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TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD #02-54(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CONTROL OF NITROGEN OXIDES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to the following nitrogen oxides rules, 326 IAC 10-3, nitrogen oxide reduction program for specific source categories and 326 IAC 10-4, nitrogen oxides budget trading 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 10-3; 326 IAC 10-4.

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

On September 24, 1998, U.S. EPA issued a rule (NO_x SIP Call) that required twenty-two (22) states in the Eastern U.S., including Indiana, to individually reduce their emissions of nitrogen oxides (NO_x). The federal rule required electric utility boilers, large industrial boilers, cement kilns, and stationary internal combustion engines to reduce NO_x emissions significantly by 2007. The federal rule also reduced the transport of ozone and ozone causing pollutants that occurred in this multi-state region.

In response to U.S. EPA's NO_x SIP Call, the Air Pollution Control Board (board) final adopted NO_x rules on June 6, 2001, that became effective on September 16, 2001. The rules were submitted and approved by U.S. EPA as an amendment to the Indiana state implementation plan (SIP) on November 8, 2001 (66 FR 56465).

During the second public hearing, representatives from Ispat Inland Incorporated and Lonestar Industries requested amendments to the rule being considered for final adoption. The first requested change concerned certain industrial boilers regulated under 326 IAC 10-3 that would become subject to the NO_x trading program. The second requested change concerned documents incorporated by reference that affect the cement industry. IDEM will consider these requested changes in this new rulemaking as well as other changes that have been brought to our attention including:

- (1) changing a compliance date for electric generating units (EGUs) to May 31, 2004, to harmonize the compliance dates for the Section 126 rule and the NO_x SIP call, as agreed to by U.S. EPA in a memorandum titled "Deadlines for Electric Generating Units (EGUs) and Non-Electric Generating Units (non-EGUs) under the Section 126 Rule";
- (2) the possible addition of sources that may meet the applicability, but were not included in the current rule, such as Purdue University, West Lafayette, Indiana; and
- (3) clarification of minor wording errors, as well as other technical changes to the existing rule that may be warranted.

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 appropriate.
- (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:

#02-54(APCB) (NO_x Corrections)

Kathryn A. 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 April 1, 2002.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). Technical information may be obtained from Roger Letterman, Compliance Branch, Office of Air Quality, (317) 232-8342 or (800) 451-6027, press 0, and ask for extension 2-8342 (in Indiana).