

Attachment E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

BEFORE THE STATE OF INDIANA

AIR POLLUTION CONTROL BOARD

- - -

PUBLIC MEETING OF FEBRUARY 7, 2007

- - -

**ORIGINAL**

PROCEEDINGS

before the Indiana Air Pollution Control Board,  
Dr. James Miner, Chairman, taken before me,  
Lindy L. Meyer, Jr., a Notary Public in and for  
the State of Indiana, County of Shelby, at the  
Indiana Government Center South, Conference  
Center, Room A, 402 West Washington Street,  
Indianapolis, Indiana, on Wednesday, February 7,  
2007 at 12:58 o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a  
ACCURATE REPORTING OF INDIANA  
12922 Brighton Avenue  
Carmel, Indiana 46032  
(317) 848-0088

1 APPEARANCES:

2 BOARD MEMBERS:

- 3 Dr. James Miner, M.D., Chairman
- 4 Thomas Anderson
- 5 Mark A. Flint
- 6 Randy Staley
- 7 Chris Horn
- 8 Kurt Anderson
- 9 David Benshoof
- 10 Dr. Phil Stevens
- 11 Howard W. Cundiff, Proxy, State Board of Health
- 12 John Bacone, Proxy, Department of Natural Resources
- 13 Steve Boyce, Proxy, Lieutenant Governor
- 14 Pamela Fisher, Proxy, Indiana Economic Development Corporation

15 IDEM STAFF MEMBERS:

- 16 Kathy Watson
- 17 Daniel Murray
- 18 John Nixon
- 19 Karol Chuma

20 PUBLIC SPEAKERS:

21 None

22  
23

1 12:58 o'clock p.m.  
2 February 7, 2007

3 CHAIRMAN MINER: Good afternoon. The  
4 February 7th, 2007 meeting of the Air Pollution  
5 Control Board of the State of Indiana will now  
6 come to order. A quorum of the Board is present.

7 I will now introduce the members and their  
8 representations. We have Mr. Kurt Anderson,  
9 representing manufacturing; Mr. Tom Anderson,  
10 representing the environment; Mr. John Bacone,  
11 proxy for the Department of Natural Resources;  
12 Mr. David Benshoof, representing small business;  
13 Mr. Mark Flint, representing local government, a  
14 new member. Mark joins us in place of Marlow  
15 Harmon, who unfortunately passed away in  
16 December. I'm glad to have Mark here with us.

17 Mark, I don't know if you want to just  
18 introduce yourself briefly, where your from.

19 MR. FLINT: Okay.

20 CHAIRMAN MINER: That'd be great.

21 MR. FLINT: I'm a Pike County  
22 Commissioner. I'm in my second term as a County  
23 Commissioner. I also work for Indianapolis

1                   CHAIRMAN MINER: I had to break it  
2 up.

3                   DR. STEVENS: Thought I'd fall asleep  
4 through the first half.

5                                   (Laughter.)

6                   CHAIRMAN MINER: I tried to catch  
7 Randy off guard there for a second.

8                   MR. STALEY: That's why the ayes came  
9 out.

10                  CHAIRMAN MINER: Make sure he said  
11 the right thing. Aye or no?

12                  At this time I will now open a public  
13 hearing on the following rulemaking action:  
14 Preliminary adoption of Amendments to  
15 326 IAC 2-1.1 and 9.5; 326 IAC 2-6.1-7;  
16 326 IAC 2-8-4; 326 IAC 25-2-2, Ten-Year Renewal  
17 Term for the Federally Enforceable State  
18 Operating Permits and the Minor State Operating  
19 Permits.

20                  Is there anyone at this time who wishes to  
21 speak to this rulemaking action?

22                  There will also be an opportunity to  
23 address the Board on this rulemaking action at

1 the next meeting. It will be continued at that  
2 time. At this time I am continuing this hearing  
3 to the next Air Pollution Control Board,  
4 scheduled for Wednesday, March 7th, at Indiana  
5 Government South, Conference Room A, 402 West  
6 Washington, Indianapolis, Indiana at 1:00 p.m.

7 The next action of business is Board  
8 action on adoption of an emergency rule. The Air  
9 Pollution Control Board will now consider for  
10 adoption an emergency rule concerning  
11 redesignation of Allen County to attainment for  
12 the eight-hour ozone standard under Indiana  
13 Code 4-22-2-27.1. No public hearing is required  
14 for adoption of emergency rules.

15 I will now present Exhibit 6 -- thank you,  
16 Kathy -- the draft emergency rule for the Board.

17 Is there anyone from the Department who  
18 wishes to comment on this rule at this time?

19 MS. WATSON: John Nixon.

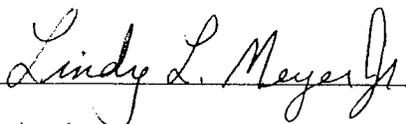
20 CHAIRMAN MINER: Mr. Nixon?

