mentioned, however, far less is known about emissions of air toxics. Emissions data are an important tool in evaluating the effectiveness of these limits in achieving the maximum levels of reduction possible. The next part of the process will be to establish emission limits designed to minimize public health risks from exposure to these chemicals. This process requires a complete and accurate estimate of emissions in order to develop an effective and fair public health policy. Evidence over the last ten (10) to fifteen (15) years indicates the increasing public health impacts of exposure to air toxics and fine particulate matter. We are well into the process of applying technology-based limits on these emissions.

Comment: Resources are not available to adequately address the needs of the reporting requirements in the draft rule. (INCMA)

Comment: The changes, as proposed, would require a level of paperwork filings and cost to the refinery that would far outweigh the agency's expected benefits of the reportable data. (BP)

Response: IDEM will work with the regulated community to assure that the information requested requires the least amount of effort to generate the most useful information from the regulated community. Reporting levels and aggregation of like sources are two areas for further discussion. IDEM is preparing a fiscal impact analysis for this rule and would welcome specific cost information from sources. If sources are already collecting data as required by their permits, reporting the emissions should be a matter of reporting data that have already been gathered. The benefits of the data will be in increasing IDEM's understanding of where HAP emissions are coming from in a real world sense. While IDEM does collect monitoring data, there is no sure way of tracing those monitored pollutants to their origin, and permit information is based upon potential emissions which do not tend to be reflective of actual emissions or activities on a yearly basis.

Comment: IDEM should make use of available information and not add new reporting and recordkeeping requirements for minor sources. (MCC)

Response: IDEM presumes that minor sources in the comment means sources operating pursuant to a federally enforceable state operating permit, or FESOPs, which are synthetic minor sources. With respect to these sources, the Department does make use of available information. The problem is that much of this information is outdated, and that which is available is of varying quality. Over fifty percent (50%) of the FESOP sources are already required to provide emissions information on an annual basis because they are located in nonattainment or maintenance counties. With the changes included in the draft rule, the department expects that it would not increase recordkeeping requirements since sources must track their emissions in order to demonstrate compliance with emissions limitations in their permits.

Comment: If modeling is the primary goal of IDEM's draft rule language to get more detailed source information, justification for this level of data collection was not provided, but is consistent with what is required for such dispersion models as ISCST3 and ISC Prime models. For general screening analysis, simpler models are available, such as EPA's Regional Air Model (RAM), T-Screen. Generic source information can be developed for different sizes and types of operations to provide representative information and good regional impact evaluations. The refinement of the emission data to provide actual emissions by emission unit or stack is impossible. This level of detail would require recordkeeping and monitoring efforts several levels of magnitude above the current monitoring requirements and would still be a wild guess. (MCC)

Response: IDEM appreciates the recommendations for dispersion models and modeling protocols. However, dispersion modeling is not the only goal of the draft rule. It is just one of many uses for emissions data. Other uses include public access to actual emissions of hazardous air pollutants, evaluating the effectiveness of state and federal regulatory programs, and fee billing. Dispersion modeling is important for evaluating new source permit applications. The revised draft rule has simplified some of the reporting requirements.

Comment: If the final rules require the amount of information and level of detail contained in the proposal, IDEM should be required to issue a periodic report to the Air Pollution Control Board and the Environmental Quality Service Council describing in detail how the data was used to address specific issues or problems. (EL) (GEP) (KI)

Response: IDEM already provides updates to the Air Pollution Control Board and the Environmental Quality Service Council about its activities on a regular basis and would respond to any requests for specific information from any group.

Comment: The emission reporting rules in 326 IAC 2-6 should be taken out of Article 2 of Title 326 and placed in Article 1, since they are better categorized as a general requirement instead of a permitting requirement. (EL) (KI)

Response: IDEM has considered moving this rule to Article 1, General Provisions, and will continue to discuss this change.

Comment: The rule could provide IDEM with authority to request an individual source to provide more detailed HAP reporting and other source information on an as needed basis. This would allow IDEM to gather sufficient information to conduct modeling or risk assessment if warranted. (EL) (KI)

Response: IDEM agrees, and has included such a provision in the draft rule while reducing the reporting requirements for FESOPs and for major sources of HAP.

Comment: The existing rule is adequate and should not be changed. (BSC) (CCI) (ECC) (GCC) (IMA) (INCMA) (KFG) (KTC) (QI) (RPL)

Response: The draft rule revisions reflect areas in which the Department feels the existing rule is not adequate, specifically in accomplishing its intended purpose of providing a mechanism to develop a complete and accurate inventory of emissions from all point sources in the state for modeling and regulatory development, providing data necessary to assess the effectiveness of state and federal regulatory programs, and providing information that the public requests. Some of the rule changes have been requested by sources over the years.

Comment: The existing rule satisfies the requirements of determining emission for purposes of calculating Title V emission fees. Additional information is not required to be collected by Indiana because it is being collected by the federal government in connection with developing hazardous air pollutant standards and National Emissions standards for Hazardous Air Pollutants (NESHAP) standards under Section 112 of the Clean Air Act and other federal laws. (BSC) (CCI) (ECC) (GCC) (KFG) (KTC) (QI) (RPL)

Response: The Department agrees that the existing rule satisfies the requirements of determining emissions for purposes of calculating Title V operating permit fees, except for billable HAPs, but it does not clarify that "billable" hazardous air pollutants must be reported. This is necessary to accurately determine Title V operating permit fees. Fee assessment is not the primary purpose of the draft rule revisions. With respect to data collection to support NESHAP development, U.S. EPA does use a Section 114 data collection process. However, in some cases, data as much as ten (10) years old has been used for federal standard development. Additionally, the next phase of the federal air toxics program will rely on determining the true effectiveness of technology-based reductions in protecting the public health. This assessment will require as complete and accurate of an emissions inventory as possible. Thus, the draft rule includes U.S. EPA's list of urban air toxics in the list of reportable HAP.

Comment: IDEM should not confuse compliance reporting and emissions reporting. A compliance report covers a facility's compliance with each pertinent section of its permit and does not provide the same information as does emission reporting. Additional emission reporting would constitute an additional burden. (FC)

Comment: The proposed amendments appear to be silent on the issue of report format. The emission statements currently do not follow the "D section" of the sources' permit. For clarity and expanded usefulness, the emission statements should follow the "D section(s)" of the sources' permit. (INDPLS)

Comment: Requiring all FESOP permitted facilities in the state, including those located in attainment counties, to report actual emissions is duplicative with the FESOP required quarterly reports. Data submitted in the quarterly reports is based on actual facility data for limits established in the permits. (MCLP)

Comment: Sources subject to Federally Enforceable State Operating Permits (FESOPs) that are not currently required to report emissions data should not be required to report under the proposed amendments. One of the few benefits of being FESOP sources in attainment counties is the fact that annual emission reports are not required. IDEM underestimates the additional burden for sources to convert the compliance reports that FESOP sources currently submit into reportable emissions information, and to compile/submit the highly detailed source information that is also part of the emission statement. (EL) (KI)

Response: Because Title V permits are not supposed to establish new requirements, the Department believes that it is more appropriate for the Section D compliance requirements to reflect the applicable requirements as established in the emission statement rule, 326 IAC 2-6. IDEM would like to explore further with interested persons the idea of streamlining compliance and emission reporting for FESOPs. FESOP sources are already required to keep records that are more detailed than the draft emission reporting rule requires. This draft rule would require that a source summarize and report the information gathered over the course of one year on its permitted units once every three years. The draft rule has been revised for FESOP source reporting. A FESOP will only report emissions for those pollutants for which a source has a FESOP limit and stack parameters and HAPs are excluded except those HAPs for which a source has a FESOP limit.

Comment: IDEM should fix, simplify, or get rid of the STEPs program. (MCC)

Response: The State Emission Program System (STEPs) program, that is now called iSTEPs. is a tool that simplifies reporting and has undergone significant revision. Many training sessions are being offered throughout the state to help sources use the electronic system. The Department encourages those interested in using the system to attend one of the training sessions to learn more about iSTEPs.

Comment: Consideration should be given to separating Elkhart County from St. Joseph County and classifying Elkhart County as an ozone attainment area. Have monitors in Elkhart County shown any exceedance of the ozone standard? Consideration should be given to classifying Elkhart County as an ozone attainment area and adding it to one of the three-year schedules in 326 IAC 2-6-3(c). (APG)

Comment: Sufficient data exist to support the separation of Elkhart and St. Joseph Counties into individual metropolitan statistical units. Please develop language identifying Elkhart and St. Joseph Counties as separate units for determining compliance with national ambient air quality standards and for the purposes of applicability of 326 IAC 2-6. (CII)

Response: While Elkhart and St. Joseph Counties are considered separate metropolitan statistical areas (MSA), for purposes of the one-hour ozone standard, U.S. EPA considered them to be within the same airshed based on geographic location and shared industrial and population influences. Both counties are currently considered to be in attainment of the one-hour ozone standard and subject to maintenance requirements pursuant to the Clean Air Act. With respect to air quality monitoring, no exceedances of the

one-hour or eight-hour ozone standards were observed in Elkhart County in 2000. However, an air quality monitor located in Cassopolis, Michigan recorded three (3) exceedances of the eight-hour ozone standard. The Cassaoplis monitor serves as a tool to assess downwind transport from the Elkhart County and St. Joseph County MSAs.

Comment: The sunset provisions were intended to review rules for their applicability and value. Significantly expanding the rule coverage brings into question IDEM's authority to and responsibility related to rule review. (INCMA)

Comment: The existing rule is adequate and should not be changed hurriedly because of the "sunset" statute. The sunset provisions were intended to review rules for their applicability and value. The draft presented expands the scope of the rule, which is certainly not the intent behind the sunset review process. (IMA)

Response: The emission reporting rule has been open for some time and much work has been done to develop these amendments. The sunset statute has put this rulemaking on a schedule for completion, but did not prompt the amendments which were already underway. IDEM has specifically separated this rule from other sunset rules to address needed changes in the current air emissions reporting rule. IDEM has followed all necessary rulemaking processes required by law, and will devote the necessary time and resources to work with interested persons to resolve the issues prior to final adoption.

Comment: The proposed changes in the emission reporting rules would put Indiana Kimball plants in a noncompetitive position due to the fact that other adjoining states do not require this degree of reporting for their industries. This proposed rule change could lead Kimball to evaluate migrating business away from their Indiana plants in favor of plants located in other states. (KI)

Response: Given that Kimball is currently required to report annual emissions, and under Section 313 requirements must provide some level of toxic chemical information to US EPA, the Department does not feel that the draft rule creates an excessive burden nor that it would put Kimball in a noncompetitive position. The draft rule revisions address emission reporting, not substantive requirements, such as air pollution controls or emission limits. Additionally, many other states either have or are considering adopting emission reporting requirements, including the reporting of HAP. IDEM will continue to work with all stakeholders to address specific concerns during the development of this rule.

APPLICABILITY

Comment: IDEM has indicated that one of the primary reasons for expanding the coverage of this rule is to improve emissions inventory information. IDEM has specifically excluded certain small sources from the rule. AEP recommends that facilities smaller than Federally Enforceable State Operating Permit (FESOP) sources be required to submit an emission statement once every six to ten years to minimize their burden, while generating significantly better emission inventory data than now exists. (AEP)

Response: Working with other states and U.S. EPA, the Department uses standardized procedures for estimating emissions from small sources. Rather than burden true minor sources, we feel these procedures are adequate.

Comment: The City of Indianapolis Environmental Resources Management Division (ERMD) agrees with IDEM that FESOP sources should be required to submit emission statements. Inclusion of FESOP sources will allow a more accurate inventory of pollutant emissions. (INDPLS)

Response: IDEM appreciates the support of the Indianapolis ERMD on this issue.

Comment: IPL believes that this rule should only apply to electric generating units with respect to the criteria air pollutants. It should be noted that the electric utility industry is not currently regulated under Section 112 of the Clean Air Act Amendments of 1990 and should not be required to report emissions for hazardous air pollutants. (IPL)

Response: Electric generating units can be large emitters of hazardous air pollutants (HAP). The proposed rule is structured so that all major sources, except FESOP sources, would report HAP emissions. IDEM believes that electric generating units should be subject to the same requirements as other major sources in the state. Section 112 regulates the control of HAPs and not the reporting of HAPs.

Comment: There is little value from extending the reporting requirements to smaller sources, especially FESOP sources. Companies elected to participate in the FESOP program under the guise of simpler permits and less recordkeeping and reporting burdens. To date, this has been a total hoax. Limit all annual emission reporting to Title V facilities only. (MCC)

Comment: The overall impact of adding small sources equals an insignificant percentage of overall emissions. Given the amount of resources necessary, we find it difficult to believe that the data gains are worth the resources and effort. The expansion of paperwork for most sources is unreasonable, particularly given that many of these sources selected FESOPs and Source Specific Operating Agreements (SSOAs) based upon a promised smaller paperwork and regulatory load. (INCMA)

Comment: IDEM indicated that one of the primary motivations behind the emission reporting proposal was the need to obtain "timely and reliable" data on FESOP emissions, some of which were over six (6) years old. If a source changes processes or adds equipment, the source must, at a minimum notify IDEM of those changes. Therefore, IDEM has access to the most accurate and up to date emission information available. IDEM's concern that U.S. EPA methodologies used to estimate emissions from FESOP sources resulted in overestimation of these sources' impacts on air pollution is unpersuasive and illogical as a basis for these burdensome amendments. Those methodologies are the only ones available and a source would have to use them for any emission reporting to any regulatory agency. (FC) (SPI)

Comment: IDEM should exclude FESOP sources from the rule. The current rule excludes FESOP sources because they are not

major by definition. Therefore, the proposed rule dramatically increases the reporting burden under a FESOP for those sources without a corresponding environmental benefit. The reporting requirement and county schedule for FESOP reporting should be deleted. (ECC) (GCC)

Response: FESOP sources are exempt from burdensome monitoring and control requirements such as compliance assurance monitoring required for Part 70 sources. The FESOP program requires that sources do recordkeeping and reporting as a more cost effective way to demonstrate compliance with their permit limits. The draft rule has been revised to provide for lesser reporting requirements for FESOPs than Title V sources.

