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TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD #05-78(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING EMISSION REPORTING AT 326 IAC 2-6

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to rule 326 IAC 2-6 to add particulate matter less than or equal to 2.5 micrometers (PM_{2.5}) and ammonia (NH₃) 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. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: May 1, 2005, Indiana Register (28 IR 2463).

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 data 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_{2.5}) and ammonia (NH₃) 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_{2.5} and NH₃. Second, IDEM is proposing to amend the rule to apply lower reporting thresholds to the new 8-hour ozone nonattainment areas. New nonattainment areas for the 8-hour standard that are classified under subpart 2 are required to have an emission statement program as specified under Section 182(a)(3)(B) of the CAA. U.S. EPA designated Lake, Porter, and LaPorte Counties as nonattainment for the 8-hour ozone standard under subpart 2 of the CAA. All other counties were designated nonattainment under subpart 1. This means a change only for LaPorte County, the twenty-five (25) tons per year (tpy) reporting threshold for volatile organic compounds (VOC) and nitrogen oxides (NO_x) already 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.

IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law

The following element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL element).

The following information is provided for the NIFL element:

- (1) The environmental circumstance or hazard dictating the imposition of the NIFL element in order to protect human health and the environment in Indiana; and examples in which federal law is inadequate to provide this protection for Indiana.
- (2) The estimated fiscal impact and expected benefits of the NIFL element, based on the extent to which the NIFL element exceeds the requirements of federal law.
- (3) The availability for public inspection of all materials relied on by IDEM in the development of the NIFL element including, if applicable: health criteria, analytical methods, treatment technology, economic impact data, environmental assessment data, analyses of methods to effectively implement the proposed rule, and other background data.

NIFL Element: Reporting of emissions estimates for PM_{2.5} and ammonia (326 IAC 2-6-4(a))

- (1) The federal consolidated emission reporting rule (CERR) requires the state to submit emissions information to U.S. EPA for PM_{2.5} and ammonia. This rulemaking adds these two pollutants to the list of reportable pollutants for sources subject to the state emission reporting rule. Sources subject to this rule would be able to provide more accurate emission estimates for developing emission inventories to be submitted to U.S. EPA than the state continuing to estimate emissions for these two pollutants.
- (2) Based on information supplied by commenters the added administrative burden associated with the addition of these two pollutants to the list of reportable pollutants is approximately one hour per month, per regulated pollutant, per process. The benefit will be more accurate emissions inventories for air quality planning purposes.
- (3) IDEM relied on the federal consolidated emission reporting rule (CERR) in the development of the NIFL element.

Potential Fiscal Impact

Based on information supplied by an affected source the added administrative burden associated with the addition of these two pollutants to the list of reportable pollutants is estimated at approximately one hour per month, per regulated pollutant, per process. IDEM does not expect the potential fiscal impact of the draft amendments to exceed \$500,000.

Public Participation and Workgroup Information

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 Development Section, Office of Air Quality at (317) 233-5697 or (800) 451-6021 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from May 1, 2005, through June 1, 2005, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

- Citizens Gas and Coke Utility (CG&CU)
- Eli Lilly and Company (ELC)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The requirement to report emissions inventory data for planning purposes is imposed on IDEM by the U.S. EPA through the Consolidated Emissions Reporting Rule (CERR). In principle, the commenter does not object to assisting the agency in meeting the requirements of the CERR. (CG&CU)

Comment: The commenter agrees with the basic concept of requiring sources to provide estimates of NH₃ and PM_{2.5} to improve the quality and accuracy of the emissions estimates instead of IDEM estimating emissions. (ELC)

Response: IDEM appreciates the assistance of stationary sources in developing emissions inventories and believes that the quality of the emissions inventories will improve if sources provide the information. IDEM will provide guidance for sources to estimate emissions for NH₃ and PM_{2.5}.

