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TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

#04-200(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING NITROGEN OXIDES (NO_x) EMISSION LIMITATIONS FOR THE NO_x SIP CALL, PHASE II RULE

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules 326 IAC 10-3 and 326 IAC 10-4 concerning nitrogen oxides (NO_x) state implementation plan (SIP) call, Phase II rule. 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

Basic Purpose and Background

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 and the District of Columbia to outline strategies to reduce regional transport of ozone through reductions in nitrogen oxides (NO_x) emissions. NO_x is a primary ingredient in the formation of ground-level ozone pollution (smog). Facilities that emit NO_x in upwind states contribute to smog formation in downwind states. When inhaled, ground-level ozone can cause acute respiratory problems, aggravate asthma, reduce lung capacity, inflame lung tissue, and impair the body's immune system.

The federal rule established an overall cap on NO_x emissions for Indiana based on significant emissions reductions from electric utility boilers, large industrial boilers, cement kilns, and stationary internal combustion engines by 2007. U.S. EPA promulgated the federal rule to address the transport of ozone and ozone-causing pollutants that occurred in this multi-state region because NO_x was significantly contributing to the one hour and eight hour ozone nonattainment areas.

Eight states challenged the rule and on March 3, 2000, the court upheld most of EPA's NO_x SIP Call, but remanded the portion of the rule concerning stationary internal combustion engines to U.S. EPA for further notice and comment. In order to address the Court's decision and move the process forward, U.S. EPA divided the NO_x SIP Call into Phase I and Phase II rule actions.

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

On April 21, 2004 (69 FR 21603), U.S. EPA issued the "Interstate Ozone Transport: Response to Court Decisions on the NO_x SIP Call, NO_x SIP Call Technical Amendments, and Section 126 Rules: Final Rule" that became effective on June 21, 2004. This final rule requires states that submitted Phase I NO_x SIP Call budgets to submit Phase II SIP revisions as needed to achieve the remaining incremental reductions of NO_x. The Phase II SIPs are due to U.S. EPA on April 1, 2005. This final rule amends definitions under 326 IAC 10-4, sets control levels for stationary internal combustion engines, revises statewide emission budgets in the NO_x SIP Call, and sets the compliance date of May 1, 2007 for implementation of control measures. Indiana must submit the NO_x SIP call Phase II amendments to U.S. EPA by April 1, 2005.

This rule applies to any person who owns or operates a large reciprocating stationary internal combustion engine that emitted more than one (1) ton per average ozone season day during the baseline period of May 1, 1995 to September 30, 1995. U.S. EPA developed emission limitations based on low emission combustion (LEC) technology. One hundred (100) internal combustion engines were identified using Indiana's inventory, U.S. EPA's 1995 inventory, and

information from pipeline companies, of which seventeen (17) are subject to this rule. These engines are located at compressor stations along pipelines that transport natural gas to residential, commercial, industrial, and electric utility customers. In this final rule, U.S. EPA establishes controls of large natural gas-fired stationary internal combustion (lean burn) engines and diesel and dual fuel stationary internal combustion (rich burn) engines. The seventeen (17) engines affected by this rule in Indiana are lean burn engines.

Alternatives To Be Considered Within the Rulemaking

- Alternative 1. Reduction of NO_x by controlling internal combustion engines (ICEs).

Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No. U.S. EPA is mandating the reduction of an additional 4263 tons of NO_x under the NO_x SIP Call Rule for Indiana, but not mandating how NO_x is to be reduced. The U.S. EPA has stated that controlling ICEs is a cost-effective way to control NO_x emissions.

- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law as issued in the April 21, 2004, Federal Register (69 FR 21604); however, the reduction of the amount of NO_x tons is required by federal law by 2007. Federal law allows the states flexibility in achieving the required NO_x reductions. Controlling internal engines is just one possible method of control.

- If it is a federal requirement, is it different from federal law? If the state chooses to regulate ICEs, the rules will incorporate any guidance provided by U.S. EPA.

- If it is different, describe the differences. N/A

- Alternative 2. Reduction of NO_x through control of sources other than internal combustion engines.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, this alternative is not an incorporation of federal standards.

- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law; however, the reduction of the amount of NO_x tons is required by federal law by 2007. Federal law allows the states flexibility in achieving the required NO_x reductions.

- If it is a federal requirement, is it different from federal law? Federal law states that Phase II NO_x reductions must be made by May 1, 2007; however, U.S. EPA has allowed the states flexibility in achieving these reductions.

- If it is different, describe the differences. The state will have to determine which categories of sources to regulate if the rule does not regulate ICEs.

Applicable Federal Law

The NO_x SIP Call Phase II final rule published on April 21, 2004, amended Title 40 CFR 51, 40 CFR 78, and 40 CFR 97. IDEM will amend specific sections of 326 IAC 10-3 and 326 IAC 10-4 to incorporate changes appropriate to the rules.

Potential Fiscal Impact

Alternative 1.

In U.S. EPA's report titled "Stationary Reciprocating Internal Combustion Engines, Updated Information on NO_x Emissions and Control Techniques", September 1, 2000, the purchased equipment costs are estimated to be \$171,000 for 1,000 brake horsepower (bhp) ICE to \$444,000 for 8,000 bhp. Additional costs would include maintenance, overhead, taxes, insurance, and administration, and annual compliance tests. U.S. EPA estimates a cost of \$1990 per ton for the control of internal combustion engines using the low emission combustion (LEC) technology.

Alternative 2.

No determination has been made as to the fiscal impact of any other control method.

Public Participation and Workgroup Information

At this time, no workgroup is formed for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Suzanne Whitmer, Rules Section, Office of Air Quality at (317) 232-8229 or (800) 451-6021 (in Indiana).

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.

Mailed comments should be addressed to:

#04-200(APCB)NO_x Phase II
Suzanne Whitmer
c/o Rules Section Administrative Assistant
Rules Section
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 IDEM receptionist on duty at the 10th floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by August 30, 2004.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Janet G. McCabe
Assistant Commissioner
Office of Air Quality