
TITLE 326 AIR POLLUTION CONTROL BOARD

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**
LSA Document #06-434

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING MUNICIPAL WASTE COMBUSTORS AT [326 IAC 11-7](#)

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to federal emissions standards for large municipal waste combustors that commenced construction before September 20, 1994, at [326 IAC 11-7](#). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: [326 IAC 11-7-3](#); [326 IAC 11-7-9](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [\[IC 13-14-9-3\]](#)... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

This rulemaking incorporates amendments to federal air emission standards for existing municipal waste combustors (MWC). Existing MWC units are units that commenced construction on or before September 20, 1994, with a combustion capacity greater than 250 tons per day of municipal solid waste. Standards for these sources were adopted by U.S. EPA for the first time in December 1995.

The only Indiana source to which this rule will apply is the mass burn steam generating plant that serves the city of Indianapolis. This plant is currently owned and operated by Covanta Indianapolis, Inc. and consists of three mass burn steam generating units. Each unit is capable of burning 726 tons per day of municipal solid waste.

Section 129 of the Clean Air Act requires U.S. EPA to review, and if appropriate, revise the new source performance standards (NSPS) and emission guidelines for existing sources for each incinerator category every five years. On May 10, 2006 (71 FR 27324), U.S. EPA published a final rule amending the emission standards for new and existing MWC units. For existing MWC units, the goal of this action was to amend the standards to reflect the actual performance levels being achieved by existing MWC units. For new MWC units, the goal of this action was to amend the standards to reflect the performance level achievable by MWC units to be constructed in the future.

There are three types of revisions that resulted from U.S. EPA's review of the standards: revisions to the emission limits; revisions to compliance testing provisions; and other revisions. The emissions limits have been reduced for dioxin/furan (only for units equipped with electrostatic precipitators (ESPs)), mercury, cadmium, lead, particulate matter, and nitrogen oxides (for some types of units). The compliance testing provisions have been revised to require increased data availability from continuous emissions monitoring systems (CEMS). The revisions require CEMS to generate at least 95% data availability on a calendar year basis and at least 90% data availability on a calendar quarter basis. The compliance testing provisions have also been revised to allow the optional use of CEMS to monitor particulate matter and mercury. Other revisions include:

- addition of operator stand-in provisions to clarify how long a shift supervisor is allowed to be off-site when a provisionally certified control room operator is standing in;

- establishment of an eight-hour block average for measuring activated carbon injection rate;
- ability to waive operating parameter limits during the mercury performance test and for two weeks preceding the test, as is already allowed for dioxin testing;
- revision of relative accuracy criterion for sulfur dioxide and carbon monoxide CEMS;
- flexibility added to the annual compliance testing schedule so that a facility tests once per calendar year, but no less than nine months and no more than 15 months since the previous test;
- allowing use of parametric monitoring limits from an exceptionally well-operated MWC unit to be applied to all identical units at the same plant site without retesting for dioxin;
- option for monitoring the activated carbon injection pressure or equivalent parameter; and
- clarify exclusion of monitoring data from compliance calculations.

In this rulemaking IDEM is proposing to update the emissions standards originally adopted by the air pollution control board in 1998, to be consistent with the amended federal emission guidelines for existing units. The emission guidelines for existing sources are not directly enforceable and are implemented by the state through state plans; a state rule or other enforceable mechanism. This rulemaking does not address the NSPS because NSPSs under 40 CFR 60 are incorporated by reference in Article 12 and the amendments to the MWC NSPS will be incorporated into state rule in a separate rulemaking through the annual update of the references to the code of federal regulation (CFR) definition. This rulemaking also does not address the compliance testing and operator training type revisions since these amendments to the CFR will also be picked up in the annual update of the references to the CFR definition.

The emission guidelines allow MWC units two compliance schedules to comply with revised emission limits. The first option gives MWC units up to two years from the date of U.S. EPA approval of a state plan to comply or by April 28, 2009, whichever is earlier. In most cases, the only changes necessary are to review the revisions and adjust the emission monitoring and reporting accordingly. Consistent with Clean Air Act Section 129, U.S. EPA expects states to require compliance as expeditiously as practicable. As a second compliance option, an owner or operator of a MWC unit who plans a substantial upgrade can apply for a site-specific compliance schedule that can extend up to five years following publication of the federal amendments. IDEM is proposing to follow the first option in the draft rule and require compliance with the revised emission limits on the effective date of this rulemaking. Stack test results from 2006 indicate that the source is already meeting the revised emission limits.

