

Document: IC 13-14-9 Notice

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TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#00-267(APCB)

AMENDMENTS RELATED TO TITLE V PROGRAM APPROVAL

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 326 IAC 2 as required by P.L. 112-2000 (HEA 1343). The IDEM will also consider comments regarding any amendments necessary to obtain U.S. EPA's approval of these rules under 40 CFR 70 (Title V operating permit program). IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 2.

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

This rulemaking concerns Indiana's rules that implement the Clean Air Act's Title V air operating permit program. It has two purposes. First, it will address issues U.S. EPA has identified need revision before that agency can give final approval to Indiana's program. The second purpose is to fulfill the requirements of Public Law 112-2000 (HEA 1343) concerning the addition of processes that emit very small amounts of air pollution at already existing sources.

Title V of the federal Clean Air Act as amended in 1990 requires states to develop a federally approvable permit program applicable to major sources of air pollution. In response to the requirements of Title V, Indiana has developed the Title V permit program. Indiana's air pollution control board adopted rules and the rules were submitted to U.S. EPA in 1994 for review. In 1995, U.S. EPA published final interim approval for Indiana's Title V rules (60 FR 57188). However, U.S. EPA identified some deficiencies that need to be addressed to receive full approval. In particular, the "insignificant activities" threshold values for sulfur dioxide (SO₂) and hazardous air pollutants need to be revised to meet federal requirements to receive full approval. The IDEM has submitted several revisions to the Title V rules intended to address other deficiencies identified in the U.S. EPA's 1995 interim approval. The U.S. EPA has not yet acted on any of these submittals. Other amendments necessary to obtain U.S. EPA's approval of these rules under 40 CFR 70 (Title V operating permit program) will also be addressed in this rulemaking if necessary.

Public Law 112-2000 addresses the ability of permitted sources to add specifically identified insignificant and trivial activities without amending the existing permit. The existing rules restrict this exemption to those activities with the potential to emit regulated pollutants of less than twenty-five (25) tons per year. The recent law states that as long as any activity is listed as "insignificant" or "trivial" in IDEM's rules, it may be added; the activity's potential to emit need not be calculated, subject to certain conditions. Potential to emit may remain a factor to address concerns about minimum federal requirements for air permitting. Specifically, the Air Pollution Control Board may include potential to emit as a factor to consider if the activity would result in construction or modification:

- (1) subject to federal prevention of significant deterioration (PSD) requirements as set out in 326 IAC 2-2 and 40 CFR 52.21;
- (2) subject to nonattainment new source review requirements as set out in 326 IAC 2-3;
- (3) located at a source that has an operating permit issued under 326 IAC 2-7, where the construction or modification would be considered a Title I modification under 40 CFR Part 70; or
- (4) that would result in the source needing to make a transition to an operating permit issued under 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8.

The statute directed IDEM to adopt rules to effectuate it by January 1, 2002. Any rules adopted to implement P.L. 112-2000 would affect the interim approval issue regarding insignificant activities.

The U.S. EPA extended the Title V interim approval deadline from June 1, 2000, until December 1, 2001, for all states. On June 21, 2000, the Sierra Club and the New York Public Interest Research Group filed suit in federal court alleging that the extension violated specific provisions of the Clean Air Act. The U.S. EPA is in the process of negotiating a settlement in this case. The case does not affect the issues identified by U.S. EPA that need to be changed to obtain final approval; however, it does emphasize the

urgency for Indiana to make the necessary changes and may raise other issues.

IDEM will continue to work closely with U.S. EPA to obtain final approval of the Title V permit program and will recommend that any newly identified issues be addressed in this rulemaking if deemed necessary.

STATUTORY AND REGULATORY REQUIREMENTS

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

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

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

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

Comments, whether mailed, hand delivered, or faxed, should be addressed as follows:

#00-267(APCB) Title V Program Approval

Kathryn A. Watson, Chief

Air Programs Branch

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Indiana Department of Environmental Management

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Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Management, 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 January 3, 2001.

Additional information regarding this action may be obtained from Chris Pedersen, Rules Development Section, Office of Air Management, (317) 233-6868 or (800) 451-6027, press 0, and ask for extension 3-6868 (in Indiana).