Comment: The commenter is concerned about the availability and quality of emission factors for ammonia (NH₃) and particulate matter less than 2.5 micrometers in aerodynamic diameter (PM_{2.5}) when required to estimate "actual" emissions as required by the rule. This results in a potential liability issue for the source's responsible official charged with certifying emissions estimates for this rule. The commenter requests that IDEM continue to estimate emissions of NH₃ and PM_{2.5} until higher quality emission factors are developed. As an alternative to the first request, the commenter requests that IDEM add two new definitions to the rule: "estimated actual emissions of NH₃" and "estimated actual emissions of PM_{2.5}." The proposed terms would be defined as:

"Estimated actual emissions of (NH₃/PM_{2.5})" means the estimated emissions in tons per year of (NH₃/PM_{2.5}) emitted by an emissions unit for the calendar year, calculated using information reasonably available to the owner or operator." (CG&CU) (ELC)

Comment: Due to the difficulty in estimating emissions, and the potential compliance issues it may raise for a source, the commenter suggests that a more appropriate way for IDEM to obtain emissions data would be through a collaborative, non-regulatory effort. (ELC)

Response: In response to the comments received regarding the availability and the quality of emissions factors for the pollutants of concern IDEM reviewed the factors for all criteria pollutants. In the latest compilation of emission factors (FIRE v6.24), the overall average quality rating was less than D, below average. The pollutant with the lowest average rating was VOC with a rating of less than E, poor. IDEM understands that there is a concern about the availability and quality of emission factors for ammonia and PM_{2.5},

yet this is a changing field with better factors being developed over time. This concern was also raised during the previous emissions reporting rulemaking and IDEM responded by amending the certification language to reflect that “the information in the emission statement is accurate based on reasonable estimates using data available to the preparers.” Also, it is stated in 326 IAC 2-6-4(a) and 2-6-4(b)(5)(A) that sources are reporting estimated actual emissions. Therefore, it is not necessary to create a separate definition of “estimated actual emissions of (NH₃/PM_{2.5}).”

Comment: In response to IDEM’s request for information on implementation costs of this amendment, the commenter estimates that the added administrative cost associated with managing the emissions data is approximately one hour per month, per regulated pollutant, per process. This includes the costs in researching available emission factors in order to determine what factors are available, and which are applicable to the processes at the facility. (CG&CU)

Response: IDEM appreciates receiving the information on implementation costs.

Comment: The commenter recommends relocating the emission reporting rules to Article 1 of the Indiana Air Pollution Control rules. Currently the emission reporting rules are buried in the middle of the state permitting rules, which makes it harder for sources to know the requirements exist and harder to find if they know they exist. This rulemaking provides an appropriate time to relocate the entire set of emission reporting provisions to Article 1. (ELC)

Response: While Article 1 is also an appropriate place for an emission reporting rule, IDEM proposes to keep the emission reporting rule in Article 2 since the rule applicability is currently limited primarily to Title V sources. Also, while there is some benefit to having the emissions reporting requirement separate from the permitting rule, it would require amendments to Title V permits to reflect the new rule location and updates to the emission reporting rule references in other parts of the permitting rules.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#05-78(APCB) Emission Reporting/CERR
Susan Bem Mail Code 61-50
c/o Administrative Assistant
Rules Development 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 receptionist on duty at the tenth floor reception desk, Office of Air Quality, 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 Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 3, 2005.

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

DRAFT RULE

SECTION 1. 326 IAC 2-6-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-1 Applicability

Authority: IC 13-14-8; IC 13-17-3

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to all of the following:

- (1) Sources required to have an operating permit under 326 IAC 2-7, Part 70 Permit Program.
- (2) Sources located in the following counties that emit volatile organic compounds (VOC) or oxides of nitrogen (NO_x) into the ambient air at levels equal to or greater than twenty-five (25) tons per year:
 - (A) Lake.
 - (B) Porter.
 - (C) LaPorte.

(3) Sources that emit lead into the ambient air at levels equal to or greater than five (5) tons per year.

(b) All sources permitted by the department are subject to section 5 of this rule, additional information requests.

(c) Sources covered by subsection (a) must comply with the compliance schedule in section 3 of this rule. (*Air Pollution Control Board; 326 IAC 2-6-1; filed Nov 12, 1993, 4:00 p.m.: 17 IR 732; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2210*)

SECTION 2. 326 IAC 2-6-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-3 Compliance schedule

Authority: IC 13-14-8; IC 13-17-3

Affected: IC 13-15; IC 13-17

Sec. 3. (a) The owner or operator of a source subject to section 1(a) of this rule must submit an emission statement covering the previous calendar year to the department according to the following schedule:

(1) Annually, by July 1, for sources subject to section 1(a)(2) of this rule or with the potential to emit annual emissions greater than or equal to any of the following emission thresholds:

(A) Two thousand five hundred (2,500) tons per year of carbon monoxide.