21 MR. NIXON: Thank you, Mr. Chair and  
22 members of the Board. My name is John Nixon.

23 I'm an attorney with IDEM's Office of Legal

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Wednesday, February 7, 2007 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,

Notary Public in and  
for the State of Indiana.

My Commission expires October 27, 2008.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

BEFORE THE STATE OF INDIANA  
AIR POLLUTION CONTROL BOARD

- - -

PUBLIC MEETING OF MARCH 7, 2007

- - -

**ORIGINAL**

PROCEEDINGS

before the Indiana Air Pollution Control Board,  
Dr. James Miner, Chairman, taken before me,  
Lindy L. Meyer, Jr., a Notary Public in and for  
the State of Indiana, County of Shelby, at the  
Indiana Government Center South, Conference  
Center, Room A, 402 West Washington Street,  
Indianapolis, Indiana, on Wednesday, March 7,  
2007 at 1:07 o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a  
ACCURATE REPORTING OF INDIANA  
12922 Brighton Avenue  
Carmel, Indiana 46032  
(317) 848-0088

1 APPEARANCES:

2 BOARD MEMBERS:

3 Dr. James Miner, M.D., Chairman  
4 Thomas Anderson  
5 Kurt Anderson  
6 Randy Staley  
7 Dr. Phil Stevens  
8 David Benshoof  
9 Howard W. Cundiff, Proxy, State Board of  
10 Health  
11 John Bacone, Proxy, Department of  
12 Natural Resources  
13 Steve Boyce, Proxy, Lieutenant  
14 Governor  
15 Pamela Fisher, Proxy, Indiana Economic  
16 Development Corporation

10

11 IDEM STAFF MEMBERS:

12 Kathy Watson  
13 Chris Pedersen  
14 Pat Troth  
15 Dan Weiss  
16 Karol Chuma

15

16 PUBLIC SPEAKERS:

16

None

17

18

19

20

21

22

23

1 1:07 o'clock p.m.  
2 March 7, 2007  
3 - - -

3 CHAIRMAN MINER: Good afternoon,  
4 everyone. The Department of Environmental  
5 Management and the Air Pollution Control Board of  
6 the State of Indiana will come to order. This is  
7 the March 7th, 2007 meeting of the Air Pollution  
8 Control Board. A quorum of the Board is present.

9 I will now introduce the members and their  
10 representation. Mr. Kurt Anderson, representing  
11 manufacturing.

12 MR. K. ANDERSON: Here.

13 CHAIRMAN MINER: Mr. Tom Anderson,  
14 representing the environmental; Mr. John Bacone,  
15 representing the Department of Natural Resources;  
16 Mr. David Benshoof, representing small business;  
17 Mr. Steve Boyce, proxy for the Lieutenant  
18 Governor; Mr. Howard Cundiff, representing the  
19 Department of Health; Ms. Pam Fisher, proxy for  
20 the Indiana Economic Development Commission;  
21 Mr. Randy Staley, representing agriculture;  
22 Dr. Phil Stevens, representing the general  
23 public; and I am Jim Miner, representing the

1 comment, please endorse that statement rather  
2 than repeating the statement.

3 A written transcript of this hearing will  
4 be made. The transcript and any other written  
5 submissions will be available for public  
6 inspection at the Office of Air Quality. Copies  
7 will be made for the cost of copying.

8 Will the reporter for the cause please  
9 stand?

10 (Reporter sworn.)

11 CHAIRMAN MINER: Thank you.

12 The purpose of this hearing is to give all  
13 interested parties an opportunity to comment on  
14 specific topics open for the hearing today.

15 The first is a public hearing -- first is,  
16 this public hearing was opened at the last Air  
17 Pollution Control Board meeting on February 7th  
18 and continued until today. It concerned  
19 preliminary adoption of amendments to  
20 326 IAC 2-1.1-9.5, 326 IAC 2-6.1-7, and  
21 326 IAC 2-8-4, the Ten-Year Permit Renewal Term  
22 for Minor Source Operating Permits and the  
23 Federally Enforceable State Operating Permits.

1 I will now introduce Exhibit No. 1 --  
2 Ms. Watson -- the draft rule, into the record of  
3 the hearing.

4 Is there someone from the Department who  
5 wishes to speak on the rule?

6 MS. WATSON: Chris Pedersen.

7 CHAIRMAN MINER: Chris?

8 MS. PEDERSEN: Chairman Miner,  
9 members of the Board, my name is Chris Pedersen,  
10 and I'm in the Office of Air, Rules Section.

11 This rule concerns extended permit terms  
12 for renewals of minor source operating permits,  
13 or MSOP's, and Federally Enforceable State  
14 Operating Permits, or FESOP's.

15 In 1996, the Indiana General Assembly  
16 passed a law that allows a permit term of up to  
17 ten years for certain permit renewals. Indiana  
18 Code 13-15-3-2 allows a valid permit that  
19 concerns an activity of a continuing nature to be  
20 renewed for up to ten years unless a federal law  
21 requires a shorter term.