Comment: If FESOP sources are ultimately required to report emissions under 326 IAC 2-6, paragraph 326 IAC 2-6-1(c) should not be written as applying to sources "required to have" a FESOP, since the FESOP program is optional. (EL) (KI)

Response: IDEM agrees and 326 IAC 2-6-1(c) has been changed to read: "This rule applies to all sources that have an operating permit under 326 IAC 2-8, Federally Enforceable State operating Program."

Comment: In sections 326 IAC 2-6-1(b) and (c), IDEM has proposed to delete the phrase "not covered by subsection (a)". GE believes that this phrase ought to be left in the rule. With the phrase, the three categories in section 1(a), 1(b), and 1(c) are mutually exclusive. They do not overlap. If the phrase is not used, then a source could fall into both section 1(a) and 1(b), such as Title V source in a nonattainment area, or into section 1(a) and 1(c) such as a FESOP source in a nonattainment area. This creates a problem in determining how the compliance schedule provisions of section 3 apply. (GEP)

Response: IDEM agrees and the phrase "not covered by subsection (a)" will not be deleted.

Comment: The language in the proposed 326 IAC 2-6-1(d) appears to indicate that retail gasoline dispensing stations, operating under a permit by rule, which are located in nonattainment or maintenance counties would be subject to the rule. This interpretation does not seem to reflect the stated intent of the agency. In order to clarify the exemption provision, we would suggest eliminating "Except for sources subject to subsection (a)" from 326 IAC 2-6-1(d). (IPC)

Response: IDEM does not intend to collect emissions information from gasoline stations. Information on sales of gasoline is readily available and emissions can be calculated with this information. 326 IAC 2-11-2, Gasoline dispensing operations, is a permit by rule for gasoline stations which are exempted in the draft rule emission reporting rule. Compliance with the permit by rule limits should keep a station below the applicability thresholds in 326 IAC 2-6-1(a). IDEM does not currently collect emission reports from gasoline stations.

Comment: IDEM's basis for requiring HAP reporting is based on a facility's ability to emit greater than ten (10) tons per year of NO_x and VOCs in nonattainment counties, one hundred (100) tons per year of VOC, NO_x, PM_{10} and SO_2, or five (5) tons per year of lead. What about those facilities that have Title V permits or FESOPs that don't have these potentials to emit (PTEs)? INCMA believes there should be an exclusion for these facilities similar to the exemption provided for mines and quarries. (INCMA)

Response: Sources that have the potential to emit above Title V thresholds may be able to use a Source Specific Operating Agreement or permit by rule to avoid the Part 70 requirements and emission reporting. Sources that can establish federally enforceable limits on their potential to emit to below Title V thresholds are able to obtain a FESOP and report every three years, otherwise Title V sources must report annually.

Comment: All reporting thresholds should be set at one hundred (100) tons per year, both for attainment and nonattainment areas. (MCC)

Comment: The value of using the very low threshold of a potential to emit ten (10) tons per year of VOC in nonattainment and maintenance counties is unclear. Consideration should be given to raising this threshold to a level where a significant cost/benefit advantage can be clearly demonstrated, or using a default threshold of one hundred (100) tons per year. (APG)

Response: Section 182(a)(3)(B)(ii) of the Clean Air Act Amendments of 1990 indicates that states may waive the requirement to submit emissions for sources under twenty-five (25) tons of VOC and NO_x under certain conditions. IDEM proposes to raise the reporting threshold for NO_x and VOC to twenty-five (25) tons for the maintenance counties and to keep the current ten (10) tons reporting thresholds for nonattainment counties should remain the same. However, IDEM is exempting SSOAs, permits by rule and registrations from the emission statement reporting requirement.

DEFINITIONS

Comment: In the definition of "control efficiency", the words "diminished effectiveness" should be deleted or, if not deleted, should be elaborated upon so a facility knows the intended use and application for the words. The term as it is currently used is arbitrary. (IPL)

Comment: "Control efficiency" should be defined as "control efficiency shall account for control equipment downtime, operation with diminished effectiveness, and any other malfunctions that occurred while the emissions unit or units were in operation ". (GEP)

Response: IDEM agrees that "diminished effectiveness" should be deleted and that "control efficiency" should be calculated when the units are in operation.

Comment: The definition of "down time" is unclear as currently written. We believe the intent is to indicate the period when the control equipment is not operational while the process it is controlling is operating. We recommend the language be modified to "Downtime means the period of time when the control device is not operational during the corresponding period during which the

source it controls is in operation". (NS)

Response: IDEM agrees and the definition has been reworded.

Comment: Both 326 IAC 2-6-3(a) and (b) refer to a "calendar year" as the applicable reporting period. The definition of "emission statement operating year" is duplicative and not needed. (EL) (GEP)

Comment: The Society of the Plastics Industry, Incorporated endorses IDEM's proposal to eliminate the requirement for the seasonal reporting of ozone precursors and replace it with a requirement for reporting ozone precursors on a calendar basis. (SPI)

Response: IDEM agrees that the definition of "emission statement operating year" is not necessary since the seasonal reporting of ozone precursors has been deleted.

Comment: The definition of "insignificant activities" in 326 IAC 2-7-1(21) includes language that allows sources to exclude emissions information from insignificant activities. This rule should include similar language so that a person reading the rule would know without having to refer to 326 IAC 2-7, that the reporting of emissions data for insignificant activities is not required. (EL) (KI)

Response: IDEM agrees and a reference to insignificant and trivial activities has been added to the draft rule at 326 IAC 2-6-4(a).

Comment: The definitions of "maximum design capacity", "maximum design rate" and "maximum nameplate capacity" are confusing. It is not clear what the purpose of each definition is and how sources are to use then distinctly. (BP) (EL) (GEP)

Comment: The definition of maximum design capacity and maximum design rate should be clarified to reflect that they are based solely on manufacturer's information and do not represent any regulatory or operational limit on the source. This can be accomplished by adding the phrase "as specified by the manufacturer" in both of these definitions. (AEP)

Response: "Maximum design rate" has been deleted. "Maximum design capacity" and "maximum nameplate capacity" will be required by large boilers and electric generating units subject to the NO_x SIP Call. "Maximum nameplate capacity" is determined by the manufacturer or builder of the equipment and can usually be found on the equipment's nameplate. The "maximum design capacity" is the nameplate capacity less any restrictions on the device due to operational design.

Comment: The definition of "oxides of nitrogen" should be clarified so it is explicit that nitrous oxide (N_2O) is excluded and it is not a covered pollutant. (APG)

Response: The definition of oxides of nitrogen has been changed to be consistent with other rules such as 326 IAC 10-1-2(15).

Comment: The term "plant" defined in 326 IAC 2-6-2(19) is not used anywhere in the rule and should be deleted. (EL) (GEP) (KI)

Response: IDEM agrees and the "plant" definition has been deleted.

Comment: With the North American Industrial Classification System (NAICS) defined in the draft rule (definition 16), the Standard Industrial Classification (definition 23) can be deleted. Milestone appreciates IDEM's use of the NAICS and encourages the transition from the archaic SIC to the more representative NAICS. (MCLP)

Response: IDEM agrees and the definition of "SIC code" has been deleted.

COMPLIANCE SCHEDULE

Comment: Should IDEM decide to move forward with this rule despite concerns expressed, the proposed implementation date does not allow enough time for facilities to prepare. INCMA suggest a transition year without enforcement to allow facilities to ramp up and establish their internal reporting mechanisms related to new reporting requirements. (INCMA)

Comment: The rule needs to provide a longer transition period from the current reporting requirements to the new reporting requirements. We recommend that the rule provide that the reports submitted in 2001 and 2002 be based on the existing rule requirements and that subsequent reports be based on the revised requirements. (EL) (KI)

Comment: It would be more appropriate to begin the submittal in 2003. Affected sources would have already had to implement mechanisms to gather the required information beginning January 1 of this year. (NS) (GEP)

Comment: If a new rule along the lines of the published draft rule is adopted, IDEM should specify in the rule that the first year a report is due under these new requirements will be 2003 to cover the 2002 calendar year. (BSC) (CCI) (ECC) (GCC) (KFG) (KTC) (QI) (RPL)

Comment: For sources subject to 326 IAC 2-6-3(b) that submit reports triennially, the first reports should not be required to be filed in 2002, 2003, and 2004, respectively, but instead in 2003, 2004, and 2005, respectively. (GEP)

Response: IDEM agrees that sources should not be required to report according to the draft rule changes until 2003. The draft rule has been revised to reflect this change.

Comment: Purdue notes that the list of counties provided under 326 IAC 2-6-3 appears to be incomplete, as only 89 counties are listed. Purdue presumes that all 92 Indiana counties should appear on one of the three lists. (PU)

Comment: The list under 326 IAC 2-6-3, compliance schedule, does not appear to include Marion County. Marion County should be included in the list. (INDPLS)

Comment: The county listing under 326 IAC 2-6-3, Compliance schedule, needs to include Marion, Clark, and Floyd Counties. (IPL)

Response: Clark, Floyd, and Marion Counties have been added to the draft rule.

Comment: Early reporting places a significant burden on companies and should not be required for frivolous and unsubstantiated

reasons. IDEM's response to those companies asking for changes to the early reporting requirements is unacceptable and unsupported by facts. Reporting deadlines for all annual reports should be set at July 1. If this is a state implementation plan (SIP) or Code of Federal Regulations (CFR) requirement, change the SIP or CFR. Remove the early reporting requirements for all counties. (MCC)

Response: Maintenance plans are established to protect public health. In these plans is a requirement that if certain monitored pollutant levels are reached, the state has twelve (12) to eighteen (18) months to evaluate the problem and implement a solution. A key component of this evaluation is the emission inventory which should be available as soon as possible. The federal regulation, 40 CFR 51.321, requires that states must report for areas with maintenance plans by July 1, and in order to comply, IDEM must receive the information before that date.

Comment: To suggest that recordkeeping and reporting efforts are significantly reduced by saying a company only has to report every three years, demonstrates a total lack of understanding of what is required to set-up and maintain an emission tracking system. (MCC)

Response: The rule as proposed requires a source to report information that is generally required by a permit to be kept and is therefore only a reporting requirement. IDEM has heard from other sources that a triennial reporting requirement would relieve the burden on a significant number of sources. Title V and FESOP permits require that sources keep these records and the only additional requirement is to report them to IDEM in the form of an emission statement.

Comment: IDEM has proposed that facilities report actual emissions on a triennial cycle based on the county location within the state. According to IDEM, this will reduce the burden of reporting. Most companies are concentrated within certain regions of the state and will be required to submit emission reports for all or a majority of their facilities within the same reporting year, thereby increasing the burden to these companies. (MCLP)

Response: If most of a company's locations were in the same area of the state, reporting would only affect one year out of three. IDEM's policy is to assist sources in completing their emission statements.

Comment: IDEM should be encouraged to look at methods of submitting emission statement certifications electronically. This would simplify reporting and documents tracking. (MCC)

Response: As soon as a method is approved by the U.S. EPA for electronic certifications, IDEM will implement that process.

Comment: It would be appropriate to modify the proposed rule language to specify that submittals are timely if postmarked on or before the specified due date, consistent with the provisions used to govern the timely submittal of other documents. It is inappropriate to hold a source or company responsible for non-timely submittal when the delivery via the U. S. Postal Service or private carrier is out of the control of the company. (NS)

Response: IDEM policy is to recognize the U. S. Postal Service postmarks as the submittal date. This language will be inserted at 326 IAC 2-6-5(b). A private carrier delivery is in essence a contract between the company and the carrier. The department encourages affected businesses to factor in delivery time when reporting emissions.

REQUIREMENTS

Comment: Including the reporting of sixty four (64) HAPs is a welcome planning tool and a step toward evaluation whether the current MACT standards are effective in reducing public exposure to HAPs. Having an inventory in place will be an effective step forward if U.S. EPA develops risk based standards after current technology standards. (INDPLS)

Response: IDEM believes that HAP reporting is necessary to develop sound and realistic public policy in Indiana.

Comment: One approach that IDEM could consider is to focus the reporting of specific HAP emissions by source category, perhaps not to a single HAP per source category like many of the MACT standards, but more limited than asking single source categories to report emissions of fifty-eight (58) HAPs on questionable emission factors. (CGCU)

Response: IDEM will continue to consider this suggestion as the rulemaking process proceeds.

Comment: The Indiana Petroleum Council believes very strongly that appropriate HAP reporting thresholds must be part of the rule. In order to come up with reasonable thresholds, the Council would propose the creation of a subcommittee of the rule development work group made up of a few bright people from industry, the environmental community and the agency. (IPC)

Response: The Department has received extensive comment on this issue and believes that revised draft language reflects this broad level of input. However, IDEM will be happy to meet with stakeholders individually or in groups to discuss this rule.

Comment: While we support the requirement for sources to report emissions of regulated air pollutants so that IDEM can collect Title V permit fees, establish correlations between air quality and emission levels, evaluate trends in point source emissions and in some cases project air quality impacts, we do not support a state-wide emission reporting rule, that will require sources to report vast amounts of information in great detail. IDEM should tailor the changes to the rule to achieve a more focused objective. (EL) (IPL) (KI).

Response: The commentors indicate that it may be better to focus emission reporting requirements in certain geographic areas or to address a more focused issue. However, it is important to note that the Office of Air Quality has responsibility for working with a broad group of interests across the state to improve and protect air quality, therefore, the focus of our efforts must address a broad range of air quality issues affecting the entire state. To narrow the number of HAP to report, IDEM used the U.S. EPA Urban Air Toxic Strategy HAP, toxicity weighted HAPs, high volume HAP reported to the toxic release inventory, monitored HAP and billable

HAP.