IDEM is proposing to adopt the same emission limits that are in the federal emission guidelines, which means changing the emission limits for particulate matter (PM), cadmium, lead, and mercury. In the current state rule, the PM limit is more stringent than the original federal emission guidelines and was based on the PM limit existing in a permit for Covanta at the time the limit was adopted. The new 25 milligrams per dry standard cubic meter corrected to 7% oxygen emission limit in the federal amendments is now more stringent than the permit based emission limit of 23 milligrams per dry standard cubic meter corrected to 12% carbon dioxide. IDEM is also proposing to repeal [326 IAC 11-7-9](#) since the compliance schedule for the original emissions limits is no longer needed and the revised emission limits will be effective upon the effective date of this rulemaking. IDEM seeks comments on the amendments to [326 IAC 11-7](#).

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed Under Federal Law

No 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.

Potential Fiscal Impact

There are no costs imposed by this rule beyond those already imposed by federal law. U.S. EPA expects minimal or no costs associated with this rule. Existing large municipal waste combustors will continue to use their existing maximum achievable control technology (MACT) to meet the emission limits and will not incur costs to retrofit equipment.

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

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 <http://www.in.gov/idem/compliance/ctap/index.html>.

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

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

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on municipal waste combustor amendments. These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) The federal rule requires states to revise rules previously adopted to implement the emission guidelines contained in 40 CFR 60, Subpart Cb. The limited policy options in this rule that IDEM considered is the effective date of the revised emission limits. IDEM is proposing that the revised limits will take effect upon the effective date of this rulemaking. IDEM believes this notice and subsequent hearings provide sufficient opportunity for public input on this rulemaking.
- (2) The rulemaking is an incorporation of federal guidelines that have already gone through a rigorous public comment process.
- (3) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (4) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

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 rule. Mailed comments should be addressed to:

#06-434(APCB)MWC 2006 Amendments
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 East 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 Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by November 13, 2006.

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 11-7-3](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 11-7-3](#) Emission limits

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Sec. 3. The concentration of pollutants contained in the gases discharged to the atmosphere from a designated facility shall not exceed the following limits:

Pollutant	Emission Limits
Particulate matter	23 25 milligrams per dry standard cubic meter (mg/dscm) ^{4 1}
Opacity	10% based on a 6-minute average
Cadmium	0.040 0.035 mg/dscm ¹
Lead	0.44 0.400 mg/dscm ¹
Mercury	0.080 0.050 mg/dscm; or 15% of the potential mercury emissions concentration ^{1, 3, 4}
Sulfur dioxide	29 parts per million by volume (ppmv); or 20% of the potential sulfur dioxide emission concentration ^{3,5}
Hydrogen chloride	29 ppmv; or 5% of the potential hydrogen chloride emissions concentration ^{2,3}
Organic emission (expressed as total mass dioxins/furans)	30 nanograms per dry standard cubic meter (ng/dscm) total mass ¹
Nitrogen oxides	205 ppmv ²
Carbon monoxide ⁵	100 ppmv ^{6 5} (based on a 4-hour block averaging time)

¹Corrected to seven percent (7%) oxygen.

²Corrected to seven percent (7%) oxygen, dry basis.

³Whichever concentration is less stringent.

⁴~~Corrected to twelve percent (12%) carbon dioxide.~~

^{5 4}Corrected to seven percent (7%) oxygen, dry basis, calculated as a 24-hour daily geometric mean.

^{6 5}Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to seven percent (7%) oxygen, dry basis, calculated as an arithmetic mean.

(Air Pollution Control Board; [326 IAC 11-7-3](#); filed Jan 18, 1999, 1:20 p.m.: 22 IR 1968; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 2. [326 IAC 11-7-9](#) IS REPEALED.

[Notice of Public Hearing](#)

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