

TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD
LSA Document #07-202

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING REVIEW TIMES FOR RENEWALS TO MINOR SOURCE OPERATING PERMITS AND MINOR PERMIT MODIFICATIONS TO PART 70 OPERATING PERMITS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 2](#) concerning time periods for IDEM to act on certain air permits. The amendments will include providing additional time for IDEM to process minor state operating permits and minor permit modifications to Part 70 permits. 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 2-6.1-7](#); [326 IAC 2-7-12](#).

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

The permitting rules at [326 IAC 2](#) include time periods for determinations made by IDEM on permit applications. The rules give IDEM a certain number of days to make a final decision on each type of permit application. IDEM has found that these time periods do not provide sufficient time for appropriate review and action on renewals to Minor Source Operating Permits (MSOPs) and minor permit modifications to Part 70 operating permits.

Applicants for the renewal of a MSOP must submit the renewal application at least 90 days prior to the expiration of the existing permit in accordance with [326 IAC 2-6.1-7](#). Indiana Code 13-15-4-1(b) requires IDEM to issue renewal permits before the expiration date of the existing permit if a timely and sufficient application for renewal has been made. Therefore, once an application to renew a MSOP is received, IDEM has only 90 days to complete its review of the application; prepare the draft permit; allow the source time to review the draft permit and suggest changes; put it on public notice; review comments, questions, and suggested changes; and issue the final permit. IDEM permitting staff have found this to be insufficient time to complete these activities; therefore, IDEM is proposing to extend the time to act on these applications to 120 days.

In accordance with [326 IAC 2-7-12\(b\)\(6\)](#), IDEM has 90 days to make a decision on a minor permit modification to a Part 70 permit after receipt of an application. During this time, IDEM must complete its review of the application; prepare the draft permit; allow the source time to review the draft permit and suggest changes; put it on public notice for 30 days; review comments, questions, and suggested changes; and issue the final permit. In addition, during the 90 days, IDEM must submit the draft minor permit modification to U.S. EPA for a 45 day review period. IDEM permitting staff have also found this to be insufficient time to complete the necessary permitting activities and are, therefore, proposing to extend the time to act on these modifications to 165 days, which would include the mandatory 45 U.S. EPA review period.

Extending the time in which IDEM makes a permit decision is not expected to significantly impact an affected MSOP source; however, renewal applications would have to be submitted 30 days sooner than under the current rules. A MSOP source that submits a timely renewal application is allowed to continue operating until IDEM makes a final decision on the renewal application. Extending the time for IDEM to make a decision on a Part 70 minor permit modification will not have an impact on the source because the source is issued a separate minor source modification independent of the minor permit modification, allowing the Part 70 source to construct the new equipment or process prior to IDEM issuing the related minor permit modification. The Part 70 source may begin operating the new equipment or process immediately after submitting the application for the minor permit modification, but must comply with both the applicable requirements governing the change and the permit terms and conditions the source included in its application.

IDEM is proposing to increase the time period for making determinations on two types of permit actions as follows:

Permit Action	Citation	Current Time Period	Proposed Time Period
Minor Source Operating Permit (MSOP) renewal	326 IAC 2-6.1-7	90 days	120 days
Part 70 minor permit modifications	326 IAC 2-7-12(b)(6)	90 days	165 days

IDEM is seeking comments on amendments to time periods for making determinations on certain permit applications and modifications. Upon completion, changes to [326 IAC 2-7-12\(b\)\(6\)](#) will be submitted to U.S. EPA for program approval.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Increasing the time to act on MSOP renewals from 90 days to 120 days.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Increasing the time to act on Part 70 minor permit modifications from 90 days to 165 days.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Increasing the time to act on air permits by some other amount of time.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 4. Make no change to the time periods for acting on air permits.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

40 CFR 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans); 40 CFR 52 (Approval and Promulgation of Implementation Plans); 40 CFR 70 (State Operating Permit Programs)

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative is not expected to have any fiscal impact because it would only change the time period for IDEM to act on a renewal application for a minor source operating permit.

Potential Fiscal Impact of Alternative 2. This alternative is not expected to have any fiscal impact because it would only change the time period for IDEM to act on an application for a Part 70 minor permit modification.

Potential Fiscal Impact of Alternative 3. This alternative is not expected to have any fiscal impact because it would only change the time period for IDEM to act on certain permit actions.

Potential Fiscal Impact of Alternative 4. This alternative will have no fiscal impact.

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/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:

Megan Tretter
IDEM Small Business Assistance Program Ombudsman
MC 50-01-IGCN 1307
100 N. Senate Ave.
Indianapolis, IN 46204-2251
(317) 234-3386
mtretter@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 Christine Pedersen, Rules Section, Office of Air Quality at

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (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 the case may be.
- (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 human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

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:

#07-202(APCB) Review Time for Air Permits

Christine Pedersen 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 May 18, 2007.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

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

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An [html](#) version of this document.