(B) Two thousand five hundred (2,500) tons per year of oxides of nitrogen.

(C) Two thousand five hundred (2,500) tons per year of sulfur dioxide.

(D) Two hundred fifty (250) tons per year of particulate matter less than or equal to ten (10) micrometers (PM₁₀).

(E) Two hundred fifty (250) tons per year of volatile organic compounds.

(2) Triennially, by July 1, according to the schedule in subsection (b) for all sources not subject to annual reporting in ~~subdivision~~ **subdivision (1)**.

(b) The county schedule for reporting under subsection (a)(2) is as follows:

(1) Starting in 2004, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Adams County.

(B) Allen County.

(C) Benton County.

(D) Carroll County.

(E) Cass County.

(F) DeKalb County.

(G) Elkhart County.

(H) Fulton County.

(I) Huntington County.

(J) Jasper County.

(K) Kosciusko County.

(L) LaGrange County.

(M) Lake County.

(N) LaPorte County.

(O) Marshall County.

(P) Miami County.

(Q) Newton County.

(R) Noble County.

(S) Porter County.

(T) Pulaski County.

(U) St. Joseph County.

(V) Starke County.

(W) Steuben County.

(X) Wabash County.

(Y) Wells County.

(Z) White County.

(AA) Whitley County.

(2) Starting in 2005, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

- (A) Blackford County.
- (B) Boone County.
- (C) Clinton County.
- (D) Delaware County.
- (E) Fayette County.
- (F) Fountain County.
- (G) Grant County.
- (H) Hamilton County.
- (I) Hancock County.
- (J) Hendricks County.
- (K) Henry County.
- (L) Howard County.
- (M) Jay County.
- (N) Johnson County.
- (O) Madison County.
- (P) Marion County.
- (Q) Montgomery County.
- (R) Morgan County.
- (S) Parke County.
- (T) Putnam County.
- (U) Randolph County.
- (V) Rush County.
- (W) Shelby County.
- (X) Tippecanoe County.
- (Y) Tipton County.
- (Z) Union County.
- (AA) Warren County.
- (BB) Wayne County.

(3) Starting in 2006, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

- (A) Bartholomew County.
- (B) Brown County.
- (C) Clark County.
- (D) Clay County.
- (E) Crawford County.
- (F) Daviess County.
- (G) Dearborn County.
- (H) Decatur County.
- (I) Dubois County.
- (J) Floyd County.
- (K) Franklin County.
- (L) Gibson County.
- (M) Greene County.
- (N) Harrison County.
- (O) Jackson County.
- (P) Jefferson County.
- (Q) Jennings County.
- (R) Knox County.
- (S) Lawrence County.
- (T) Martin County.
- (U) Monroe County.
- (V) Ohio County.
- (W) Orange County.

- (X) Owen County.
- (Y) Perry County.
- (Z) Pike County.
- (AA) Posey County.
- (BB) Ripley County.
- (CC) Scott County.
- (DD) Spencer County.
- (EE) Sullivan County.
- (FF) Switzerland County.
- (GG) Vanderburgh County.
- (HH) Vermillion County.
- (II) Vigo County.
- (JJ) Warrick County.
- (KK) Washington County.

(c) The department will make available emission statement reporting forms to sources subject to this rule.

(d) Sources subject to this rule may submit their emission statement as follows:

- (1) Electronically: sources that submit their emission statement electronically must submit to the department a certification that complies with section 4(c)(1) of this rule by the submission deadline.
- (2) By mail: the United States Postal Service postmark is the submittal date.
- (3) By private carrier: records of dates of receipt and delivery by the service must be maintained.
- (4) By hand delivery to the Office of Air Quality, Indianapolis, Indiana.