22 IDEM has determined that extending MSOP  
23 and FESOP permit renewal terms for up to ten

1 years will benefit affected sources and IDEM by  
2 reducing the time and effort required for more  
3 frequent permit application submittal and  
4 processing. While sources with MSOP and FESOP  
5 permits represent only a small amount of  
6 emissions in Indiana, they require a large amount  
7 of Indiana [sic] permitting resources.

8 The Environmental Stewardship Program, or  
9 ESP, and Comprehensive Local Environmental Action  
10 Network, or CLEAN, rulemaking includes a section  
11 addressing ten-year permits for MSOP and FESOP  
12 permit renewals.

13 Because the ESP/CLEAN rulemaking further  
14 along in the rulemaking process, the provision  
15 will not be removed from that rulemaking so that  
16 it will be available to members of those two  
17 programs as quickly as possible. However, when  
18 this rulemaking becomes effective, a provision in  
19 the ESP/CLEAN rule, tentatively in 326 IAC 25-2-2  
20 in the recently adopted ESP/CLEAN rule, will be  
21 obsolete and removed.

22 The Board is considering preliminary  
23 adoption of ten-year permit terms for MSOP and

1 FESOP renewals. IDEM recommends that the Board  
2 adopt the draft rule.

3 CHAIRMAN MINER: Thank you,  
4 Ms. Pedersen. Is there anyone from the Board  
5 with any questions for Ms. Pedersen?

6 (No response.)

7 CHAIRMAN MINER: Thank you very much.  
8 I have no speaker cards at this time. Is  
9 there anyone who wishes to speak to this rule at  
10 this time?

11 (No response.)

12 CHAIRMAN MINER: Seeing none, this  
13 hearing is now concluded. The Board will take  
14 preliminary action on adoption of amendments to  
15 326 IAC 2-1.1-9.5, 326 IAC 2-6.1-7 and  
16 326 IAC 2-8-4, Ten-Year Permit Renewal for Minor  
17 Source Operating Permits and Federally  
18 Enforceable State Operating Permits.

19 Are there any questions for the Board at  
20 this time -- or from the Board -- regarding this?

21 MR. K. ANDERSON: I will offer this,  
22 I guess: Being one of the companies that holds  
23 MSOP's and FESOP's, these usually reflect pretty

1 simple operations. MSOP's are very simple  
2 operations, and the permit requirements still  
3 require any change in process or in contingents  
4 be sought with active permits.

5 So -- and beyond that, these things stay  
6 pretty common, pretty consistent, so any time we  
7 can relieve that burden of permit applications  
8 and consultants, and IDEM's, I think we should  
9 move forward with it, and I support this.

10 CHAIRMAN MINER: Very good. Thank  
11 you, Kurt.

12 Any other comments or questions?

13 (No response.)

14 CHAIRMAN MINER: Seeing none, I would  
15 entertain a motion for preliminary adoption.

16 MR. BENSHOOF: So moved.

17 CHAIRMAN MINER: Motion from  
18 Mr. Benshoof.

19 MR. K. ANDERSON: Second.

20 CHAIRMAN MINER: Second from  
21 Mr. Anderson.

22 Any other discussion or questions at this  
23 time?

1 (No response.)

2 CHAIRMAN MINER: All those in favor,  
3 signify by saying aye.

4 MR. CUNDIFF: Aye.

5 MR. K. ANDERSON: Aye.

6 MR. T. ANDERSON: Aye.

7 MR. BOYCE: Aye.

8 MS. FISHER: Aye.

9 MR. BACONE: Aye.

10 MR. BENSHOOF: Aye.

11 DR. STEVENS: Aye.

12 MR. STALEY: Aye.

13 CHAIRMAN MINER: Aye.

14 Opposed?

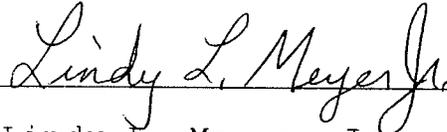
15 (No response.)

16 CHAIRMAN MINER: The motion passes  
17 for preliminary adoption.

18 The second here today is a public hearing  
19 before the Air Pollution Control Board of the  
20 State of Indiana regarding Preliminary Adoption  
21 of Amendments to 326 IAC 1-4-1, Redesignation of  
22 Allen County to Attainment for the Eight-Hour  
23 Ozone Standard.

## 1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned  
3 Court Reporter and Notary Public residing in the  
4 City of Shelbyville, Shelby County, Indiana, do  
5 hereby certify that the foregoing is a true and  
6 correct transcript of the proceedings taken by me  
7 on Wednesday, March 7, 2007 in this matter and  
8 transcribed by me.