Comment: It is unlikely that requiring emissions reporting by Title V and FESOP sources will aid in determining the point of origin for releases of vinylidene chloride, since this chemical has not been reported by any source in Indiana, even though it is on the TRI list. IDEM should explore other methods to determine from where this chemical is released. (FC) (IMA)

Response: Ambient air toxics monitoring data collected across the state indicate measurable levels of vinylidene chloride, which is a very hazardous chemical. The lack of reported data to the Toxics Release Inventory may be reflective of emission sources not complying with the federal reporting requirements or possibly secondary formation following emission from an industrial process. While the Department has no oversight of the federal TRI reporting, we do have authority to evaluate data submitted pursuant to state rule and to take enforcement action for noncompliance.

Comment: The requirements in 326 IAC 2-6-4(b)(3) and (b)(7) for sources to submit production information for each emission unit or each process raises significant issues for companies that wish to protect production information as confidential business information. This information does not enable IDEM to assess emission trends, protect air quality impacts, or determine unacceptable risk any better. It is information for information's sake. (EL) (KI)

Comment: GE is very concerned with several of the proposed requirements in 326 IAC 2-6-4 that a source provide to IDEM information concerning maximum design capacity, maximum nameplate capacity, annual fuel or process weight for each emissions unit, annual process rate for each process, and maximum design rate per hour. This information is precisely the type of information GE protects as trade secrets and confidential business information. Even if IDEM can justify a need for this information, IDEM must also provide a source with the opportunity to claim such information as confidential business information. Emission data are not allowed to be claimed as confidential pursuant to IC 13-14-11-1(b). (GEP)

Response: IC 13-14-11-1(b) states that emissions data are not confidential and is a direct interpretation of 40 CFR 52.301 and the Clean Air Act Section 114. Therefore, it is not unreasonable for IDEM to request the information needed to correctly identify the proper emissions as stated in this rule. However, IDEM will develop rule language to group individual emission units.

Comment: The additional (HAPs) pollutants to be reported should be based on a cost/benefit analysis taking into consideration that HAP emission information is or will be already available to IDEM in TRI reports, existing and new permits, and new maximum achievable control technology (MACT) requirements. (APG)

Comment: IDEM now proposes to add a subjectively derived lists of additional secondary compounds to the reporting requirements of this rule. The added cost to the regulated community does not support the minimal added value derived from emission unit based reporting on this proposed list of fifty-seven (57) new compounds. IDEM should perform a full cost/benefit analysis and make it available to the stake holders of our state prior to any addition of new reporting requirements under 326 IAC 2-6. (CII)

Response: The Department does understand the concerns for the fiscal impacts of new regulatory requirements. IC 4-22-2-28, IC 13-14-9-5, and IC 13-14-9-6 require the Department to perform a fiscal impact analysis based on the requirements of this draft rule. However, the Department is not aware of a cost-benefit analysis methodology that would weigh the public's interest in HAP emission information against the cost of collecting and reporting such information.

Comment: The requirement to report emissions of sixty-four (64) different pollutants layered onto the specific reporting requirements of the draft rule (such as requiring emissions data for each process at a source), the magnitude and complexity of the requirements increase at a near exponential pace. Providing detailed HAP emission rates for hundreds of emission units or dozens of processes leaves the agency with far more information than it needs to prioritize air toxics issues. (EL) (KI)

Response: The Department is looking at ways to minimize the reporting requirements and burden, including aggregation of like emission sources and aggregation of stacks for the stack parameter reporting. IDEM welcomes specific suggests for language on these concepts. The draft rule does include reporting levels.

Comment: The amount of information required to be submitted in the emission statement is burdensome and duplicative. Much of this information is identified in other paperwork submitted to the IDEM, including the permit application, quarterly reports, and stack test reports. The requirements for the emission statement, should be reduced to facility identification and actual emissions for parameters limited in the FESOP. (MCLP)

Response: Permits are based upon potential emissions, the compliance reports do not contain enough information to properly assure the emissions estimates, if included, and stack tests do not include information concerning process rates. All of this information is necessary to compile an accurate and complete emissions inventory. The department is exploring whether it is possible to combine reporting requirements for compliance and emission statements. The draft rule has been revised to require reporting only on those pollutants for which a FESOP source has a limit.

Comment: Although duplicative of current reporting requirements under the annual Toxics Release Inventory (TRI) program, we would also support annual plant-wide emission estimates of the individual HAPs listed in the rule, provided there is an appropriate *de minimis* level established. (EL) (IPL) (KI)

Comment: The requirement for reporting TRI HAPs is duplicative and needless. TRI reporting requirements are designed to include the majority of facilities importing/ manufacturing/processing the TRI chemicals in quantities equal to or above the TRI reporting thresholds. TRI reporting requirements currently capture data from Title V sources, FESOP sources and even some area sources. (FC)

(IMA)

Comment: It is inappropriate and unnecessary for the sources subject to this rule to be required to submit information that they may already be reporting under other, different regulatory programs, such as TRI. In those cases, IDEM's submittal date should be no earlier than the submittal date(s) required by the other program areas. (NS)

Comment: The additional data sought is available from the facilities' TRI submissions. The information filed in the toxic release inventory program would provide IDEM with the information it has indicated it needs to meet the three goals stated in the second notice of comment period published in the February 1, 2001 Indiana Register. (BSC) (CCI) (ECC) (GCC) (KFG) (KTC) (QI) (RPL)

Comment: Emission reporting on an individual compound basis has been required under TRI reporting since 1986 and has not resulted in reliable emission inventories. When all the reports are collected and analyzed, the agency will still be left with unreliable and incomplete emissions data. (BP)

Response: IDEM agrees that reporting of plant level HAPs would be duplicative of federal TRI reporting requirements and that TRI reporting has not resulted in reliable emission inventories. TRI reports generally do not provide the level of detail IDEM needs to be able to evaluate the effectiveness of state and federal process based HAP regulations and develop a sound public policy for dealing with future HAP issues. IDEM believes the proposed reporting requirements, at the process level, would improve the accuracy of reported HAP emissions and provide information needed to quality assure estimated emissions. Sources might also find developing process based emission estimates helps improve the quality of the data they report to TRI. IDEM welcomes suggestions for aggregating reporting of like emission processes to reduce the reporting burden.

Comment: IDEM is requesting new information on hazardous air pollutant (HAP) emissions that is already provided to IDEM in TRI reports. The TRI reports basically provide everything IDEM is requesting, just in a different format and at a reporting limit that is more reasonable than no *de minimis* reporting limits. Basic statistics tell us that populations can be accurately described by obtaining representative samples and IDEM has adequate information to perform statistical analysis on these sources. Data submissions under TRI take a significant amount of effort and if there is a problem, lets fix it, not throw it out. (MCC)

Response: It is important to recognize that there are significant differences between what is required in the TRI reports and the draft rule revisions. Also, it is important to recognize that statistical extrapolation is only valid when a reliable sample is used. The level and quality of information, such as plant wide estimates, provided in the TRI reports does not provide for a reliable sample that could be extrapolated to process level estimates. The original intent of TRI reports was to inform the public of chemicals handled by businesses in their communities, not to evaluate emission trends or to develop public policy with respect to emission reduction approaches.

Comment: IPL opposes the use of stack parameters for toxic planning until such a time as technically justified ambient exposure concentrations for protecting public health have been promulgated by U.S. EPA and adopted by reference by IDEM. IPL believes that air quality modeling results without such standards for toxics or hazardous air pollutants are meaningless and only serve to raise more questions than they answer. (IPL)

Response: Modeling is a tool that allows us to better understand the fate and transport of pollutants and to assess whether emission reduction strategies are effective. It can also help determine where additional emissions reductions are needed, and can help assess the impact of new sources. IDEM requests suggestions for language to aggregate stack parameters information to reduce the reporting burden.

Comment: Probably no condition in the proposed rule is more burdensome and unnecessary that the requirement for specific process and emission information on individual emission units and stacks. If IDEM needs more refined information for modeling, they should utilize current information available from previous STEP submissions or from permit applications. Eliminate the requirements for emission unit and stack specific information. (MCC)

Comment: Requiring operating data, stack parameters, and emissions information at the emissions unit/process level for all sources is entirely unnecessary and unjustified. Unless there is a clearly defined specific problem that requires a higher level of detail, the reporting information should be based on plant-wide data or data from groups of like processes. Also, IDEM should use existing stack default values instead of requiring specific emission unit/process stack information. If there is a specific, justifiable need for more detailed information from a particular type of source, the reporting of such detailed information should be restricted to that type of source. (APG)

Comment: Title V and FESOP sources have already provided stack parameters in their permit applications. IDEM receives notification from the source for any stack, equipment or process changes. For IDEM to require the same information to be reported annually or tri-annually is duplicative and burdensome. (FC) (IMA)

Comment: The addition of operating data, stack parameters, and emissions information at the emission unit/process level for all applicable sources is burdensome and will be highly problematic for IDEM. The majority of the data in question is already available to IDEM in the form of permitting documentation and SARA 313 reports. IDEM currently receives enormous amounts of information that is not effectively utilized. (CII)

Comment: The operating data required in 326 IAC 2-6-4(b)(3)(A) should not be required on an emission unit basis, but on a point source or stack specific basis. In some cases, it is extremely difficult, if not impossible, to collect the requested information on a

process or emission unit basis. Requiring emission unit specific information in these situations will induce an undue burden on sources to collect information. (NS)

Comment: The new requirement to report stack parameters is unnecessary for the vast majority of sources in the state. The requirement to report stack data "by process" makes no sense at a complex pharmaceutical manufacturing operation where "processes" change frequently and are not always associated with the same sets of equipment or stacks. (EL) (KI)

Response: Stack parameters are necessary for modeling. Stacks are identified with the appropriate parameters and then linked to a process. The iSTEPs program simplifies the reporting process by allowing a company to enter all of its stacks. Then when inputting process information, the program allows selection of a stack from a list of those entered for the source. Once the stack data is entered into the database, it will be there for the next reporting cycle. The information would only have to be updated to reflect any changes in the stack parameters, instead of being entered for each report. Some companies already report much of the stack information, which is still in IDEM's database. The department will use information that has already been supplied through the iSTEPs process, and no additional effort will be required of thos e company. Companies are already reporting criteria emissions at the process (or in some cases combined unit) level, so this type of reporting is not new. FESOP sources will not be required to report stack parameters. IDEM requests suggestions for language to aggregate stack parameters information to reduce the reporting burden.

Comment: IDEM should not require reporting of maximum design capacity or maximum nameplate capacity for emissions units because this information is often very difficult to determine and it is unnecessary for a program that is concerned with actual emissions. 326 IAC 2-6-4(b)(3)(C) and (F) should be deleted. (BSC) (CCI) (ECC) (GCC) (KFG) (KTC) (QI) (RPL)

Comment: IDEM would require sources to submit stack parameter information annually, but has not justified this burden. If IDEM needs information for air modeling, it already has tools to request it. Requiring industry to submit the information just in case IDEM might use it is a waste of resources. (GEP)

Comment: Of particular concern is IDEM's proposal to require these sources to report not only criteria pollutants, but also HAPs by each emission stack. This presents a vast increase in the complexity of recordkeeping and reporting for each of our plants. This level of complexity greatly exceeds what our current Title V permits require and also exceeds the wood furniture NESHAP. (KI)

Response: Nameplate capacity and design capacity are required by the proposed federal emission reporting rule and will be required under the NO_x SIP Call rule. The state will require this data from NO_x SIP Call sources only. Emissions are calculated at the process level and summarized to the stacks associated with those processes. The draft rule does not require a source to estimate emissions at the stack level.

Comment: The actual emissions should be calculated using an emission factor based on the annual process rate. (MCLP)

Response: This is one of several options available for inputting data. Default standard emission factors are included for most processes.

Comment: The available emission factors to accurately report HAP emissions have not yet been developed nor certified by the IDEM or U.S. EPA for industry wide use. During the development of the MACT rule, EPA is also developing and certifying emission factors. Until this is complete and foundries can accurately report emissions, the IDEM stands to gain little. (INCMA)

Comment: Although the quality and quantity of emission factors have improved, there are still many processes with no approved emission factors applicable to their processes. In addition, IDEM's nonrule policy guidance on acceptance of industry supplied emission factors is vague and open to arbitrary decision making on the part of IDEM. (FC) (IMA) (SPI)

Comment: Even given "reasonable and appropriate" *de minimis* reporting levels, the lack of emission factors for "source specific processes" make accurate reporting impossible without stack testing. (FC)

Comment: Citizens Gas & Coke Utility questions the validity of emission inventory data that may be reported based on emission factors that have a "D", "E", or "U" rating in such databases as FIRE or in the AP-42 reference document. (CGCU)

Comment: The effect of the proposed rule in our view would be minimal due to the uncertainty surrounding the emission factors utilized for estimating purposes and the fact that point sources represent only a portion of total applicable emissions. While the quality and quantity of emission factors have improved, the proposed regulations would require a monumental and costly exercise producing a great amount of inaccurate data. (BP)

Response: The Department understands concerns raised about emission factors. However, we do not believe that the draft rule revisions present a monumental or costly exercise to estimate emissions. Estimates must be produced to comply with the Section 313 reporting requirements. While these are gross plant wide estimates, some level of process estimation must occur, even if it is a mass balance. Also, sources have to present some level of estimation in order to receive a permit. Stakeholders have put forth several ideas to address how and when emission factors can be approved for use. IDEM will consider these suggestions and make a proposal to ensure that sources may use new emission factor without a lengthy or burdensome approval process.

Comment: 326 IAC 2-6-5(b)(8) states that "nothing in this rule requires stack testing". However, the lack of *de minimis* reporting thresholds coupled with the absence of approved emission factors make accurate compliance with this proposed rule extremely problematic for many sources unless those sources resort to expensive stack testing to determine their emissions. (FC) (IMA)

Comment: BP appreciates the language provided at proposed 326 IAC 2-6-4(b)(8), that provides that stack testing is not required under the rule. We believe it should not be expected of sources in order to prove compliance and accurate reporting. (BP) (GEP)

Comment: While the draft rule stated that emission testing is not required, with no *de minimis* level, there would be no way short of testing that an industry would know they complied accurately with the reporting requirements or would be forced to use the worst cast scenario. (NSC)

Response: De minimis reporting levels were not included in the draft rule to encourage comment on this issue. The Department agrees that *de minimis* reporting levels are appropriate. The draft rule language has been revised to include *de minimis* reporting levels.

