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## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **FIRST NOTICE OF COMMENT PERIOD #05-78(APCB)**

## **DEVELOPMENT OF AMENDMENTS TO 326 IAC 2-6 CONCERNING EMISSION REPORTING**

### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rule 326 IAC 2-6 to add particulate matter less than or equal to 2.5 micrometers (PM<sub>2.5</sub>) and ammonia (NH<sub>3</sub>) to the list of pollutants to be reported on the emission statement, add LaPorte County to the list of counties at 326 IAC 2-6-1(a)(2) subject to the emission statement requirements in Section 182(a)(3)(b) of the Clean Air Act, and any clarification that might be needed in 326 IAC 2-6. 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 2-6.

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

### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

#### **Basic Purpose and Background**

The emission reporting rule, 326 IAC 2-6, was originally adopted by the Air Pollution Control Board (APCB) and became effective in 1993. The emission reporting rule is part of Indiana's state implementation plan (SIP) and addresses emission statement requirements found in Section 182(a)(3)(b) of the Clean Air Act. 326 IAC 2-6 requires air emission sources over specified emission thresholds to report their actual emissions of certain pollutants to IDEM in an emission statement. Emissions information reported through this program is used for air quality planning, tracking progress, and for billing purposes.

On December 3, 2003, the APCB adopted amendments to this rule consistent with many of the provisions in the federal consolidated emission reporting rule (CERR) (68 FR 39602) published by U.S. EPA on June 10, 2002, while maintaining consistency with the emission statement requirements in Section 182(a)(3)(b) of the Clean Air Act (CAA). These amendments included changing applicability, adding reporting parameters, and reducing the reporting schedule from annual to triennial reporting for many sources to be consistent with the CERR. The emission reporting rule, 326 IAC 2-6, was also amended to provide the department with the authority to request hazardous air pollutant (HAP) emissions from permitted sources as needed to investigate areas of concern or support air quality planning.

This rulemaking will propose changes based on federal requirements that were not included in the 2003 amendments. First, IDEM proposes to add particulate matter less than or equal to 2.5 micrometers (PM<sub>2.5</sub>) and ammonia (NH<sub>3</sub>) to the list of pollutants to be reported on the emission statement since states are required by the CERR to report this information to U.S. EPA. Adjacent states in Region V already require reporting of PM<sub>2.5</sub> and NH<sub>3</sub>. Second, IDEM is proposing to amend the rule to apply the reporting thresholds for nonattainment areas to the new 8-hour ozone nonattainment areas. This means a change only for LaPorte County, a marginal area under the 8-hour ozone standard. LaPorte County is required by Section 182(a)(3)(b) of the Clean Air Act to have a twenty-five (25) tons per year (tpy) reporting threshold for volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) as currently applies in Lake and Porter Counties. All other counties will retain the one hundred (100) tpy reporting threshold consistent with the CERR. The department also requests comments on other clarifications that may be needed for the emission reporting rule.

#### **Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Amend rule to include PM<sub>2.5</sub> and NH<sub>3</sub> and amend list of counties subject to reduced applicability threshold for NO<sub>x</sub> and VOC.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable.

Alternative 2. Take no action to make the changes to the state rules. Although this is an alternative the department has to consider it is not a viable option because the department would not be able to change the reporting thresholds for LaPorte County without

rulemaking. Also, the department would have to continue estimating emissions of PM<sub>2.5</sub> and NH<sub>3</sub> for sources subject to this rule. The sources would be able to provide more accurate emissions estimates for developing emissions inventories to be submitted to the U.S. EPA.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Not applicable.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

#### **Applicable Federal Law**

The proposed amendments to 326 IAC 2-6 are consistent with the federal CERR, 67 FR 39611, and Section 182(a)(3)(b) of the Clean Air Act.

#### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. There are two categories of sources affected by this rulemaking. Most affected sources are already required to submit an emission statement. The cost to report additional PM<sub>2.5</sub> and NH<sub>3</sub> pollutants is unknown and the department invites comments on the cost. Sources will be able to use available U.S. EPA methodologies and emission factors to estimate emissions. The department will assist these sources with compliance and provide guidance to reduce the reporting burden. The department will also assist those sources newly subject to the rule because of the lower reporting threshold in LaPorte County. The number of sources affected by this change is unknown, but should be a small number of sources based on IDEM's review of the number of sources in adjacent Porter County with emissions greater than twenty-five (25) tpy but less than one hundred (100) tpy. There are only three (3) compared to six (6) sources with emissions greater than one hundred (100) tpy for VOC or NO<sub>x</sub>.

Potential Fiscal Impact of Alternative 2. There would be no fiscal impact based on Alternative 2.

#### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Susan Bem, Rules Section, Office of Air Quality at (317) 233-5697 or (800) 451-6027 (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:

#05-78(APCB) Emission Reporting/CERR

Susan Bem Mail Code 61-50

c/o Administrative Assistant

Rules Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth 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 June 1, 2005.

Additional information regarding this action may be obtained from Susan Bem, Rules Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

Kathryn A. Watson, Chief  
Air Programs Branch  
Office of Air Quality