9  
10 

11 Lindy L. Meyer, Jr.,

12 Notary Public in and  
13 for the State of Indiana.

14  
15 My Commission expires October 27, 2008.  
16  
17  
18  
19  
20  
21  
22  
23

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

BEFORE THE STATE OF INDIANA  
AIR POLLUTION CONTROL BOARD

- - -

PUBLIC MEETING OF MAY 2, 2007

- - -

ORIGINAL

PROCEEDINGS

before the Indiana Air Pollution Control Board,  
Dr. James Miner, Chairman, taken before me,  
Lindy L. Meyer, Jr., a Notary Public in and for  
the State of Indiana, County of Shelby, at the  
Indiana Government Center South, Conference  
Center, Room A, 402 West Washington Street,  
Indianapolis, Indiana, on Wednesday, May 2, 2007  
at 1:35 o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a  
ACCURATE REPORTING OF INDIANA  
12922 Brighton Avenue  
Carmel, Indiana 46032  
(317) 848-0088

## 1 APPEARANCES:

## 2 BOARD MEMBERS:

3 Dr. James Miner, M.D., Chairman  
4 Kurt Anderson  
5 Thomas Anderson  
6 David Benshoof  
7 Randy Staley  
8 Dr. Phil Stevens  
9 Jeffrey L. Quyle  
10 Chris Horn  
11 Howard W. Cundiff, Proxy, State Board of  
12 Health  
13 Ron McAhrn, Proxy, Department of  
14 Natural Resources  
15 Steve Boyce, Proxy, Lieutenant  
16 Governor  
17 Pamela Fisher, Proxy, Indiana Economic  
18 Development Corporation

## 19 IDEM STAFF MEMBERS:

20 Thomas W. Easterly, Commissioner  
21 Kathy Watson  
22 Chris Pedersen  
23 Susan Bem  
24 Scott Deloney  
25 Patricia Troth  
26 Kari Evans  
27 Karol Chuma

## 28 PUBLIC SPEAKERS:

29 Charlotte Read  
30 Tim Maloney  
31 Dr. Indra Frank  
32 Jerry King  
33 Janet McCabe  
34 Stan Pinegar  
35 Dan Weiss  
36 David Long  
37 Robert Asplund

## 1 PUBLIC SPEAKERS (CONT.):

2 Mark Strimbu

John Ross

3 Dwayne Burke

Vince Griffin

4 Paul Winchester, M.D.

John Gibson

5 Chuck Brinkman

Julia Tipton Hogan (read by Dr. Frank)

6 Richard Van Frank

Jeff Barns

7 Dr. Jim Wheeler

Patrick Bennett

8 Carly Watson

Ryan Camp

9 Claude W. Caddell

Constance Clay

10 Jenny Kalis

Steve Fox (statement read by Dr. Miner)

11

- - -

12

13

14

15

16

17

18

19

20

21

22

23

1 1:25 o'clock p.m.  
2 May 2, 2007

3 - - -

4 CHAIRMAN MINER: We're going to call  
5 this meeting to order. I thank everybody for  
6 their patience. A realize this is a lengthy  
7 subject matter for this particular meeting, but  
8 circumstances today kind of unfortunately made it  
9 difficult for many people here to park and find  
10 places to get here, so thanks for your patience.

11 This meeting of the May 2nd, 2007 Air  
12 Pollution Control Board will now come to order.  
13 A quorum of the Board is present. I will  
14 introduce the members and their representation.  
15 We have Mr. Kurt Anderson, representing major  
16 manufacturing; Mr. Tom Anderson, representing the  
17 environmental; we have Mr. Ron McAhron, proxy for  
18 the Department of Natural Resources; Mr. David  
19 Benshoof, representing small business; Mr. Steve  
20 Boyce, representing -- proxy for the Lieutenant  
21 Governor; Mr. Howard Cundiff, proxy for the  
22 Department of Health; Ms. Pamela Fisher,  
23 representing -- proxy for the Indiana Economic  
Development Commission; Mr. Chris Horn,

1           Opposed?

2                           (No response.)

3                   CHAIRMAN MINER:   The motion carries.

4                   The second course of action is a public  
5 hearing before the Air Pollution Control Board of  
6 the State of Indiana regarding final adoption of  
7 amendments to 326 IAC 2-1.1-9-5 and  
8 326 IAC 2-6.1-7, 326 IAC 2-8-4, and repeal of  
9 326 IAC 25-2-2, the Ten-Year Permit Renewal Term  
10 for Minor Source Operating Permits and Federally  
11 Enforceable State Operating Permits.

12                   I will now introduce Exhibit No. 2 --  
13 Ms. Watson -- the proposed rule as preliminarily  
14 adopted, into the record of the hearing.

15                   Is there someone from the Department who  
16 wishes to speak to the rule?

17                   MS. WATSON:   Yes.   This is final  
18 adoption of a rule that you preliminarily adopted  
19 a month or two ago.   There have been no changes  
20 to this rule.   It allows a ten-year permit  
21 renewal term for minor source operating permits  
22 and federally enforceable state operating permits  
23 in lieu of the current five-year term, which is

1 in our state rules. The ten year term does  
2 comport with what is allowed under state law, and  
3 we ask that you final adopt this rule. There  
4 were no comments made at the hearing and no  
5 changes from preliminary adoption.