Comment: A review of the proposed chemical list shows seven (7) products that should be added because they are billable emissions not elsewhere accounted for. Otherwise, only one chemical on the list is present in significant concentrations in monitoring data. To arbitrarily add all the other listed chemicals when they are already being adequately addressed or absent any evidence that there is a problem is unreasonable and unnecessarily burdensome. Limit new HAPs reporting to only billable HAPs greater than one (1) ton. (MCC)

Comment: Consideration should be given to restricting the additional pollutants to be reported to the "billable HAPs". (APG)

Comment: Would "billable HAPs" only apply to Title V sources? Since Title V billing of regulated air pollutants is on a "per ton" basis, the increased fees resulting from, for example, dioxins, would be negligible. FESOP sources are currently billed at a set annual rate. (FC)

Comment: The initial list of top down HAPs should be limited to "billable" HAPs only. (CII)

Comment: Limit new HAPs to the "billable HAPs" greater than one (1) ton. (MCC)

Comment: Limit all HAP reporting for "billable HAPs" to HAP emissions greater than five (5) tons or if available 313 reporting thresholds. (MCC)

Response: It is important to reiterate that reported HAP information is necessary to develop sound and realistic public policy in Indiana. The approach suggested in the draft rule revisions is a sensible first step in developing accurate HAP information. Rather than arbitrarily identifying HAP to be reported, the Department has used criteria to identify those HAPs for which there is the most compelling need. Requiring only the larger sources (Title V sources and FESOPs who have HAP limits) to report emissions will help ease the reporting burden because it eliminates many small permitted and registered HAP emitting sources from the reporting requirements of the rule.

Comment: IDEM should adapt the same reporting requirements as the Superfund Amendments and Reauthorization Act of 1996 (SARA) 313 rule and amend the reporting requirements for 326 IAC 2-6-4(a)(31) hydrochloric acid (CAS Number 0747010) to require only acid aerosols including mists, vapors, gas, fog, and other airborne forms of any particle size to be reported. (NSC)

Response: SARA Section 313 uses the term "hydrochloric acid aerosols" to indicate airborne forms of hydrochloric acid. Since the emission reporting rule only requires reporting of air emissions, it is not necessary to make this change. Excluding nonareosols is important for Section 313 because of the reporting thresholds for manufacturing, processing, or otherwise using a listed chemical.

Comment: The requirement to include the UTM or latitude and longitude coordinates of each stack is excessive. To that end, the provisions of 326 IAC 2-6-4(b)(8) should be modified to also indicate that nothing in this rule should force surveying of the source's stack location to determine the latitude and longitude or UTM coordinates. (BSC) (CCI) (ECC) (EL) (GCC) (KFG) (KI) (KTC) (NS) (QI) (RPL)

Response: Collection of UTM information is an agency-wide initiative for use in all databases. Specifically, modeling cannot be performed without this information. It would be impossible to link monitoring and modeling without it. This UTM information is easily obtained and only has to be provided as part of the emission reporting requirements once. The Department can assist sources in obtaining this information. This requirement can also be lessened by grouping stacks as discussed under previous comments.

Comment: One of the most burdensome provisions of the proposed rule is the requirement in 326 IAC 2-6-4(b)(3) to require sources to provide throughput, operating schedules, and capacity information for each "emission unit" which has been interpreted as each piece of equipment in a pharmaceutical manufacturing operation. In the past, we have provided this information at a much higher level, typically by production building, which might contain dozens of individual emission units, or for large individual units such as boilers and incinerators. (EL) (KI)

Comment: The current rule provides a source with significant discretion for how it reports emissions and other data. In the past, GE has reported emissions and other data for each production building (which can contain dozens of emissions units) or for large individual emission units such as boilers. The rule should allow us to continue with this practice. We believe this approach provides IDEM with an appropriate level of detail while minimizing the burden or preparing this report each year. (GEP)

Response: The Department understands this concern and will continue to work with the companies to define "process" and "emission unit" for the emission reporting rule.

Comment: The requirement to report emissions "by process" is overly burdensome and complicated for our facilities. If we are required to report emissions of sixty-four (64) different pollutants for thirty (30) to fifty (50) different processes, the level of emissions information becomes so detailed that it is very costly to us. (EL) (KI)

Response: IDEM will continue to discuss with interested stakeholders the level of emissions information needed.

Comment: The "insignificant activities" currently exempt by the Title V and FESOP rules would now fall under this reporting

requirement. It would be extremely problematic to sign the permit required compliance certifications without *de minimis* exemptions. (FC)

Response: The emissions from insignificant activities listed at 326 IAC 2-7-1(21) are exempted from the applicability and reporting thresholds of the emissions reporting by this draft rule.

Comment: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) reportable quantities (RQ) should be used as a guideline for rating risks of the HAP chemicals. A HAP chemical with a CERCLA RQ of one (1) pound would have a much lower *de minimis* quantity than a HAP chemical with an RQ of one thousand (1000) pounds. (NSC)

Response: The CERCLA reportable quantities were developed to establish a level at which a release to all media of the environment should be reported. Data generated through TRI reporting are not sufficient to address the stated needs that serve as the basis for this draft rule revision. IDEM has included no minimum reporting levels for dioxin, lead, and mercury in the revised draft rule.

Comment: As proposed, the rule will require that Purdue report emissions data and operating information for "each emission unit". There are over one thousand one hundred (1,100) laboratory fume hoods, associated with research and teaching laboratories, at the Purdue West Lafayette campus that have the potential to emit regulated air pollutants. In addition, Purdue has numerous other activities that are defined as insignificant activities or trivial activities under the Title V rule (326 IAC 2-7). Purdue believes that there is little benefit to quantifying emissions from these activities compared to the level of effort that would be required to obtain all information necessary for such sources. On the basis of this concern, Purdue requests that 326 IAC 2-6-1, as currently drafted, be revised to incorporate exemptions from reporting requirements for activities that meet the definition of an insignificant activity or a trivial activity under 326 IAC 2-7 or are exempt from permitting rules under 326 IAC 2-1.1-3. (PU)

Response: Emissions from insignificant and trivial activities are exempted from the reporting requirements of this draft rule. The language has been changed to repeat this exemption from 326 IAC 2-7-1(21) and (40).

Comment: De minimis reporting levels already exist in the current 326 IAC 2-6 rule as stated in 326 IAC 2-7-1(21)(J). Neither emissions from trivial activities nor emissions from insignificant activities, as those terms are defined in 326 2-7-1, need be included in the emission report. GE suggest that this concept be placed directly in 326 IAC 2-6 to ensure the regulated community is aware of this provision. (GEP) (IPL)

Comment: The proposed rule should specify reporting levels for all pollutants, and particularly for hazardous air pollutants (HAPs). Absolutely no reason exists for requiring the reporting of *de minimis* levels of emissions, including HAPs. The Title V regulation already recognizes this fact and exempts emission reporting for insignificant and trivial activities. 326 IAC 2-6-4(b)(5)(F) should be added to read " HAP information is not required for any stack unless the emission rate exceeds one ton per year". (BSC) (CCI) (ECC) (GCC) (KFG) (KTC) (QI) (RPL)

Comment: In the draft rule 326 IAC 2-6-4, there are no *de minimis* reporting levels. This increases the reporting burden of most operating facilities, due to trace amount of HAP in chemicals, both HAP and non-regulated chemicals. Emissions of a gas hot water heater used for a process would now have to be reported and the fuel usage measured. (NSC)

Comment: A more important *de minimis* consideration is the concentration of a HAP. Using the OSHA definitions, HAP *de minimis* concentrations would be one percent (1%) for HAPs, while carcinogens would be one tenth percent (0.1%). Since this needs to be tracked by OSHA, it is a reasonable *de minimis* concentration for plants to track. (NSC)

Comment: Consideration should be given to establishing a *de minimis* reporting level of five (5) tons of actual emissions (to be consistent with the 313 reporting threshold of ten thousand (10,000 pounds) unless there is a compelling, demonstrated health-based justification for a lower reporting level. (APG) (CII)

Comment: Without appropriate *de minimis* reporting levels, insignificant activities currently exempted under the Title V program and FESOPs would be subject to reporting under the proposed amendments. However, without first establishing reliable and appropriate emission factors, it will be impossible to develop reasonable *de minimis* reporting levels for specific source processes. (SPI)

Comment: We strongly believe that the agency must include reasonable *de minimis* reporting levels for the HAP reporting in the proposed rule. We believe a consistent ten (10) ton threshold per reporting unit is an appropriate level for most of the HAPs listed. (BP)

Comment: Kimball is concerned with IDEM's proposed changes to the *de minimis* reporting levels for HAPs. Kimball reports its criteria pollutant emissions to no more than two significant decimal places one hundredth (0.01) ton. It is not realistic to certify emissions below that level. (KI)

Comment: The approach of the rule will make this rule overly burdensome to the regulated community. The current draft rule language requires that all sources report emissions of all of the pollutants on the list without regard to the quantity emitted. Citizens Gas and Coke Utility recommends that the agency establish *de minimus* reporting thresholds that are no less than one hundredth (0.01) ton or twenty (20) pounds for each regulated pollutant. (CGCU)

Comment: GE recommends that an absolute *de minimis* level of one hundred (100) pounds or five hundredths (0.05) ton be created, so that any pollutant whose source wide emissions are less that one hundred (100) pounds per year, regardless of whether the activity

generating the emissions is "trivial" or insignificant", need not be included in the emissions report. The figure of one hundred (100) pounds reflects new reporting thresholds under the SARA Toxics Release Inventory (TRI) program for some pollutants characterized a persistent, bioaccumulative, or toxic (GEP)

Comment: 326 IAC 2-6-4(a) should be modified to establish a *de minimis* emission threshold level for reporting emissions, especially for the additional emissions beyond the criteria pollutants. A pollutant specific *de minimis* level for each of the listed HAPs should be specified. (NS)

Comment: If IDEM chooses to go forward with this proposal, reasonable reporting thresholds for each individual HAP should be developed. (AEP)

Comment: IDEM should set *de minimis* levels for each listed HAP. (NSC)

Comment: The rule should contain *de minimis* emission rates for each pollutant. The insignificant activity thresholds are an appropriate starting point for emission reporting thresholds. (EL) (KI)

Comment: A lack of reasonable and appropriate *de minimis* reporting levels for listed HAPs reporting thresholds creates a situation where every Title V and FESOP source could potentially be in violation of this rule. (FC) (IMA)

Response: De minimis reporting levels were not included in the draft rule to encourage comment on this issue. The Department agrees that *de minimis* reporting levels are appropriate. The draft rule language has been revised to include *de minimis* reporting levels. The current IDEM policy for reporting levels is to the nearest one hundredth (0.01) ton per year. Dioxin, lead, and mercury have no minimum reporting levels.

Comment: Another issue raised by the proposed amendments is the requirement in 326 IAC 2-6-4(B)(5)(D) that sources only use emission factors approved by IDEM. Even if IDEM were somehow able to approve every possible factor, the agency does not have a system for communicating to regulated companies which factors and estimation techniques are approved. The system in the current rule, which allows site-specific factors, if "accepted" by IDEM and EPA is the only practical approach. (EL) (GEP) (KI)

Comment: IPL recommends that the rule require only IDEM approval for such emission factor use due to the excessive amount of time it would take U.S. EPA to review and approve such emission factors. IPL believes emission factors developed by the Electric Power Research Institute (EPRI) should not be required to undergo scrutiny by IDEM and U.S. EPA since such emission factors are subject to extensive scientific peer review prior to being issued for industry use. (IPL)

Comment: There is a problem of few emission factors for trace HAP chemicals in manufacturing processes. (NSC)

Comment: A different approach to deal with low level emissions, or for pollutants where emission estimates are imprecise because of the lack of good emission data or emission factors, would be for the rule to allow a source to report some emissions in ranges. For some pollutants, reporting in ranges may be the only feasible means to report. (EL) (KI)

Response: IDEM agrees that emissions calculation methods for this draft rule are a concern and will continue to discuss the issue with interested stakeholders.

Comment: Requiring reporting of VOCs and HAPs would result in duplicative reporting and "double counting " of emissions. Some HAPs proposed for reporting, such as perchloroethytlene, would not likely be emitted by Title V or FESOP sources, but rather by area sources. (FC)

Comment: IDEM should clarify that any HAP that is also a VOC or particulate and which has been historically included in these reported emissions would be excluded from fee calculations. These HAPs should be excluded from the fee calculation by rule or the sources should be allowed to report them separately from the particulate or VOC emissions in which they have been previously included. (AEP)

Response: IDEM will subtract VOC HAPs and PM_{10} HAPs from the total VOC and PM_{10} emissions for purposes of billing.

Comment: It should be noted that a given affected source may not be capable of emitting all of the listed pollutants and therefore, emissions reporting should be limited to only those pollutants for which the affected source can be expected to emit and for which reliable emission factors exist to calculate emissions. (IPL)

Response: If a pollutant is below a *de minimis* level or not emitted at all, it does not have to be reported. IDEM will continue to discuss these issues with interested stake holders.

Comment: AEP does not believe that sources not regulated for a specific HAP should be required to report a HAP under this rule. While some sources are required to report various substances, for which they are not regulated under the TRI rules, many of these values are estimates or ranges. Such estimates that are permissible under the TRI rules are not generally useful in generating emission inventory grade data, but are sufficient for facilities reporting substances for which they are not regulated under the TRI program. (AEP)

Response: IDEM will continue to discuss the issue of specific HAPs that sources will be required to report.

