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

### **FIRST NOTICE OF COMMENT PERIOD** #05-231(APCB)

#### **READOPTION OF 326 IAC 17.1 UNDER IC 13-14-9.5**

##### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on readoption of rules to 326 IAC 17.1 concerning public records; confidential information; confidentiality agreements. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**RULES TO BE READOPTED:** 326 IAC 17.1-1; 326 IAC 17.1-2; 326 IAC 17.1-3; 326 IAC 17.1-4; 326 IAC 17.1-5; 326 IAC 17.1-6; 326 IAC 17.1-7; 326 IAC 17.1-8; 326 IAC 17.1-9.

**AUTHORITY:** IC 4-22-2-35; IC 13-14-9; IC 13-14-9.5.

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

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

This rulemaking is required pursuant to IC 13-14-9.5, which provides for the expiration and readoption of administrative rules. All rules adopted after December 31, 1985, under IC 13-14-9, expire on January 1 of the seventh year after the year in which the rule takes effect. Those rules that are being readopted are specifically listed in the "Rules to be Readopted" section of this notice.

Under IC 13-14-9.5-4, the department or board that has rulemaking authority under Title 13 may readopt all rules subject to expiration under one (1) rule that lists all rules that are readopted by their titles and subtitles only. If no comments are received during this first comment period, IDEM may submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish the notice in the Indiana Register that the agency has readopted the rule.

###### **Statutory and Regulatory Requirements**

IC 13-14-9.5-4 requires the following procedures to be followed to readopt rules:

- (1) A notice listing all rule to be readopted by their titles and subtitles shall be submitted to the Legislative Services Agency for publication in the Indiana Register.
- (2) If a person submits a written request and a basis for the request during the first comment period that a particular rule be readopted separately from the readoption rule that readopts all rules in one (1) rulemaking, the agency must:
  - (A) readopt the rule separately from the readoption rule; and
  - (B) follow the procedure for adoption of administrative rules under IC 13-14-9 with respect to the rule.
- (3) If no written request is provided within the first comment period, the agency may submit the rule for filing with the secretary of state under IC 4-22-2-35 and publish notice in the Indiana Register that the agency has readopted the rule.

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

The following alternatives are being considered in this rulemaking.

**Alternative 1.** Readopt rules 1 through 9 in 326 IAC 17.1 under IC 13-14-9.5. This would ensure that the existing article effective until January 1, 2014, or until a particular rule is amended in another rulemaking.

**Alternative 2** Do not readopt 326 IAC 17.1, rules 2 through 9, under IC 13-14.9.5, allowing these rules to expire on January 1, 2007. This alternative would result in a rule, 326 IAC 17.1-1, (Purpose and Applicability) being operative, but an absence of implementation measures.

###### **Applicable Federal Law**

There is no applicable federal law that requires 326 IAC 17.1.

###### **Potential Fiscal Impact**

Readoption of existing rules would not establish any new requirements and would not result in any increased costs or savings to regulated entities. Not readopting 326 IAC 17.1 could result in an extra burden and costs for those entities making confidential claims if the article does not exist.

###### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at [www.in.gov/idem/ctap](http://www.in.gov/idem/ctap).

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf  
IDEM Compliance and Technical Assistance Program  
OPPTA - MC60-04  
100 N. Senate Avenue  
W-041  
Indianapolis, IN 46204-2251  
(317) 232-8578  
[selyusuf@idem.in.gov](mailto:selyusuf@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen  
IDEM Small Business Assistance Program Ombudsman  
External Affairs - MC50-01  
100 N. Senate Avenue  
IGCN 1301  
Indianapolis, IN 46204-2251  
(317) 234-3386  
[elevenha@idem.in.gov](mailto:elevenha@idem.in.gov)

#### **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 Gayl Killough, Rules Section, Office of Air Quality at (317) 233-8628 or (800) 451-6027 (in Indiana).

#### **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:

#05-231(APCB) Confidentiality  
Gayl Killough 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 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 October 3, 2005. Additional information regarding this action may be obtained from Gayl Killough, Rules Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

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