6 Thank you.

7 CHAIRMAN MINER: Thank you,  
8 Ms. Watson.

9 I, again, have no submission cards for  
10 anyone wishing to speak. Is there someone from  
11 the audience who wishes to speak to this rule at  
12 this time?

13 (No response.)

14 CHAIRMAN MINER: Seeing none, this  
15 hearing is now concluded. The Board will now  
16 take final -- action on final adoption of  
17 amendments to 326 IAC 2-1.1-9-5, 326 IAC 2-6.1-7,  
18 326 IAC 2-8-4, and repeal of 326 IAC 25-2-2. Is  
19 there any Board discussion or questions at this  
20 time?

21 (No response.)

22 CHAIRMAN MINER: Seeing none, I would  
23 entertain a motion for final adoption.

1 MR. BENSHOOF: So moved.

2 CHAIRMAN MINER: I have a motion from  
3 Mr. Benshoof.

4 MR. STALEY: Second.

5 CHAIRMAN MINER: A second by  
6 Mr. Staley. I will now do a roll-call vote.

7 Mr. Anderson?

8 MR. K. ANDERSON: Aye.

9 CHAIRMAN MINER: Mr. Anderson votes  
10 aye.

11 Mr. Anderson?

12 MR. T. ANDERSON: Aye.

13 (Laughter.)

14 CHAIRMAN MINER: Mr. Anderson votes  
15 aye.

16 Mr. McAhron?

17 MR. MCAHRON: Aye.

18 CHAIRMAN MINER: Mr. McAhron votes  
19 aye.

20 Mr. Benshoof?

21 MR. BENSHOOF: Yes.

22 CHAIRMAN MINER: Mr. Benshoof votes  
23 aye.

1 Mr. Boyce?

2 MR. BOYCE: Yes.

3 CHAIRMAN MINER: Mr. Boyce votes aye.

4 Mr. Cundiff?

5 MR. CUNDIFF: Aye.

6 CHAIRMAN MINER: Mr. Cundiff votes

7 aye.

8 Ms. Fisher?

9 MS. FISHER: Aye.

10 CHAIRMAN MINER: Ms. Fisher votes

11 aye.

12 Mr. Horn?

13 MR. HORN: Aye.

14 CHAIRMAN MINER: Mr. Horn votes aye.

15 Dr. Stevens?

16 DR. STEVENS: Aye.

17 CHAIRMAN MINER: Mr. Staley?

18 MR. STALEY: Aye.

19 CHAIRMAN MINER: Mr. Staley votes

20 aye.

21 Mr. Quyle?

22 MR. QUYLE: Aye.

23 CHAIRMAN MINER: Mr. Quyle votes aye,

1 and I vote yes as well. This passes unanimously.

2 The third action before the Board is a  
3 public hearing before the Air Pollution Control  
4 Board of the State of Indiana regarding  
5 preliminary adoption of amendments  
6 326 IAC 13-1.1, Amendments to the Inspection and  
7 Maintenance Rules for Lake and Porter Counties.

8 I will now introduce Exhibit No. 3 --  
9 Ms. Watson -- the draft rule, into the record of  
10 this hearing.

11 Is there someone from the Department who  
12 wishes to speak to the rule?

13 MS. WATSON: Ms. Chris Pedersen.

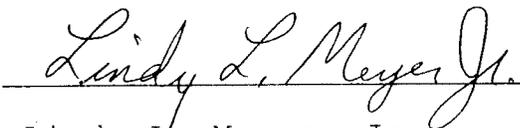
14 CHAIRMAN MINER: Chris?

15 MS. PEDERSEN: Chairman Miner,  
16 members of the Board, my name is Chris Pedersen,  
17 and I'm with the Office of Air Quality, Rules  
18 Section.

19 This rule concerns amendments to the Motor  
20 Vehicle Inspection and Maintenance, or I&M,  
21 program in Lake and Porter Counties. IDEM is  
22 proposing enhancements to the existing program  
23 that are currently at 326 IAC 13-1.1.

## 1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned  
3 Court Reporter and Notary Public residing in the  
4 City of Shelbyville, Shelby County, Indiana, do  
5 hereby certify that the foregoing is a true and  
6 correct transcript of the proceedings taken by me  
7 on Wednesday, May 2, 2007 in this matter and  
8 transcribed by me.