Comment: 326 IAC 2-6-4(a) should be revised as follow: "A source subject to this rule shall report <u>actual</u> emissions of the following pollutants emitted by that source in the emission statement <u>where applicable</u>:". (IPL)

Response: The word "actual" will be inserted in 326 IAC 2-6-4(a), but IDEM is not sure about what is meant by "where applicable" and has not included it.

Comment: The reference in 326 IAC 2-6-3(e) to subdivision "4(c)(1)" is incorrect. It should be to subdivision "4(b)(1)". (GEP)

Response: The draft rule has been revised and the appropriate reference has been inserted.

Comment: The phrase "those 326 IAC 2-7 sources" in the second sentence of 326 IAC 2-6-3(a) is not needed and should be deleted. (EL) (KI)

Response: Title V and FESOP sources in nonattainment and maintenance counties are required to submit an emission statement annually. However, that subsection has been revised for clarity.

Comment: The term "regulated" should be inserted between "following" and "pollutants" in the first line of 326 IAC 2-6-4(a). (EL) (KI)

Response: All of the pollutants included for reporting are listed in the Clean Air Act but may not yet have standards promulgated for them. The department would like to work with interested parties to develop language for this section.

Comment: The last sentence of 326 IAC 2-6-4(b)(1) should be deleted since this provision is reiterated in 326 IAC 2-6-5. (EL) (KI)

Response: 326 IAC 2-6-4(b)(1) gives specific information about the certification and 326 IAC 2-6-5 states that failure to comply with any provision of the rule is a violation. IDEM does not believe these two parts of the rule are the same.

Comment: 326 IAC 2-6-4(b)(5)(A) should include clarifying language about downtime to indicate the equipment downtime and also the time the process is not operating. (NS)

Response: The definition of "downtime" has been reworded.

Comment: 326 IAC 2-6-4(a)(4) should be modified to be consistent with the definition of PM_{10} (particulate matter less than or equal to ten (10) microns in diameter). (NS)

Response: The draft rule has been changed to include "or equal to".

Comment: The footnote to the list of sixty four (64) pollutants is vague and ambiguous. To clarify this footnote, GE suggests the language be revised to read: "The following applies to the listings that contain the word 'compound'. Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (for example, antimony or arsenic) as part of that chemical's structure." (GEP)

Response: IDEM agrees and the draft rule has been changed.

Comment: The reporting should be based on emissions from stacks, not from processes or emission units. 326 IAC 2-6-4(b)(3) should be changed to read "Operating data, to include for each stack the following:" 326 IAC 2-6-4(b)(3)(G) should be changed to read "Annual fuel or process weight and units." The first sentence of 326 IAC 2-6-4(b)(5)(A) should read "The estimated actual emission of all pollutants listed in subsection (a) at the stack level in tons per year." (BSC) (ECC) (GCC) (KFG) (KTC)

Response: IDEM disagrees. Information is entered from the emission process level and the data processing system summarizes stack emissions.

Comment: In regard to clause 326 IAC 2-6-4(b)(5)(A), IPL requests that IDEM provide guidance on how to calculate actual emissions of applicable pollutants for unit malfunctions, start-up and shutdown operations, fugitive emissions, and unit downtime since it is not clear how pollutant emissions for such activities should be calculated for a given source category. (IPL)

Response: The Department will assist in calculating emissions for unit malfunctions, start-ups and shutdown operations, fugitive emissions, and unit downtime.

Comment: Clause 326 IAC 2-6-4(b)(5)(B) indicates that emissions of VOC and PM_{10} shall be reported as total VOC or PM_{10} emissions. IPL interprets this requirement to include both solid and condensable fractions of PM_{10} emissions. IPL requests that IDEM confirm this understanding. (IPL)

Response: IDEM agrees with this interpretation.

Comment: IPL understands that the "stack gas exit temperature" listed in clause 326 IAC 2-6-4(b)(4)(D) has units of degrees Fahrenheit and should be reflected in the rule as such. (IPL)

Response: IDEM agrees and the draft rule has been changed.

Comment: IPL recommends that the "plume height" parameter listed in clause 326 IAC 2-6-4(b)(4)(B) should be deleted since that parameter is not really a primary stack parameter, but a function of stack height, stack exit diameter, stack volumetric flow rate, and stack gas exit temperature. (IPL)

Response: IDEM agrees and "plume height" has been deleted from 326 IAC 2-6-4(b)(4)(B).

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On April 12, 2001, the air pollution control board conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 2-6. Comments were made by the following parties:

BP Amoco Oil, BP
Citizens Gas and Coke Utility, CGCU
Citizens Thermal Energy, CTE
Eli Lilly and Company, ELC
General Electric Company, GE

Improving Kids Environment, IKE
Indiana Cast Metals Association, INCMA
Indiana Chamber of Commerce, ICC
Indiana Manufacturers Association, IMA
Indiana Petroleum Council, IPC
Indianapolis Coke, IC
Jim Hauck, JH
Milestone Contractors, L.P., MCLP
Monaco Coach Corporation, MCC
Stephen Loeschner, SL
Utilimaster Corporation, UC

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

Comment: Quality information is a critical tool to sound decision making. It is also essential to fulfill the public's right to know about the air emissions in their community. This draft rule fills serious gaps in the current regulations in a reasonable manner that balances the potential burden of the rule without compromising the quality of the information. (IKE) (SL)

Response: IDEM agrees that this information is valuable and is attempting to balance the needs of obtaining information necessary for establishing good public health policy with reporting requirements that can be reasonably met by industry.

Comment: The Board needs to contemplate whether or not to mandate a broad and extensive reporting scheme that becomes a regulatory compliance obligation for about fifteen hundred (1500) sources in the state on a regular basis. About five hundred (500) FESOP sources would report every three years and about one thousand (1000) Title V sources would report annually. It is a broad expansion of the program. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: While the number of pollutants to be reported will increase, IDEM does not agree that the number of sources affected by the proposed rule would expand significantly because the proposed rule would exempt about three hundred (300) small sources. IDEM has tried to draft the rule so that the pollutants to be reported, the level to be reported and the sources affected are consistent with the objectives of this rulemaking. We recognize the concerns raised and are currently evaluating ways to simplify reporting for sources newly affected by the emission reporting requirements.

Comment: IDEM should initiate a coherent work group to try to work through the issues of the draft emission reporting rule. (ICMA)

Comment: IDEM should sit down with interested stakeholders to work out the remaining issues with the rule. (MCC)

Comment: IDEM staff has extended extra efforts to inform the public and the regulated community about the rule and engage them in the process of refining the rule. (IKE) (SL)

Comment: The timing of public meetings has been backwards. There were no external discussions with interested stakeholders before the draft rule was published on February 1, 2001. By that time, IDEM already knew exactly what it wanted and had already committed policies and concepts to rule language. We do not think that is the appropriate way to conduct a rulemaking with a significant change in public policy. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: IDEM is aware that this rulemaking raises substantive policy issues that warrant discussion and has held meetings in Indianapolis and Goshen and will be meeting with interested parties concerning this rule. IDEM will hold additional meetings, that all interested parties may attend, and will be available to meet individually with businesses and the public prior to taking the proposed rule to the board with a recommendation to final adopt.

Comment: The sunset legislation should not be the reason for this draft rule, which is substantially different than the current rule, being on a fast track. (BP) (IPC) (JH)

Comment: We have not received responses to the public comments that were submitted in March. There is not enough foresight and enough thought being given to this draft rule. It is being rushed through the rulemaking process. (MCLP)

Comment: The sunset rule should not be used as an excuse to rush this rule through without adequately addressing the concerns and issues of the regulated community. IDEM has not addressed written comments and there has been no fair negotiations or exchange of information. (MCC)

Comment: The First Notice of Comment Period was published on November 1, 1997 and the Second Notice of Comment Period was published on February 1, 2001. During this time, there were no public meetings or workshops to discuss specific issues with interested parties. From February 1, 2001 to final adoption on August 1, 2001, the rulemaking process speeds up and there is not enough time for discussions of the policy questions. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCC) (MCLP) (UC)

Response: The requirements of the sunset law were a reality not an excuse. With the passage of House Enrolled Act No. 2147, IDEM and interested parties have more time to work through the policy issues. The responses to comments received during the second comment period are included with the April 12, 2001 board packet materials and are also included with this proposed rule.

Comment: IDEM should first; understand what is the purpose of the information being requested; second, identify the appropriate, accurate detail and timeliness of that information; and third, suggest alternative, less burdensome ways for IDEM to obtain the proper

information in a fair manner. (ICC)

Response: There are numerous uses for the information and data required to be submitted to IDEM by the emission reporting rule. The data currently are used for public information, Title V billing, analysis of long-term air quality trends, evaluation of effectiveness of control strategies by comparison to monitored data, determination of types of processes emitting pollutants of interest, and air quality modeling for several types of permits and state implementation plans (SIPs). Our knowledge of the concentrations and effects of toxic pollutants is limited at this time. The information collected in the future will be used as above, with additional cumulative exposure modeling, risk analysis, and comparisons to newly installed and future toxic monitoring sites.

As an example of the uses for data, the information currently being collected for criteria pollutants is used for SIP and permit modeling. In the last three to four years, modeling has been performed to support permit conditions for major sources in at least twenty-five counties, many of which require inclusion of information from outside counties in the areas of influence. There has been state-wide modeling of all sources for the NO_x rule. It appears that there will again be state-wide modeling required for the 8-hour ozone and regional haze/fine particulate standards. All of these projects require stack parameter, locational, and process information to produce meaningful results. Indiana data are also used by other states and the U.S. EPA for similar projects.

IDEM is open to alternative suggestions for collecting this information, including a provision that sources provide information upon request to the department rather than on a regular schedule. In the above example, while the locational and stack information is necessary, it is only required to be submitted once, as long as the processes and physical configurations remain the same. For yearly reports, only the production information would need to be updated. The software performs the calculations that provide updated emissions for yearly trends analysis and billing, among other uses.

Comment: What are the benefits to the environment and the citizens of Indiana from this rule? (MCC) (UC)

Comment: This draft rule will impose burdensome, expensive and unnecessary demands on industry, with little, if any, environmental benefits. (ICC)

Response: IDEM is charged with protecting the public health and the environment. That effort can only begin with an accurate understanding of what pollutants are in the ambient air and which sources are emitting them. Among the ways it can do this is to collect information regarding emissions to provide reports to the public or for comparing with monitored data. IDEM recently started the toxics monitoring program; this information will be used to better understand causes of any high toxics concentrations.

An example of the need for the level of detail required in this draft rule is the NO_x SIP Call rule. This could be one of the most beneficial air pollution control rules created to protect public health in many years. Few people envisioned the need for NO_x emissions data for the NO_x SIP Call rule when the emission reporting rule was adopted. The resulting stack and locational information that was collected for criteria pollutants enabled agencies across the U.S. to model the problem and propose solutions. The process information allowed the regulating agencies to determine important sources of pollution and ensured the ability to estimate cost effectiveness of various controls for specific processes. These types of analyses will continue to be performed for toxic compounds, the new 8-hour ozone standard, and fine particulate. IDEM welcomes alternative specific suggestions for ways to collect this information that would be less burdensome to affected sources.

Comment: EPA has been establishing hazardous air pollutants (HAPs) requirements for many industries under the maximum achievable control technology (MACT) program, which regulates the highest priority sources, thus IDEM is looking to regulate the sources that are left. IDEM could use other data to identify the emissions that the MACT rules are not hitting. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: IDEM agrees that U.S. EPA is responsible for developing federal standards for all major sources of HAPs. However, to date, the federal toxics program, as amended in the 1990 Clean Air Act, has not prioritized sources based on the pollutants that they emit but rather on the ability to develop a technology-based standard. The data collected through HAP emission reporting will allow Indiana to identify gaps in the federal program that need to be addressed to adequately protect the public health and environment of all Indiana citizens. Because the MACT standards themselves are based upon old and sometimes inaccurate data, it is clear that U.S. EPA has not identified other sources of data, including Toxic Release Inventory (TRI), to fill in the information gaps. Process-level emission reporting by sources of the pollutants is the most reliable mechanism for collecting this data.

Comment: The rule should be extended to incorporate, at a minimum, the one hundred eighty-eight (188) chemicals that are listed in the Clean Air Act Amendments of 1990. (SL)

Comment: The Toxic Release Inventory (TRI) does not combine the base metal with the metal compounds because the hazards of the base metal are quite different. Where TRI makes a distinction, so should the emission reporting rule. (IKE) (SL)

Comment: Since the mid 1980's, new sources have had to evaluate their emissions of particularly hazardous, non-criteria pollutants that are listed in 326 IAC 2-2-1(w). Most of these non-criteria pollutants are included in the list to report, but asbestos, fluorides, (sodium fluoride and sodium aluminum fluoride), sulfuric acid mist, and hydrogen sulfide should be added. (IKE) (SL)

Response: While including all one hundred eighty-eight (188) hazardous air pollutants, as identified in the Clean Air Act, would make rule development simpler, IDEM has opted to identify a subset of those HAPs that are most important to the public health and environment of Indiana citizens. The methodologies for establishing the list of pollutants added to the proposed rule have been previously discussed (See 24 IR 1462.) IDEM agrees to review the pollutants specifically regulated under the Prevention of

Significant Deterioration (PSD) program and whether the base metals should be listed separately from the metal compounds consistent with TRI.

