



**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE MOTOR
VEHICLE INSPECTION AND MAINTENANCE PROGRAM IN LAKE AND PORTER
COUNTIES**

LSA Document #08-674

Revisions Since Preliminary Adoption

IDEM met with the members of the Auto Clubs Council of Indiana, Hagerty Plus, Improving Kids' Environment, and Specialty Equipment Market Association to address the concerns raised at the July 1, 2009, Air Pollution Control Board meeting. Alternatives that should be taken in the rulemaking were discussed at this meeting with interested parties. The newly amended draft rule language scheduled for final adoption before the Air Pollution Control Board addresses the concerns of the interested parties by removing the condition that the vehicle be registered and plated as a historic motor vehicle with the Indiana bureau of motor vehicles and replacing it with an option to be insured under a collectible vehicle or classic automobile insurance policy. Insurance companies require vehicles to pass a rigorous test prior to being granted the status of a collectible vehicle or classic automobile and will ensure that the vehicle continues to maintain this status, which will in turn save the State of Indiana money that would normally be spent testing these vehicles at the clean air car check vehicle emission test sites. If the vehicle is not insured under a collectible vehicle or classic automobile insurance policy, the vehicle must be presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the vehicle has been driven a maximum of three thousand (3,000) miles per calendar year and federally required pollution control equipment for that make and model year vehicle is in place.

Overview

This rule amends 326 IAC 13-1.1 to add criteria to determine if an antique vehicle is exempt from the Lake and Porter county motor vehicle inspection and maintenance (I/M) program.

Citations Affected

Amends: 326 IAC 13-1.1.

Affected Persons

These rule amendments will exempt motor vehicles that are at least twenty-five (25) years old and are either insured under a collectible vehicle or classic automobile insurance policy or are presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the vehicle has been driven a maximum of three thousand (3,000) miles per calendar year and federally required pollution control equipment for that make and model year vehicle is in place.

Reasons for the Rule

The definition of "antique vehicle" was added to 326 IAC 13-1.1 in a previous rulemaking (LSA Document #06-284(F)) which used the definition of "antique vehicle" in IC 9-13-2-3. That definition states that an "antique motor vehicle means a motor vehicle or motor scooter that is at least twenty-five (25) years old". The breadth of the definition at IC 9-13-2-3 is beyond what was intended by the rulemaking as it exempts approximately 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. In order for IDEM to facilitate the process of offering antique or historic vehicle exemptions from the I/M program, this rulemaking amends 326 IAC 13-1.1 to clarify the criteria for determining if a vehicle is an antique vehicle and, therefore, exempt from the I/M program.

Economic Impact of the Rule

The draft rule adds criteria to determine if an antique vehicle is exempt from the I/M program and addresses a regulatory gap created by the existing definition of "antique vehicle". The existing definition of "antique vehicle" exempts 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties. The exemption in the existing definition is based solely on the age of the vehicle. Under the proposed

amended definition of “antique vehicle”, these 4,600 vehicles will be inspected to ensure that the pollution control systems are intact and operating properly. IDEM anticipates that the fiscal impact to the state and regulated community will be negligible.

Benefits of the Rule

This rule will help ensure continued compliance with the National Ambient Air Quality Standard (NAAQS) for ozone and will contribute to regional attainment efforts. The rule will also enable IDEM to offer antique or historic vehicle exemptions from the I/M program and will clarify the criteria for determining if a vehicle is an antique vehicle and exempt from the I/M program.

Description of the Rulemaking Project

The Lake and Porter county I/M program began in 1984 as a measure to improve air quality in these counties. To help ensure continued compliance with the NAAQS for ozone and to contribute to regional attainment efforts, IDEM executed a rulemaking (LSA Document #06-284(F)), which became effective on April 19, 2008, that made certain enhancements to the I/M program. Definitions for antique vehicles and show vehicles were added to the I/M rules at 326 IAC 13-1.1-1, and vehicles meeting the definition of “antique vehicle” or “show vehicle” were exempted from the testing requirements of the motor vehicle I/M rule.

“Antique vehicle” is defined by IC 9-13-2-3. That definition states that an “antique motor vehicle means a motor vehicle or motor scooter that is at least twenty-five (25) years old”. The breadth of the definition at IC 9-13-2-3 is beyond what was intended by the rulemaking as it exempts approximately 4,600 of the oldest, highest polluting cars and trucks in the testable fleet in Lake and Porter counties from vehicle emissions testing based solely on vehicle age. In order for IDEM to facilitate the process of offering antique or historic vehicle exemptions from the I/M program, this rulemaking proposes to amend 326 IAC 13-1.1 to clarify the criteria for determining if a vehicle is an antique vehicle and, therefore, exempt from the I/M program. IDEM is considering the following definition:

“Antique vehicle” means a vehicle that is at least twenty-five (25) years old and meets either of the following criteria:

- (A) is insured under a collectible vehicle or classic automobile insurance policy; or
- (B) is presented at a clean air car check vehicle emission test site in accordance with the applicable test cycle to verify that the following requirements have been met:
 - (i) The vehicle has been driven a maximum of three thousand (3,000) miles per calendar year.
 - (ii) Federally required pollution control

equipment for that make and model year vehicle is in place.

Scheduled Hearings

First Public Hearing: July 1, 2009, Room A, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana.

Second Public Hearing: November 4, 2009.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- (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 appropriate.
- (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:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule is consistent with federal requirements in 40 CFR 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) and 40 CFR 86 (Control of Emissions from New and In-Use Highway Vehicles and Engines).

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are

heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Legislative Services.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Manda Clevenger, Office of Air Quality, Rule and State Implementation Plan Development Section, (317) 232-8229, (800) 451-6027 (in Indiana), or (mcleveng@idem.in.gov).