9  
10 

11 Lindy L. Meyer, Jr.,

12 Notary Public in and  
13 for the State of Indiana.

14  
15 My Commission expires October 27, 2008.  
16  
17  
18  
19  
20  
21  
22  
23

# Attachment G

Indiana Register

---

## TITLE 326 AIR POLLUTION CONTROL BOARD

**Proposed Rule**  
LSA Document #06-487

### DIGEST

Amends 326 IAC 2-1.1-9.5 concerning terms of permits, 326 IAC 2-6.1-7 concerning minor source operating permit renewals, and 326 IAC 2-8-4 concerning federally enforceable state operating permit renewals. Repeals 326 IAC 25-2-2. Effective 30 days after filing with the Publisher.

### HISTORY

IC 13-14-9-7 Notice and Notice of First Hearing: November 1, 2006, Indiana Register (DIN: 20061101-IR-326060487FDA).

Date of First Hearing: February 7, 2007.

Continuation of First Hearing: March 7, 2007.

### SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from November 1, 2006, through December 1, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

Eli Lilly and Company (ELC)

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

*Comment:* Lilly supports IDEM's proposal and encourages the Air Pollution Control Board to adopt these measures. It is sensible and efficient to extend the permit term for FESOPs and MSOPs to 10 years. Because sources are required to modify their permits whenever the facility changes or whenever applicable requirements change, the permits are generally kept current on a day-to-day basis. Consequently, renewal of an up-to-date permit is a *pro forma* process that may do nothing other than simply change the expiration date of the permit. The primary value of a permit renewal is to refresh the public involvement element of the permitting process and to process permit modifications that the site was not required to do earlier. Lilly agrees with IDEM that 10 years represents a reasonable period in balancing these interests.

*Response:* IDEM concurs and appreciates the support for the change to the permit term for minor source operating permits (MSOPs) and federally enforceable state operating permits (FESOPs).

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

On March 7, 2007, the Air Pollution Control Board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 2-1.1-9.5, 326 IAC 2-6.1-7, and 326 IAC 2-8-4 and the repeal of 326 IAC 25-2-2. No comments were made at the first hearing.

326 IAC 2-1.1-9.5; 326 IAC 2-6.1-7; 326 IAC 2-8-4; 326 IAC 25-2-2

SECTION 1. 326 IAC 2-1.1-9.5 IS AMENDED TO READ AS FOLLOWS:

#### 326 IAC 2-1.1-9.5 General provisions; term of permit

**Authority:** IC 13-14-8; IC 13-15-3-2; IC 13-17-3-4; IC 13-17-3-11

**Affected:** IC 13-11-2; IC 13-15-3-6; IC 13-17

Sec. 9.5. (a) Except as provided in IC 13-15-3-6(a) and subsection (b), the following are effective for a term not to exceed five (5) years:

- (1) A permit to construct.
- (2) A permit to operate.
- (3) A permit modification.

(b) In accordance with IC 13-15-3-2, the following permit renewals are effective for a term not to exceed ten (10) years:

- (1) A minor source operating permit renewal under 326 IAC 2-6.1.
- (2) A federally enforceable state operating permit renewal under 326 IAC 2-8.

~~(b)~~ **(c)** Notwithstanding the permit ~~term terms~~ in ~~subsection subsections~~ **(a) and (b)**, any condition established in a permit issued pursuant to a permitting program approved into the state implementation plan shall remain in effect until **the**:

- (1) ~~the~~ condition is modified in a subsequent permit action; or
- (2) ~~the~~ emission unit to which the condition pertains permanently ceases operation.

*(Air Pollution Control Board; 326 IAC 2-1.1-9.5; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1557)*

SECTION 2. 326 IAC 2-6.1-7 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-6.1-7 Operating permit renewal**

**Authority:** IC 13-14-8; IC 13-15-3-2; IC 13-17-3-4; IC 13-17-3-11

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

Sec. 7. (a) ~~An~~ **A new** operating permit shall be valid for a period of time not to exceed five (5) years, **and a permit renewal shall be valid for a period of time not to exceed ten (10) years.** However, permits may be valid for any lesser period if determined necessary for administrative reasons by the commissioner.

(b) At least ninety (90) calendar days ~~prior to~~ **before** the expiration date of an operating permit, the applicant shall apply for a new operating permit from the commissioner if the applicant wishes to continue operation of the source. If a timely and sufficient application for renewal has been made, the existing permit does not expire until a final decision on the application for renewal has been made by the department.

(c) The application for the operating permit renewal shall include the following information:

- (1) Certification that the source has not changed from the initial permit issuance or that all modifications to the source have been reviewed and approved in accordance with this rule.
- (2) Identification of any changes to the source that are subject to this article that have not received approval ~~prior to~~ **before** construction or operation.