Comment: The rule is too vague about the basis upon which an authorized individual is allowed to make an estimate. IDEM should consider using the TRI "best estimate" requirement. (IKE) (SL)

Comment: Do we have to use preapproved methods from IDEM and EPA to calculate emissions data or can we use methods that we think are the best technique? (BP) (CGCU) (CTE) (ELC) (GE) (IC) (ICMA) (IMA) (IPC) (JH) (MCLP)

Comment: We question the validity of inventory data based on poorly rated available emissions factors. IDEM should develop a policy which addresses the use of emission factor data related to poorly rated emission factors. According to the draft rule, continuous emissions monitoring (CEM) data which is site specific must be accepted by IDEM and EPA. This acceptance would add additional and unnecessary administrative burdens to both the regulated sources and to the agency. (CGCU) (CTE) (IC)

Response: There are a variety of contexts in which emissions calculations require the use of emission factors. Through AP-42 and other published sources, U.S. EPA has provided standard factors for many industrial sources. The use of standard factors, where they are appropriate, is desirable because it enhances the consistency of data from source to source and across the country. Both U.S. EPA and IDEM recognize, however, that in some cases standard factors are not adequate. According to EPA guidance, (Introduction, AP-42, 1995) "The three principal methods for estimating emissions are source tests, material balances, and emission factors. If none of these three methods can be employed to estimate emissions for a specific process, an approximation or engineering estimate based on available process, physical, chemical, and emission knowledge may be used." IDEM will continue to follow this guidance, as it currently does, and will modify the rule language to clarify the use of emissions factors. IDEM has also developed a nonrule policy document, Air-014-NPD, that includes procedures and validation requirements for approval of alternate emission factors.

Comment: The detailed emission unit reporting in the draft rule should be kept, but many operations have hundreds of small emission units. To reduce the reporting burden without sacrificing information, IDEM might consider methods to allow combination of small, related units. (IKE) (SL)

Comment: One provision of the draft rule that is a move in the right direction, is the exclusion of insignificant and trivial activities. However, by requesting detailed stack information for each process, which means we can no longer group similar processes with identical emissions, the IDEM totally negates any gains made. (UC)

Response: The draft language does not yet allow for such combining, but IDEM is reviewing language to clarify any confusion about combining like emission units, processes, and stacks and is considering defining an "emission reporting group" for this purpose.

Comment: A *de minimis* for reporting should be included in the rule. The definition of insignificant sources in the Title V rule for laboratories and similar sources might form a basis of a *de minimis*. (IKE) (SL)

Comment: A twenty (20) pound per year *de minimis* level is simply ludicrous. This is equivalent to less than one hundredths percent (0.01%) of a major source's emissions or one tenth percent (0.1%) for a HAP major source. IDEM has provided no justification for such an insignificant reporting threshold and seems to give no consideration to the burden it will place on industry. Consideration should be given to establishing a *de minimis* reporting level of five tons (consistent with the TRI reporting threshold of ten thousand (10,000) pounds) unless there is a compelling, demonstrated health-based justification for a lower reporting level. (MCC)

Comment: A *de minimis* reporting level of twenty pounds per year is too low. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: IDEM received comments during the second comment period that included recommendations for establishing *de minimis* levels ranging from twenty thousand (20,000) pounds to twenty (20) pounds. IDEM proposed twenty (20) pounds as the *de minimis* level for all pollutants except dioxin, mercury and lead (which had no *de minimis* levels) in the draft rule. The twenty (20) pound *de minimis* level was chosen for the following reasons: many of the listed HAPs are known or possible carcinogens, or are persistent, bioaccumulative toxic chemicals that can have significant impacts on human health at extremely low levels and therefore warrant a low *de minimis* reporting level. Certain companies commented that twenty (20) pounds was a reasonable *de minimis* level; and twenty (20) pounds is consistent with IDEM's current policy for reporting of criteria pollutants. IDEM welcomes comments on the issue of establishing higher *de minimis* levels for certain HAPs. Specific feedback would be helpful on which HAPs need higher *de minimis* levels, the basis for why the *de minimis* levels should be raised, what the new *de minimis* levels should be, and how the proposed levels were derived.

Comment: Having just finished with our company's emission statement yesterday, the details and workings of this rule are very fresh in my mind. Next week, I will complete our first quarter compliance report required by our Part 70 permit. While this report only covers the first quarter emissions, essentially I am supplying IDEM with identical information twice in the span of one week. The IDEM needs to produce hard evidence as to why the information requested cannot be extrapolated from existing files and other reporting requirements. With a twelve (12) month rolling average provision, a source's fourth quarter air permit compliance report will provide all necessary information related to emission amounts and can be used for fee billing. (UC)

Comment: FESOP sources submit periodic compliance reports and IDEM can take that data and convert it to emissions information just as easily as a source would. The FESOP information that IDEM has in the permit applications and compliance reports can be converted by IDEM to emission estimates. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: IDEM agrees that the rule should avoid duplication of efforts. However, in the case of many FESOPs, the reporting requirements do not clearly translate to emissions information, and IDEM is currently evaluating ways to simplify reporting for FESOP sources.

While IDEM understands the commenter's frustration with Title V reporting, a source has the information readily available and should have little difficulty in complying with the annual emission statement requirement because the quarterly compliance information has already been assembled.

Comment: Recognizing that the level of detail may be a concern, IDEM should adopt the amended draft rule, and then continue to work to refine the rule language. (IKE) (SL)

Response: IDEM will continue to work with the affected sources on the best way to gather the emissions information.

Comment: IDEM should readopt the existing rule. There are some flaws with the way that the process has moved, and there are significant concerns about the technical aspects of the draft rule. (BP) (ELC) (GE) (ICC) (ICMA) (IMA) (IPC) (JH) (MCC) (MCLP) (UC)

Response: IDEM does not agree that the existing rule should be readopted. With additional discussion among interested parties, IDEM believes that the rule can be improved in a number of respects and will continue to work toward that end.

Comment: There is no federal mandate to gather the information in the draft rule. IDEM should wait until U.S. EPA final adopts the Consolidated Emissions Reporting Rule (CERR). (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: It is true that there is not a specific federal mandate to collect HAP information, but the Clean Air Act and federal regulations require the reporting of certain criteria pollutants. The purpose of the proposed CERR is to improve and simplify emissions reporting by states to U.S. EPA. However, it is uncertain when U.S. EPA will complete the CERR or if toxics reporting will be included. If a federal rule is ultimately finalized that contains requirements that go beyond or are inconsistent with Indiana's rule, IDEM would start the process to consider any appropriate or necessary amendments to the rule.

Comment: A large issue with the amended rule is that requesting this information to this level of detail places an overwhelming burden on those companies affected, without this additional information serving the IDEM or the citizen's of Indiana. Without this rule even existing, IDEM currently has between its permit files, air permit reporting requirements, and Toxic Release Inventory (TRI) reports, all the significant information they are requesting via the emission statement. (UC)

Comment: The process level and stack information required by the draft rule is more detail than necessary and is not needed by the public or IDEM programs. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCC) (MCLP)

Response: While TRI, permits, and compliance reports contain certain information and serve their own purposes, they do not allow for the development of emission inventories as do process level estimates of actual emissions. TRI and compliance reports are source-wide emission estimates, making it difficult to assign these emissions to processes for policy and regulatory analysis. Permits are based on potential emissions. These are estimates that are rarely representative of the actual emissions from the source. Only with process level data can IDEM make sound policy decisions based on real world information.

Comment: Stack information and facility and emission unit operating information, as requested in the draft rule, is already sitting in the IDEM files on all emission sources at a permitted facility. The emission statement rule is duplicative of other information submitted to IDEM and should be eliminated. (UC)

Comment: Title V permit applications have given IDEM a significant amount of detail about stack information which could be used for modeling. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Comment: We offered written comments about using generic terms instead of stack specific terms. IDEM's response was inadequate. It has been extremely frustrating to work with IDEM on the development of different, simpler approaches in which they could obtain the desired information. How stack information has any relevancy to public access to information, program effectiveness evaluations, or fee billing, is hard to see. (MCC)

Response: Many of the affected sources have already submitted stack information using the STEPS software. Once in the database, there is no need to change or re-enter this information on a yearly basis. This information will continue to be carried over as the program is expanded to new pollutants. New stack and process information will need to be added if the new pollutants to be reported are generated from processes not previously included in emission statements.

As noted in earlier responses, the requested information is used for a variety of programs, not just billing and IDEM is attempting to determine how to combine reports from companies so that the various programs' needs are met while reducing the reporting burden to the companies. The information supplied by sources in permit applications may not accurately describe what actually was built at the source. IDEM welcomes specific ideas for combining or eliminating duplicative or similar reports.

Although generic terms instead of stack specific terms are useful for some modeling protocols, IDEM believes that more specific information is needed to meet the stated goals of collecting HAP emissions information.

Comment: Major sources contribute about thirty percent (30%) of the hazardous air pollutant emissions in Indiana, and those are the ones who would be the primary reporters under the draft rule. So, seventy percent (70%) of the hazardous air pollutant emissions in Indiana are not even addressed or collected under this rulemaking. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: The majority of HAP emissions, not just in Indiana but throughout the country, come from mobile sources. However,

the contributions from point sources is not insignificant. Understanding point source contributions and effective emission reduction strategies are important. Reasonably accurate methodologies exist to estimate emissions from mobile sources and small stationary sources. Major sources, by definition, emit at levels greater than ten (10) tons per year or more of HAP. Many major sources in Indiana emit HAPs at levels greater than one thousand (1,000) tons per year. IDEM believes that having good information on the processes responsible for such large contributions of HAPs is sound public health and environmental policy.

Comment: Hazardous air pollutants (HAP), which are being requested as a mandatory inclusion on the emission statement, are covered by Toxic Release Inventory (TRI) reports. (UC)

Comment: IDEM's proposal to require additional information be reported on HAP is not warranted. Most of the information being requested is already provided to IDEM in TRI reports. The entire list of the additional fifty eight (58) chemicals should be deleted from the reporting rule. (MCC)

Comment: Many of the objectives that IDEM has for this draft rule, such as planning and evaluation of other rules, can be satisfied by existing data supplies, primarily the TRI program. The information submitted in the TRI reports can be extracted many ways such as significant emitters of a particular pollutant and trends. IDEM could ask for additional process level information if needed rather than a year to year reporting requirement. Another source of information on the Internet is the National Air Toxics Assessment (NATA) database. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Comment: As a user of the information, the TRI information is limiting because it is so general, it is facility wide, there is a relatively high threshold, and there are a lot of gaps in the information that limits its usefulness. Municipalities, nonmanufacturers, and nonutilities do not report even though they may be FESOP sources. (IKE) (SL)

Comment: In doing a bit of research for a citizens group concerning a steel mill, the TRI data could not be trusted. (SL)

Response: IDEM does not agree that TRI data adequately meets the public's or the department's needs. As stated by two commenters, TRI data has limited usefulness. U.S. EPA uses TRI data and state supplied information, if it exists, to develop the inputs for the NATA database. The NATA database contains U.S. EPA's modeled projected average annual concentrations for select HAPs at the county level. One of the reasons to collect additional HAP information in Indiana is to supplement the data used by U.S. EPA to model HAP concentrations.

Comment: Some companies, that are required to submit an emissions statement in the draft rule, are not subject to TRI reporting and have not developed this type of extensive emissions inventory. Sources not submitting a TRI report could be targeted for more information. We request that IDEM develop a targeted list of HAPs by source category that should be reported. Such a targeted list would serve to reduce the administrative burden on affected sources. (CGCU) (CTE) (IC)

Response: IDEM agrees that not every company affected by the draft rule is subject to TRI reporting. One purpose of the draft rule is to collect information that cannot be derived from TRI. IDEM understands the commenters' concerns about reducing the number of HAPs that need to be reported. Also, the rule does establish a *de minimis* reporting threshold. Therefore, a source would not have to report a pollutant if its emissions fall below the *de minimis* reporting threshold consistent with insignificant activity levels. Many companies will not have to report any additional pollutants.

Comment: As the economy moves more and more to a global setting, Indiana businesses are struggling to compete. The cost of this rule is still being evaluated. Our emission report takes approximately sixty (60) hours to complete. For companies such as Utilimaster, who are large enough to have an environmental person, the cost is absorbed without great difficulty. These emission statements annually cost small and medium size businesses roughly two thousand dollars ($2,000) to three thousand dollars ($3,000) to have completed by an outside consultant. With a profit margin of two percent (2%), a business must them increase sales by one hundred thousand dollars ($100,000) to one hundred fifty thousand dollars ($150,000) to simply cover the cost of this reporting requirement. Larger companies will need thirty percent (30%) to forty percent (40%) more time to complete the statement. These same companies will then again have to increase sales by forty thousand dollars ($40,000) to sixty thousand dollars ($60,000) as a direct result of the amendments to this rule. (UC)

Comment: The cost of reporting emission information required by the draft rule will increase significantly. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Comment: Lilly has estimated at least a tenfold increase in emission reporting costs with the draft rule. The cost estimate for one of our sites to comply with the current rule is ten (10) to twenty (20) thousand dollars a year. A tenfold increase would be one hundred (100) to two hundred thousand dollars for one site, and Lilly has several sites around the state. (ELC)

Response: IDEM appreciates the cost information provided by these comments and will use these cost estimates, with other information, as it evaluates the financial impact of this rulemaking on the regulated community.

Comment: Early reporting places a significant burden on companies and should not be required for frivolous and unsubstantiated reasons. Elkhart County was identified as out of attainment for ozone because of its proximity to St. Joseph County. Since that time, Elkhart County has obtained its own sampler and it has shown continuous compliance with the ozone standard. Elkhart County should be given relief from early reporting and lower reporting thresholds. (MCC)

Response: Elkhart and St. Joseph Counties were designated nonattainment for ozone in 1978 and redesignated to attainment in

1994. The redesignation became possible due to no violation of the ozone standard at any of the monitors in the two counties for three years, adoption of a maintenance plan for ozone attainment in Elkhart and St. Joseph Counties, implementation of Reasonably Available Control Technologies, and emissions reductions resulting from the Federal Motor Vehicle Control Program. The Census Bureau currently has Elkhart and St Joseph Counties listed as separate metropolitan statistical areas, but each county has a substantial urban area with Elkhart County projected to have the biggest percentage increase in population. More people travel into Elkhart County to work than leave to work in other areas. Also, it is important to recognize that emissions from Elkhart County affect the Cassopolis, Michigan monitoring site and exceedances of the eight hour ozone standard at the site require that emissions from Elkhart County be closely tracked.