(Air Pollution Control Board; 326 IAC 2-6-3; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2212)

SECTION 3. 326 IAC 2-6-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6-4 Requirements

Authority: IC 13-14-8; IC 13-17-3

Affected: IC 13-15; IC 13-17

Sec. 4. (a) A source subject to section 1(a) of this rule shall report estimated actual emissions in the emission statement of the following pollutants:

- (1) Carbon monoxide (CO).
- (2) Volatile organic compounds (VOC).
- (3) Oxides of nitrogen (NO_x).
- (4) Particulate matter less than or equal to ten (10) micrometers (PM₁₀).
- (5) Sulfur dioxide (SO₂).
- (6) Lead and lead compounds, including any unique chemical substance that contains lead.
- (7) Particulate matter less than or equal to two and five-tenths (2.5) micrometers (PM_{2.5}).**
- (8) Ammonia (NH₃).**

(b) Emissions from processes that are insignificant or trivial activities as defined in 326 IAC 2-7-1(21) and 326 IAC 2-7-1(40) are not required to be reported in an emission statement.

(c) The emission statement submitted by the source must contain, at a minimum, the following information:

(1) Certification by a responsible official that the information in the emission statement is accurate based on reasonable estimates using data available to the preparers and on a reasonable inquiry into records and persons responsible for the operation of the source, and is true, accurate, and complete. The certification shall include the:

- (A) full name;
- (B) title;
- (C) signature;
- (D) date of signature; and
- (E) telephone number;

of the person signing the certification.

- (2) Source identification information, to include the following:
- (A) Full name, physical location, and mailing address of the source.
 - (B) Source universal transverse mercator (UTM) or latitude and longitude.
 - (C) North American Industry Classification System (NAICS) code.
- (3) Operating data, for each emission unit or emissions group, to include the following:
- (A) Percent annual throughput by quarter as defined in section 2 **of this rule**.
 - (B) Days per week in operation.
 - (C) Design capacity.
 - (D) Hours per day in operation.
 - (E) Hours per year in operation.
 - (F) Maximum nameplate capacity.
- (4) For reporting purposes, multiple stacks that vent to the atmosphere may be grouped together to reflect any grouping of process units. Stack parameters include the following:
- (A) Stack identification.
 - (B) Stack height and diameter (in feet).
 - (C) Universal transverse mercator (UTM) or latitude and longitude coordinates.
 - (D) Exit gas temperature (degrees Fahrenheit).
 - (E) Exit gas flow rates in cubic feet per minute.
- (5) Emissions information for each process, to include the following:
- (A) The estimated actual emissions of all pollutants listed in subsection (a) at the process level in tons per year. Actual emission estimates must include upsets, downtime, and fugitive emissions and must follow an emission estimation method. Fugitive emissions may be reported as plantwide or grouped together in a logical manner. If control efficiencies are adjusted because of upsets, downtime, and malfunctions, information must be provided about how the control efficiencies are calculated.
 - (B) Emissions of VOC, ~~and~~ PM₁₀, ~~and~~ PM_{2.5} shall be reported as total VOC, ~~and~~ PM₁₀, ~~and~~ PM_{2.5} emissions, respectively.
 - (C) Calendar year for the emissions.
 - (D) Estimated emissions method code provided by the department.
 - (E) Emission factor, if part of emissions calculation. Acceptable sources of an emission factor include **the following**:
 - (i) AP-42, "Compilation of Air Pollutant Emission Factors AP-42" as defined at 326 IAC 1-2-20.5.
 - (ii) Site-specific values accepted by the department and the U.S. EPA.
 - (iii) Other documentable methodology accepted by the department and the U.S. EPA.
 - (F) Source classification code (SCC).
 - (G) Annual process rate (annual throughput) to the extent it is part of emissions calculation.
 - (H) Ash content, if part of emissions calculation.
 - (I) Sulfur content, if part of emissions calculation.
 - (J) Heat content, if part of emissions calculation.
- (6) Control equipment information, to include the following:
- (A) Capture efficiency.
 - (B) Current control equipment efficiency percentage unless a controlled emission factor is applied. The actual efficiency should reflect the total control efficiency from all control equipment for each process pollutant. If the actual control efficiency is unavailable, the:
 - (i) efficiency designed by the manufacturer may be used; or ~~the~~
 - (ii) control efficiency limit imposed by a permit should be used.
 - (C) Control equipment identification code.

(d) Nothing in this rule requires stack testing. (*Air Pollution Control Board; 326 IAC 2-6-4; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; errata, 17 IR 1009; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1566; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2213*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on December 7, 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 amendments to 326 IAC 2-6.

The purpose of this hearing is to receive comments from the public prior to preliminary 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 Susan Bem, Rules Development Section, Office of Air Quality, (317) 233-5697 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 Department of Environmental Management, 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