*(Air Pollution Control Board; 326 IAC 2-6.1-7; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1020; readopted filed Oct 22, 2004, 10:35 a.m.: 28 IR 801)*

SECTION 3. 326 IAC 2-8-4 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-4 Permit content**

**Authority:** IC 13-14-8; IC 13-15-3-2; IC 13-17-3-4; IC 13-17-3-11

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

Sec. 4. The following shall be included in each FESOP issued under this rule:

(1) Emission limitations and standards, including those operational requirements and limitations that limit the source's capacity to emit any air pollutants such that it does not fall within any of the categories listed in 326 IAC 2-7-2(a) and that assure compliance with all applicable requirements at the time of FESOP issuance. The FESOP shall include the following:

(A) The FESOP shall:

- (i) specify and reference the origin of and authority for each term or condition; and
- (ii) identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(B) Where an applicable requirement of the CAA is more stringent than an applicable requirement of regulations promulgated under Title IV of the CAA, both provisions shall be:

- (i) incorporated into the FESOP; and ~~shall be~~
- (ii) described in the permit as enforceable by the commissioner and the U.S. EPA.

(C) If an applicable implementation plan allows a determination of an alternative emission limit for a FESOP source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the commissioner elects to use such process, any FESOP containing an alternative emission limit based on such an equivalency determination shall contain provisions to ensure

that ~~such~~ the emissions limit has been demonstrated to be:

- (i) quantifiable;
- (ii) accountable;
- (iii) enforceable; and
- (iv) based on replicable procedures.

(D) Emission limitations applicable to startup, shutdown, and emergency bypasses shall be addressed on a case-by-case basis in the permit. ~~Such~~ The limitations shall be designed so as to minimize the:

- (i) frequency of such events; and ~~to minimize the~~
- (ii) excess emissions caused by these events;

to the extent feasible, taking into consideration available technologies, safety, cost, and other relevant factors.

(2) A permit term not to exceed the following:

(A) Five (5) years from the date of issuance for new permits.

(B) Ten (10) years from the date of issuance for permit renewals.

(3) Monitoring and related record keeping and reporting requirements which assure that all reasonable information is provided to evaluate continuous compliance with the applicable requirements. At a minimum, the following shall be contained in each FESOP:

(A) Each FESOP shall contain the following requirements with respect to monitoring:

(i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated under Section 504(b) or 114(a)(3) of the CAA.

(ii) Where an applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, which may consist of record keeping designed to serve as monitoring, periodic monitoring specifications sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the FESOP, as reported under clause (C). ~~Such~~ The monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of this clause.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(B) With respect to record keeping, the FESOP shall incorporate all applicable record keeping requirements, including, where applicable, the following:

(i) Records of required monitoring information that include the following:

- (AA) The date, place, as defined in the FESOP, and time of sampling or measurements.
- (BB) The dates analyses were performed.
- (CC) The company or entity that performed the analyses.
- (DD) The analytical techniques or methods used.
- (EE) The results of ~~such~~ the analyses.
- (FF) The operating conditions as existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes the following:

- (AA) All calibration and maintenance records.
- (BB) All original strip chart recordings for continuous monitoring instrumentation.
- (CC) Copies of all reports required by a FESOP.

(DD) For the purposes of complying with this subdivision, the permittee shall retain the records on-site for three (3) years and shall make them available upon request for the two (2) years following.

(C) With respect to reporting, a FESOP shall incorporate all applicable reporting requirements and requirements for the following:

(i) Submittal of reports of any required monitoring at least every six (6) months. All instances of deviations from FESOP requirements must be clearly identified in ~~such~~ the reports. All required reports must be certified by an authorized individual consistent with section 3(d) of this rule.

(ii) The reporting of deviations from FESOP requirements, including those attributable to upset conditions as defined in a FESOP permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Proper notice submittal under section 12 of this rule satisfies the reporting requirements of this item. Notwithstanding requirements in this section, the reporting of deviations required by an applicable requirement shall follow the schedule stated in the applicable requirement.

(4) A severability clause to ensure the continued validity of the various FESOP requirements in the event that a portion of the FESOP is determined to be invalid.

(5) Provisions stating the following:

(A) The permittee must comply with all conditions of the FESOP. Noncompliance with any provision of a

FESOP is grounds for the following:

- (i) Enforcement action.
  - (ii) FESOP termination, revocation and reissuance, or modification. ~~and~~
  - (iii) Denial of a FESOP renewal application.
- (B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of a FESOP.
- (C) The FESOP may be modified, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a FESOP modification, revocation and reissuance, or termination or of a notification of planned changes or anticipated noncompliance does not stay any FESOP condition.
- (D) The FESOP does not convey any property rights of any sort or any exclusive privilege.
- (E) The permittee shall furnish to the commissioner, within a reasonable time, any information that the commissioner may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating a FESOP or to determine compliance with a FESOP. Upon request, the permittee shall also furnish to the commissioner copies of records required to be kept by a FESOP, or, for information claimed to be confidential, the permittee may furnish ~~such~~ the records directly to the U.S. EPA along with a claim of confidentiality.
- (6) A provision to ensure that a FESOP source pays fees to the commissioner consistent with the fee schedule approved under section 16 of this rule.
- (7) Terms and conditions ~~which~~ that allow for changes by the FESOP source among reasonably anticipated operating scenarios that are identified by the source in its application as approved by the commissioner. ~~Such~~ The terms and conditions shall:
- (A) require the source, contemporaneously with making a change from one (1) operating scenario to another, to make a record in a log at the permitted facility of the scenario under which it is operating; and
  - (B) for each such alternative operating scenario, require compliance with all applicable requirements and the requirements of this rule.
- (8) Terms and conditions, if a FESOP applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emissions trade. ~~Such~~ The terms and conditions shall:
- (A) ~~shall~~ include all terms required under section 5 of this rule to determine compliance; and
  - (B) ~~shall~~ require compliance with all applicable requirements and requirements of this rule.
- (9) A provision that requires the source to do all of the following:
- (A) Maintain on-site the preventive maintenance plan required under section 3(c)(6) of this rule.
  - (B) Implement the preventive maintenance plan.
  - (C) Forward to the department upon request the preventive maintenance plan.
- (10) Descriptive information.
- (11) Terms and conditions, if requested by the permit applicant, that allow for changes at the permitted source, that comply with a federally enforceable emissions cap established in accordance with 326 IAC 2-1.1-12 and section 15(b) of this rule. ~~Such~~ The terms and conditions shall:
- (A) include all terms required under subdivision (3) and section 5 of this rule to determine compliance with the emission cap limit, all associated applicable requirements, and all terms required under section 15(a) and 15(b) of this rule;
  - (B) include a federally enforceable emissions cap, which may be independent of otherwise applicable requirements, with which the source must comply;
  - (C) require the permittee to meet all applicable requirements and all requirements of this rule;
  - (D) allow construction of new emission units or reconstruction or modification to existing emission units or processes that would otherwise require an operating permit revision, provided the actual emissions from the emission units or processes specified under an emissions cap or to be included under the emissions cap do not exceed the emissions limitation for the cap;
  - (E) allow for emissions trading solely for the purposes of complying with the emissions cap, provided the emissions cap request contains adequate terms and conditions, including all terms required under subdivision (3) and section 5 of this rule to determine compliance with the cap and with any emissions trading provisions;
  - (F) contain replicable procedures and permit terms that ensure the emissions cap is enforceable and trades pursuant to the cap are quantifiable and enforceable;
  - (G) be established in accordance with the procedures ~~pursuant to~~ under sections 13 and 14 of this rule; and
  - (H) require the owner or operator to provide notice for those changes that would have otherwise required a minor or significant operating permit revision in accordance with section 15(b) of this rule.
- (12) Terms and conditions, if requested by the permit applicant, that, notwithstanding the permit revision requirements under section 11.1 of this rule, allow the source to make specifically identified modifications without review, provided the operating permit includes terms and conditions that prescribe emissions

limitations and standards applicable to specifically identified modifications or types of modifications which that may occur during the term of the permit. ~~Such~~ The permit conditions shall include the following:

- (A) Emission limitations and standards necessary to assure compliance with the permit terms and conditions and all applicable requirements.
- (B) Monitoring, testing, reporting, and record keeping requirements that assure all reasonable information is provided to evaluate continuous compliance with the permit terms and conditions, the underlying requirements of this title, and the CAA.

*(Air Pollution Control Board; 326 IAC 2-8-4; filed May 25, 1994, 11:00 a.m.: 17 IR 2272; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2356; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1051; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107)*

SECTION 4. 326 IAC 25-2-2, PROPOSED TO BE ADDED AT 20061227-IR-326050232PRA, SECTION 1, IS REPEALED.

Notice of Public Hearing

*Posted: 03/28/2007 by Legislative Services Agency*  
An html version of this document.

# Attachment H

## **ADMINISTRATIVE CHECKLIST (40 CFR 51, Appendix V) Attachment #**

1. The submittal is accompanied by a formal letter of submittal from the governor or his designee. Enclosed
  
2. Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (“document”); in final form. Attachment B
  - a. Date of adoption or final issuance: November 16, 2007
  - b. The effective date of the plan, if different from the adoption/issuance date. December 16, 2007
  
3. Evidence that the State has the necessary legal authority under state law to adopt and implement the plan. IC 13-14-8
  
4. A copy of the actual regulation or document submitted for approval and incorporation by reference into the plan, including the following: Attachment A
  - a. Indication of the changes made to the existing approved plan, where applicable.
  - b. The submittal shall be a copy of the official State regulation or document signed, stamped, dated by the appropriate state official indicating that it is fully enforceable by the State. Effective date shall be stated in the document itself.
  
5. Evidence that the State followed all of the procedural requirements of the State’s laws and constitution in conducting and completing the adoption/issuance of the plan. Attachment B
  
6. Evidence that public notice was given, including date of proof of publication. Attachment C, D, and G
  
7. Certification that public hearings were held in accordance with information provided in public hearing notice. Attachment E and F
  
8. Compilation of public comments and State’s response. Attachment C and G