Comment: IDEM's proposal to extend reporting requirements for all companies with potential emissions over ten (10) tons is not warranted. All reporting thresholds should be set at one hundred (100) tons per year, both for attainment and maintenance areas. (MCC)

Response: The draft rule includes language to raise the reporting threshold for nitrogen oxides (NO_x) and volatile organic compounds (VOC) to twenty-five tons for maintenance counties and to keep the current ten (10) tons reporting threshold for nonattainment counties. Reporting thresholds of one hundred (100) tons per year would not be consistent with Section 182(3)(B)(ii) of the Clean Air Act Amendments of 1990. However, IDEM proposes to exempt Source Specific Operating Agreements (SSOA), permits by rule, and registrations from the emission statement reporting requirements.

Comment: IDEM amended the draft rule to include provisions suggested by a number of commenters that they should and could request additional information from individual sources as deemed appropriate by specific circumstances or concerns. However, this suggestion was provided as an alternative to the level of detail in the draft rule. IDEM accepts that they are able to request additional information if needed, but ignores the primary point that they should not require this burdensome information when a need is not present. (MCC)

Response: IDEM understands that the suggested language was intended to be an alternative to regular required reporting, but believes there is merit in having this type of provision to allow discrete information inquiries. IDEM believes at the specified level of detail that a real need for the requested emissions information exists and has discussed the need in earlier responses. IDEM will continue to work with interested persons on the level of detail established in the rule.

Comment: This draft rule will expand the applicability to approximately one thousand two hundred (1,200) sources. Does IDEM have the resources to manage the additional information? (BP) (ELC) (GE) (ICC) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: Currently, more than one thousand three hundred (1,300) sources report emissions annually. Under the proposed rule, approximately one thousand two hundred (1,200) sources would report during any given year. This is due in part to the exemptions given to smaller sources in the applicability of the proposed and only requiring FESOPs, located in attainment counties, to report every three years. IDEM currently has the resources to manage the proposed rule.

Comment: By law, emissions information is not considered confidential. Some of the information that IDEM is requiring with the draft rule could be considered trade secrets. (BP) (ELC) (GE) (ICMA) (IMA) (IPC) (JH) (MCLP)

Response: Although IC 13-14-11-1 specifically excludes emission data from the trade secrets exemption to public availability of records, IDEM encourages those entities who believe any required information is a trade secret to petition the commissioner to treat such information confidentially pursuant to state law. By submitting a request to the commissioner, a finding will be made and the information may be considered, treated and protected, all or in part, as confidential.

Comment: "Maximum design capacity" needs to be more clearly defined. (IKE) (SL)

Response: IDEM agrees and a clearer definition will be written.

Comment: Why is "maximum design rate" limited to the fuel use? (IKE) (SL)

Response: A decision was made to limit reporting of this parameter to combustion sources, because it is being more readily available for this type of process.

326 IAC 2-6-1 **326 IAC 2-6-4**
326 IAC 2-6-2 **326 IAC 2-6-5**
326 IAC 2-6-3

SECTION 1. 326 IAC 2-6-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-1 Applicability of rule
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to all sources located in the following counties ~~which~~ **that** have the potential to emit volatile organic

compounds (VOC) or oxides of nitrogen (NO_x) into the ambient air at levels equal to or greater than ten (10) tons per year **for counties identified in subdivision (1) and twenty five (25) tons per year for counties identified in subdivision (2):**

(1) ~~Clark.~~ **Counties designated as nonattainment of the national ambient air quality standard for ozone according to 40 CFR 81.315, Subpart C, Section 107, Attainment Status Designations, Indiana*.**

(2) ~~Elkhart.~~ **Counties with an approved maintenance plan redesignated to attainment of the national ambient air quality standard for ozone according to 40 CFR 52.777, Subpart P-Indiana, Control strategy: Photochemical oxidants (hydrocarbons)*.**

~~(3) Floyd.~~

~~(4) Lake.~~

~~(5) Marion.~~

~~(6) Porter.~~

~~(7) St. Joseph.~~

~~(8) Vanderburgh.~~

(b) This rule ~~also~~ applies to all sources not covered by subsection (a) ~~which have the potential to emit carbon monoxide (CO), volatile organic compounds (VOC), oxides of nitrogen (NO_x), particulate matter (PM_{10}), or sulfur dioxide (SO_2) into the ambient air at levels equal to or greater than one hundred (100) tons per year.~~ **that are required to have an operating permit under 326 IAC 2-7, Part 70 Permit Program.**

(c) This rule applies to all sources not covered by subsection (a) or (b) ~~which have the potential to emit lead into the ambient air at levels equal to or greater than five (5) tons per year.~~ **that have an operating permit under 326 IAC 2-8, Federally Enforceable State Operating Program.**

(d) ~~If any of the six (6) pollutants listed in subsections (b) and (c) are emitted by a source at levels equal to or greater than the cut-offs set in subsections (a) through (c), then any other emission of a named pollutant by that source must be included in the emission statement even if it is emitted at a level below the applicable cut-offs.~~ **Except for section 4(f) of this rule, this rule does not apply to sources that have any of the following:**

(1) A source specific operating agreement under 326 IAC 2-9.

(2) A permit by rule under 326 IAC 2-10 or 326 IAC 2-11.

(3) A registration under 326 IAC 2-5.5.

***Copies of the Code of Federal Regulations referenced in this article are incorporated by reference and available for copying from the Office of Air Quality, Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana or may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20201.** *(Air Pollution Control Board; 326 IAC 2-6-1; filed Nov 12, 1993, 4:00 p.m.: 17 IR 732)*

SECTION 2. 326 IAC 2-6-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-2 Definitions

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

Affected: IC 13-15; IC 13-17

Sec. 2. **For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2,** the following definitions apply throughout this rule **unless expressly stated otherwise:**

(1) "Actual emissions" means the actual rate of emissions **in tons per year** of ~~a~~ **any** pollutant from an emissions unit for the calendar year. ~~or seasonal period~~.

(2) "Annual process rate" means the actual or estimated annual fuel, process, or solid waste operating rate in ~~an emission statement operating~~ **a calendar** year.

~~(3) "Certifying individual" means the individual responsible for the completion and certification of the emission statement, such as an officer of the company or an employee, and who will take legal responsibility for the accuracy of the emission statement.~~

(3) "Authorized individual" has the meaning set forth in 326 IAC 2-1.1-1(1).

(4) "Capture efficiency" means the percent of the total emissions captured and routed to a control device.

~~(4)~~ **(5)** "Control efficiency" means the ~~actual emission control efficiency achieved by the applicable emission control device(s) during the emission statement operating year.~~ **percent of the emissions routed to a control device that are destroyed or**

captured by the control device. The control efficiency ~~shall reflect~~ **includes** control equipment downtime, ~~operation with diminished effectiveness,~~ and any other malfunctions that occurred while the emission ~~source(s)~~ **source or sources** were in operation. If the actual control efficiency during the ~~emission statement operating~~ **calendar** year is unknown or cannot reasonably be predicted from available data, then the efficiency designed by the manufacturer may be used. ~~When the actual control efficiency is unknown, it should be clearly indicated that the designed efficiency, and not the actual efficiency, is being reported. Control efficiency is a measure of how well the device controls emissions; it should not be confused with capture efficiency which reflects how much of the pollutant is routed to the control device.~~

~~(5)~~ **(6)** "Control equipment identification code" means the ~~Aerometric Information Retrieval System (AIRS) or AIRS Facility Subsystem (AFS)~~ code ~~which~~ **provided by the department that** defines the equipment (such as an incinerator or carbon adsorber) used to reduce, by destruction or removal, the amount of air pollutants in an air stream prior to discharge to the ambient air.

~~(6)~~ **(7)** "Downtime" means the period of time when the control device is not operational during the corresponding period of the process **and the process it is controlling is in operation**.

~~(7)~~ **(8)** "Emission factor" means an estimate of the rate at which a pollutant is released to the atmosphere as the result of some activity, divided by the rate of that activity, such as production rate or throughput.

~~(8) "Emission statement operating year" means the twelve (12) consecutive month time period starting December 1 and ending November 30 for those sources that fall within section 1(a) of this rule and the twelve (12) consecutive month period starting January 1 and ending December 31 for those sources that fall within section 1(b) and 1(c) of this rule.~~

(9) "Emissions unit" has the meaning set forth in 326 IAC 1-2-23.5.

~~(9)~~ **(10)** "Estimated emissions method code" means a ~~one (1) position AIRS or AFS~~ code ~~which~~ **provided by the department that** identifies the estimation technique used in the calculation of estimated emissions.

~~(10)~~ **(11)** "Fugitive emission" ~~means releases to the air that are not emitted through stacks, vents, ducts, pipes, or any other confined air stream, including fugitive equipment leaks, evaporative losses from surface impoundments, and releases from building ventilation systems.~~ **has the meaning set forth in 326 IAC 2-7-1(18).**

(12) "Maximum design capacity" means the nameplate capacity less any restrictions on the device due to operational design.

(13) "Maximum nameplate capacity" means the rated design capacity at one hundred percent (100%) operation, as determined by the manufacturer or determined by the owner of the equipment if unavailable from the manufacturer.

(14) "NAICS" means the North American Industry Classification System.

~~(11)~~ **(15)** "Oxides of nitrogen" or "NO_x" means ~~air pollution usage comprised of nitric~~ **all oxides of nitrogen, including, but not limited to, nitrogen** oxide and nitrogen dioxide, **but excluding nitrous oxide, collectively** expressed as molecular weight of nitrogen dioxide.

~~(12) "Peak ozone season" means that contiguous three (3) month period of the year from June through August.~~

~~(13)~~ **(16)** "Percentage annual throughput" means the ~~following:~~

~~(A) The weighted percent of yearly activity for those sources falling under section 1(a) of this rule for the following periods:~~

~~(i) December through February.~~

~~(ii) March through May.~~

~~(iii) June through August.~~

~~(iv) September through November.~~

~~The first season (December through February) will encompass two (2) calender years, such as December 1992 through February 1993.~~

~~(B) The~~ weighted percent of yearly activity ~~for those sources falling under section 1(b) and 1(c) of this rule~~ for the following periods:

~~(i)~~ **(A)** January through March.

~~(ii)~~ **(B)** April through June.

~~(iii)~~ **(C)** July through September.

~~(iv)~~ **(D)** October through December.

~~(14) "Plant" means the total facilities available for production or service.~~

~~(15) "Point" means a physical emission point or process such as a distinct building or a portion of a building within a plant that results in pollutant emissions. A unique identifier (point identification number) exists for each point within each facility in the AIRS database.~~

~~(16)~~ **(17)** "Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable.

(18) "Process" has the meaning set forth in 326 IAC 1-2-58.

~~(17)~~ **(19)** "Process rate" means a quantity per unit time of any raw material or process intermediate consumed, or product generated through the use of any equipment, source operation, or process. For a stationary internal combustion unit or any other fuel burning equipment, this term means the quantity of fuel burned per unit time.

~~(18) "Segment" means components of an emissions point or process, at the level that emissions are calculated. An example of a segment is a boiler burning #2 oil. A unique identifier (segment identification number) exists for each segment within each point and plant in the AIRS database. Each segment is also identified by a source classification code (SCC).~~

~~(19) "SIC code" means the standard industrial classification code. A series of codes devised by the Office of Management and Budget (OMB) to classify establishments according to the type of economic activity in which they are engaged.~~

(20) "Source" has the meaning set forth in 326 IAC 1-2-73.

~~(20)~~ **(21)** "Stack" ~~means a (smoke) stack or vent within a plant where emissions are introduced into the atmosphere. A unique identifier exists for each stack within each facility in the AIRS database.~~ **has the meaning set forth in 326 IAC 1-2-74.**

~~(21) "Stationary source" means any building, structure, facility, or installation which emits, or may emit, any air pollutant subject to regulation under IC 13-1-1.~~

~~(22) "Typical ozone season day" means a day typical of that period of the year during the peak ozone season.~~

(Air Pollution Control Board; 326 IAC 2-6-2; filed Nov 12, 1993, 4:00 p.m.: 17 IR 733)

SECTION 3. 326 IAC 2-6-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-3 Compliance schedule
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 3. (a) The owner or operator of ~~any facility falling within the applicability guidelines set forth in~~ **a source subject to** section 1 of this rule must ~~annually~~ submit an emission statement, **covering the calendar year of the previous year**, to the ~~commissioner. This submittal must be received by the department each year by April 15 for those sources covered by section 1(a) of this rule and by July 1 for those sources covered by section 1(b) and 1(c) of this rule. The submittal should cover the time period as defined in section 2(8) of this rule.~~ **department according to the following schedule:**

(1) Annually, by April 15 for sources subject to section 1(a) of this rule.
(2) Annually, by July 1 for sources subject to section 1(b) of this rule.
(3) Triennially, according to the schedule in subsection (b) for sources subject to section 1(c) of this rule.

(b) The county schedule for reporting under subsection (a)(3) is as follows:

(1) Starting in 2003, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Adams County.
(B) Allen County.
(C) Benton County.
(D) Carroll County.
(E) Cass County.
(F) Dekalb County.
(G) Elkhart County.
(H) Fulton County.
(I) Huntington County.
(J) Jasper County.
(K) Kosciusko County.
(L) LaGrange County.
(M) Lake County.
(N) LaPorte County.
(O) Marshall County.
(P) Miami County.
(Q) Newton County.
(R) Noble County.
(S) Porter County.

(T) Pulaski County.
(U) St. Joseph County.
(V) Starke County.
(W) Steuben County.
(X) Wabash County.
(Y) Wells County.
(Z) White County.
(AA) Whitley County.

(2) Starting in 2004, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Blackford County.
(B) Boone County.
(C) Clinton County.
(D) Delaware County.
(E) Fayette County.
(F) Fountain County.
(G) Grant County.
(H) Hamilton County.
(I) Hancock County.
(J) Hendricks County.
(K) Henry County.
(L) Howard County.
(M) Jay County.
(N) Johnson County.
(O) Madison County.
(P) Marion County.
(Q) Montgomery County.
(R) Morgan County.
(S) Parke County.
(T) Putnam County.
(U) Randolph County.
(V) Rush County.
(W) Shelby County.
(X) Tippecanoe County.
(Y) Tipton County.
(Z) Union County.
(AA) Warren County.
(BB) Wayne County.

