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## TITLE 326 AIR POLLUTION CONTROL BOARD

### Proposed Rule LSA Document #05-80

#### DIGEST

Amends 326 IAC 19-2-1 by incorporating by reference 69 FR 40072 for the purpose of updating the transportation conformity rules. Effective 30 days after filing with the secretary of state.

#### HISTORY

IC 13-14-9-8 Notice and Notice of First Hearing: May 1, 2005, Indiana Register (28 IR 2467).

Date of First Hearing: June 1, 2005.

#### 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. Because this proposed rule is not substantively different from the draft rule published on May 1, 2005, at 28 IR 2467, the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

#### SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On June 1, 2005, the Air Pollution Control Board conducted the first public hearing concerning the development of amendments to 326 IAC 19-2-1. No comments were made at the first hearing.

#### 326 IAC 19-2-1

SECTION 1. 326 IAC 19-2-1 IS AMENDED TO READ AS FOLLOWS:

#### 326 IAC 19-2-1 Applicability; incorporation by reference of federal standards

**Authority:** IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

**Affected:** IC 13-15; IC 13-17

Sec. 1. (a) This rule, unless specifically exempted in the applicability section of 40 CFR 93, Subpart A\*, applies to transportation plans, programs, and projects in nonattainment or maintenance areas for transportation-related criteria pollutants that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under Title 23 United States Code (U.S.C.) or the Federal Transit Laws.

(b) This rule applies to regionally significant projects, regardless of funding source, located in nonattainment or maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

(c) The air pollution control board incorporates by reference the following:

(1) 40 CFR 51, Subpart T\*. ~~“Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Laws”~~\*

(2) 40 CFR 93, Subpart A\*, ~~“Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Laws”~~\*, with the exception of Section 93.102(d)\*. **as amended by 69 FR 40072, July 1, 2004\***.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are also available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana

46204. (Air Pollution Control Board; 326 IAC 19-2-1; filed Apr 28, 1997, 4:00 p.m.: 20 IR 2298; filed Oct 20, 1998, 4:45 p.m.: 22 IR 751; filed May 21, 2002, 10:20 a.m.: 25 IR 3085)

**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 August 3, 2005 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 19-2-1.

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.

Additional information regarding this action may be obtained from Sky Schelle, Rule Development Section, Office of Air Quality, (317) 234-3533 or (800) 451-6027 (in Indiana).

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

Indianapolis, Indiana 46204

or call (317) 233-0855 or (317) 232-6565 (TDD). Speech and hearing impaired callers may contact IDEM 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 Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

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