(3) Starting in 2005, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Bartholomew County.
(B) Brown County.
(C) Clark County.
(D) Clay County.
(E) Crawford County.
(F) Daviess County.
(G) Dearborn County.
(H) Decatur County.
(I) Dubois County.
(J) Floyd County.
(K) Franklin County.
(L) Gibson County.
(M) Greene County.
(N) Harrison County.
(O) Jackson County.

(P) Jefferson County.
(Q) Jennings County.
(R) Knox County.
(S) Lawrence County.
(T) Martin County.
(U) Monroe County.
(V) Ohio County.
(W) Orange County.
(X) Owen County.
(Y) Perry County.
(Z) Pike County.
(AA) Posey County.
(BB) Ripley County.
(CC) Scott County.
(DD) Spencer County.
(EE) Sullivan County.
(FF) Switzerland County.
(GG) Vermillion County.
(HH) Vigo County.
(II) Warrick County.
(JJ) Washington County.

~~(b)~~ **(c) For sources subject to this rule, the department will provide** emission statement reporting forms, and **any available** guidance ~~will be provided by the department for applicable sources.~~ **documents.**

(d) Sources subject to this rule may submit their emission statement electronically. Sources that submit their emission statement electronically must submit to the department a certification in writing that complies with section 4(e)(1) of this rule by the submission deadline.

(e) Sources subject to reporting pollutants listed in section 4(a)(6) through 4(a)(64) are not required to report those pollutants until 2003 for the calendar year 2002. *(Air Pollution Control Board; 326 IAC 2-6-3; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734)*

SECTION 4. 326 IAC 2-6-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-4 Requirements
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 4. **(a) A source subject to this rule shall report actual emissions of the following pollutants emitted by that source in the emission statement:**
(1) Carbon monoxide (CO).
(2) Volatile organic compounds (VOC).
(3) Oxides of nitrogen (NO_x).
(4) Particulate matter less than or equal to ten (10) microns (PM_{10}).
(5) Sulfur dioxide (SO_2).
(6) Acetaldehyde (CAS Number 00075070).
(7) Acrolein (CAS Number 00107028).
(8) Acrylonitrile (CAS Number 00107131).
(9) Arsenic compounds (inorganic, including arsineTRI category code N020)*.
(10) Benzene (including from gasoline) (CAS Number 00071432).
(11) Beryllium compounds (TRI category code N050)*.
(12) 1,3-Butadiene (CAS Number 00106990).
(13) Cadmium compounds (TRI category code N078)*.
(14) Carbon tetrachloride (CAS Number 00056235).

(15) Carbonyl sulfide (CAS Number 00463581).
(16) Chlorine (CAS Number 07782505).
(17) Chloroform (CAS Number 00067663).
(18) Chromium compounds (TRI category code N090)*.
(19) Cobalt compounds (TRI category code N096)*.
(20) Coke oven emissions.
(21) 1,3-Dichloropropene (CAS Number 00542756).
(22) Diethanolamine (CAS Number 00111422).
(23) Ethylene dibromide (1,2-Dibromoethane) (CAS Number 00106934).
(24) Ethylene dichloride (1,2-Dichloroethane) (CAS Number 00107062).
(25) Ethylene oxide (CAS Number 00075218).
(26) Formaldehyde (CAS Number 00050000).
(27) Glycol ethers (includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-$(OCH_2CH_2)_n$-OR′ where: n=1, 2, or 3; R= alkyl or aryl groups; and R′ = R, H, or groups which, when removed, yield glycol ethers with the structure R-$(OCH_2CH_2)_n$-OH. Polymers are excluded from the glycol category.) (TRI category code N030).
(28) Hexachlorobenzene (CAS Number 118-74-1).
(29) Hexane (CAS Number 110-54-3).
(30) Hydrazine (CAS Number 00302012).
(31) Hydrochloric acid (CAS Number 07647010).
(32) Hydrogen fluoride (Hydrofluoric acid) (CAS Number 07664393).
(33) Lead compounds (TRI category code 420)*.
(34) Manganese compounds (TRI category code 450)*.
(35) Mercury compounds (TRI category code N458)*.
(36) Methanol (CAS Number 00067561).
(37) Methyl chloride (Chloromethane) (CAS Number 00074873).
(38) Methyl chloroform (1,1,1-Trichloroethane) (CAS 71-55-6).
(39) Methyl ethyl ketone (2-Butanone) (CAS Number 00078933).
(40) Methylene chloride (Dichloromethane) (CAS Number 00075092).
(41) 4-4′ Methylenediphenyl diisocyanate (MDI) (CAS Number 00101688).
(42) Naphthalene (CAS Number 00091203).
(43) Nickel compounds (TRI category code N495)*.
(44) Phenol (CAS Number 00108952).
(45) Phosphine (CAS Number 07803512).
(46) Polychlorinated biphenyls (Aroclors) (CAS Number 01336363).
(47) Polycyclic organic matter (POMs) (limited to, or refers to, products from incomplete combustion of organic compounds (or material) and pyrolysis processes having more than one (1) benzene ring, and that have a boiling point greater than or equal to one hundred (100) degrees Celsius).
(48) Propylene dichloride (1,2-Dichloropropane) (CAS Number 00078875).
(49) Propylene oxide (CAS Number 00075569).
(50) Quinoline (CAS Number 00091225).
(51) Styrene (CAS Number 00100425).
(52) 2,3,7,8-Tetrachlorodibenzo-p-dioxin (CAS Number 01746016).
(53) 1,1,2,2-Tetrachloroethane (CAS Number 00079345).
(54) Tetrachloroethylene (Perchloroethylene) (CAS Number 00127184).
(55) Toluene (CAS Number 00108883).
(56) 2,4-Toluene diisocyanate (CAS Number 00584849).
(57) Trichloroethylene (CAS Number 00079016).
(58) Triethylamine (CAS Number 00121448).
(59) Vinyl chloride (CAS Number 00075014).
(60) Vinylidene chloride (1,1-Dichloroethylene) (CAS Number 00075354).
(61) Xylenes (isomers and mixtures) (CAS Number 01330207).
(62) o-Xylene (CAS Number 00095476).
(63) m-Xylene (CAS Number 00108383).
(64) p-Xylene (CAS Number 00106423).

***Listings that contain the word "compounds", the following applies: unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (for example, antimony or arsenic) as part of that chemical's structure.**

(b) Notwithstanding subsection (a), sources that have an operating permit under 326 IAC 2-8 are required to report only those pollutants for which the source has enforceable limits.

(c) Emission reporting does not apply to insignificant or trivial activities as defined in 326 IAC 2-7-1(21) and 326 IAC 2-7-1(40).

(d) The reporting levels for pollutants listed under subsection (a) are that emissions shall be reported to the nearest one-hundredth (0.01) of a ton per year for each reportable pollutant under subsection (a) pursuant to subsection (e)(5)(D), except for dioxin, lead, and mercury, for which there is no minimum reporting level.

(e) The emission statement submitted by the source must contain, at a minimum, the following information:

(1) Certification ~~that the information contained in the statement is accurate to the best knowledge of the~~ **by an authorized** individual ~~certifying~~ **that** the **information in the emission** statement **is, based on a reasonable inquiry into records and persons responsible for the operation of the source, true, accurate and complete.** The certification shall include the full name, title, signature, date of signature, and telephone number of the ~~certifying individual. The certifying individual shall be employed by the company and shall take legal responsibility for the accuracy of the emission statement.~~ **person signing the certification. Failing to submit or submitting false information is a violation of this rule.**

(2) Source identification information, to include the following:

(A) Full name, physical location, and mailing address of the ~~facility.~~ **source.**

(B) Source **Universal Transverse Mercator (UTM) or** latitude and longitude.

(C) ~~SIC~~ **NAICS** code.

(3) Operating data, to include **for each emission unit** the following:

(A) Percent annual throughput by quarter **for each emission unit. The quarters are as follows:**

~~(i) For those sources falling within section 1(a) of this rule, the quarters are as follows:~~

~~(AA) December through February.~~

~~(BB) March through May.~~

~~(CC) June through August.~~

~~(DD) September through November.~~

~~(ii) For those sources falling within section 1(b) and 1(c) of this rule, the quarters are as follows:~~

~~(AA)~~ **(i)** January through March.

~~(BB)~~ **(ii)** April through June.

~~(CC)~~ **(iii)** July through September.

~~(DD)~~ **(iv)** October through December.

(B) ~~For sources falling within section 1(b) and 1(c) of this rule,~~ The days per week of the normal operating schedule.

(C) ~~For sources falling within within section 1(a) of this rule, the days per week on both the normal operating schedule and on a typical ozone season week, if different from the normal operating schedule. The peak ozone season for Indiana is June through August.~~ **The maximum design capacity for sources subject to 326 IAC 10-3 and 326 IAC 10-4.**

(D) Hours per day during the normal operating schedule.

(E) Hours per year during the normal operating schedule.

(F) ~~For sources falling under section 1(a) of this rule, the weeks of operation during the peak ozone season.~~ **Maximum nameplate capacity for sources subject to 326 IAC 10-3 and 326 IAC 10-4.**

(G) Annual fuel or process weight and units used **for each emission unit**.

(4) Except for sources operating under 326 IAC 2-8, stack parameters associated with each process, including the following:

(A) Stack identification.

(B) Stack height and diameter (in feet).

(C) Universal Transverse Mercator (UTM) or latitude and longitude coordinates.

(D) Exit gas temperature (degrees Fahrenheit).

(E) Exit gas flow rates in cubic feet per minute.

~~(4)~~ **(5)** Emissions information, to include the following:

(A) For sources falling within section 1(b) and 1(c) of this rule, the estimated actual ~~volatile organic compounds, oxides of nitrogen, carbon monoxide, sulfur dioxide, lead, or particulate matter (PM_{10})~~ emissions **of all pollutants listed in subsection**

(a) at the ~~segment~~ **process** level in tons per year. ~~for an annual emission rate.~~ Actual emission estimates must include upsets, downtime, and fugitive emissions and must follow an emission estimation method. **If control efficiencies are adjusted because of upsets, downtime, and malfunctions, information must be provided about how the control efficiencies are calculated.**
~~(B) For sources falling within section 1(a) of this rule, the estimated actual volatile organic compounds and oxides of nitrogen emissions at the segment level, in tons per year for an annual emission rate and pounds per day for a typical ozone season day. Actual emission estimates must include upsets, downtime, and fugitive emissions and must follow an emission estimation method.~~
~~(C) Aerometric information retrieval system (AIRS) facility subsystem estimated emissions method code.~~
(B) Emissions of VOC and PM_{10} shall be reported as total VOC or PM_{10} emissions.
~~(D)~~ **(C)** Calendar year for the emissions.
~~(E)~~ **(D)** Emission factor, **which is the ratio relating emissions of a specific pollutant to an activity or material throughput level.** If emissions ~~were~~ **are** calculated using an emission factor, the emission factor ~~must.~~ **shall be approved for use by the department by one (1) of the following methods:**
(i) ~~be one~~ **Emission factors** established in ~~the~~ AP-42, "Compilation of Air Pollutant Emission Factors", Volume 1, ~~Fourth~~ **Fifth** Edition, ~~September 1985*,~~ ~~or~~ **January 1995*.**
(ii) Emission factors established in the Factor Information Retrieval System, (FIRE) version 6.23, October, 2000*.
~~(ii) in the alternative, the source may substitute site~~ **(iii)** Site-specific values ~~other than those listed under item (i)~~ if these site specific values are accepted by the department and the U.S. EPA.
(iv) Other documentable methodology approved by the department and U.S. EPA.
~~(F)~~ **(E)** Source classification code (SCC) number.
~~(5)~~ **(6)** Control equipment information, to include the following:
(A) ~~Current primary and secondary AIRS facility subsystem control equipment identification codes.~~ **Capture efficiency.**
(B) Current control equipment efficiency percentage **unless a controlled emission factor is applied.** The actual efficiency should reflect the total control efficiency from all control equipment **for each process pollutant.** If the actual control efficiency is unavailable, the efficiency designed by the manufacturer may be used or the control efficiency limit imposed by a permit should be used.
~~(6) Process rate data, to include the following:~~
~~(A)~~ **(7)** Annual process rate (annual throughput) ~~The AIRS facility subsystem source classification code table prescribes the units to be used with each source classification code~~ for ~~annual fuel~~ **each** process. ~~reporting.~~
~~(B) For sources falling under section 1(a) of this rule, the peak ozone season daily process rate. The AIRS facility subsystem source classification code table prescribes the units to be used with each source classification code for peak ozone season daily process rate reporting.~~

(f) Nothing in this rule requires stack testing.

(g) The department may request emissions and emissions related information from any source permitted by the department for emissions inventory purposes when needed for air quality planning, air quality modeling, and state implementation plan development. A source that receives an information request pursuant to this subsection shall provide the information in writing to the department within sixty (60) days of receipt of the department's request.

*These documents are incorporated by reference and are available for review **and copying** at the Office of Air ~~Management,~~ **Quality,** Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana or for purchase from U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. *(Air Pollution Control Board; 326 IAC 2-6-4; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; errata, 17 IR 1009)*

SECTION 5. 326 IAC 2-6-5 IS ADDED TO READ AS FOLLOWS:

326 IAC 2-6-5 Violations
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 5. (a) Failure to comply with any provision of this rule, including failure to submit an emission statement by the applicable date, constitutes a violation of this rule.

(b) The United States Postal Service postmark is recognized as the submittal date. *(Air Pollution Control Board; 326 IAC 2-6-5)*

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on October 3, 2001 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 2-6.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Jean Beauchamp, Rule Development section, (317) 232-8424 or (800) 451-6027, press 0, and ask for 2-8424 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

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

Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015

or call (317) 233-1785. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Quality