TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule
LSA Document #06-284

DIGEST

Amends 326 IAC 13-1.1-1, 326 IAC 13-1.1-2, 326 IAC 13-1.1-5, 326 IAC 13-1.1-7 through 326 IAC 13-1.1-10, 326 IAC 13-1.1-16, and 326 IAC 13-1.1-17.1 concerning the motor vehicle inspection and maintenance program in Lake County and Porter County. Effective 30 days after filing with the Publisher.

HISTORY

First Notice: August 16, 2006, Indiana Register (DIN: 20060816-IR-326060284FNA).
Second Notice: December 20, 2006, Indiana Register (DIN: 20061220-IR-326060284SNA).
Notice of First Hearing: December 20, 2006, Indiana Register (DIN: 20061220-IR-326060284PHA).
Change in Notice of Public Hearing: June 20, 2007, Indiana Register (DIN: 20070620-IR-326060284CHA).
Change in Notice of Public Hearing: July 4, 2007, Indiana Register (DIN: 20070704-IR-326060284CHA).
Date of First Hearing: September 5, 2007.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4 until the board has conducted a third comment period that is at least 21 days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published on December 20, 2006, at DIN: 20061220-IR-326060284SNA. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

The following section of the proposed rule is substantively different from the draft rule: 326 IAC 13-1.1-10.

Criteria for the minimum expenditure waiver for 1996 or newer model years at 326 IAC 13-1.1-10(a)(8) in the draft rule were deleted, but the criteria were added in 326 IAC 13-1.1-10(a)(7) to apply to 1981 and newer vehicles. As a result, the 150,000 mile restriction will now apply to all cars 1981 or newer, where it only applied to 1996 or newer cars previously.

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Comments on additional sections of the proposed rule that the commentor believes are substantively different from the draft rule may also be submitted for the consideration of the board. Mailed comments should be addressed to:

#06-284 Lake & Porter I/M
Christine Pedersen Mail Code 61-50
c/o Administrative Assistant
Rule 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 Office of Air Quality, Tenth Floor East, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (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 Rule Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 17, 2007.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from December 20, 2006, through January 19, 2007, on IDEM's draft rule language. IDEM received comments from the following parties:

NiSource Corporate Services (NCS)

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

Comment: The preamble language for the leak test procedure of the proposed rule specifically mentions

several fuel system components, gasoline, gasoline vapor, and other VOC emissions with respect to the leak test. However, this specificity to VOCs does not appear to carry over to the test section language. We recommend consideration of adding clarifying language that would specify that the leaks for which the vehicle will be tested include the types of leaking fluids that would lead to a test failure. We recommend these fluids for which a vehicle could be failed be consistent with the fluids for which the U.S. EPA emissions model, Mobile 6.2, bases its assumptions of leaking fluids contributing to 70% of the mobile on-road evaporative emissions inventory. The additional clarity regarding the fluids could have several benefits. The first is the potential to ease vehicle owner apprehension about the testing procedure. The second is that it may assist owners with performing their own preventative maintenance, which in turn could reduce emissions in advance of any test failure. (NCS)

Response: Vehicles that have excessive hydrocarbon evaporative and/or liquid leaks are relatively easy to identify. However, hydrocarbon leaks can originate from a number of points on a vehicle and identifying the exact location of the leak(s) is not as easy to identify. It should also be noted that the U.S. EPA has not yet defined inspection procedures nor does Mobile 6.2 contain design commands that address hydrocarbon leak identification. The locations listed in the preamble language are only included for informational purposes to provide examples of locations where these hydrocarbon leaks may occur.

It should also be noted that the recently finalized Lake and Porter counties inspection and maintenance contract requires the current contractor (Environmental Systems Products) in partnership with the State to develop and implement procedures for identifying vehicles that have excessive evaporative and/or liquid leaks. Phase I (March 1, 2007-September 31, 2007) will consist of a six-month development phase during which the test procedures to identify these vehicles will be developed and refined in the inspection lanes of at least one testing facility. If Phase I is deemed successful, the contractor will begin testing all 1995 and older model year vehicles at all the testing stations on October 1, 2007.

Comment: We understand the automobile insurance industry and the Indiana Bureau of Motor Vehicles (BMV) may have specific definitions, qualifications, and limitations pertaining to the types of vehicles IDEM intends to exempt from emission testing. To the extent the proposed rule adds definitions to these vehicles, i.e. antique vehicles, show vehicles, and ceremonial vehicles, we recommend the IDEM work with both the insurance industry and the BMV to provide consistency in the terminology. This would likely help minimize vehicle owner's confusion that could result from inconsistent terminology. Please note the proposed definitions contain language that may yield unintended exclusions and may benefit from additional clarification. For example, as currently worded, the proposed definition of "ceremonial vehicle" may be too narrow to capture the range of people that own or operate this type of vehicle. Also, the inclusion of the term " exclusively" may unintentionally exclude vehicles from this category unless they are towed to the parade site. (NCS)

Response: IDEM is not aware of any specific definitions, qualifications, or limitations that the automobile insurance industry or the Indiana BMV has pertaining to "show vehicles" or "ceremonial vehicles". The BMV does have specific eligibility requirements to plate a vehicle as an "antique". A passenger car, truck, recreational vehicle or motorcycle with a gross vehicle weight rating of less than or equal to eleven thousand (11,000) pounds and 25 years or older may be eligible to be plated as an "antique vehicle" with the BMV. Additional language has been added to 13-1.1-2(d)(10) to provide consistency in terminology of "antique vehicles" with the BMV.

Ceremonial vehicles are not currently defined in the state or the federal regulations. Based on further discussions between IDEM and the current contractor (Environmental Systems Products) concerning "ceremonial vehicles", the contractor is not aware of any ceremonial vehicle ever showing up at the testing facilities to be tested. Since ceremonial vehicles are not an issue at the testing facilities, are not defined in the state or federal regulations, and only a handful of these may exist in Lake and Porter Counties, IDEM does not believe "ceremonial vehicles" need to be included in this rulemaking and has removed that category of vehicle from the rule. Minor revisions have been made to the "show vehicle" definition.

Comment: The language of 326 IAC 13-1.1-1(9)(B) appears to be a circular reference as it includes the term it is attempting to define. It may be advisable to reference employees of the entity defined in 326 IAC 13-1.1-1(9)(A). (NCS)

Response: IDEM concurs and has revised the draft rule language accordingly.

Comment: To avoid confusion we recommend replacing "twice a year" with "twice a calendar year" in 326 IAC 13-1.1-1(32)(A) and (B). We also recommend clarification of "registration or entrance forms" so it is understood that these are the car show registration or entrance forms. (NCS)

Response: IDEM concurs and has revised the draft rule language accordingly.

Comment: The language of 326 IAC 13-1.1-1(32)(D) is a compliance requirement. We believe it would be more appropriate and clearer to affected parties to move a compliance condition to a compliance section of the rule. In addition, the requirement to present the vehicle every two years should be clarified as calendar years. It should also be synchronized with the normal vehicle registration cycle to provide more uniform periods between verifications and help balance work load at the emission test site. (NCS)

Response: IDEM does not believe that the language contained in 326 IAC 13-1.1-1(32)(D) is a compliance requirement. This language has been included to clarify the term of a show vehicle exemption (2-year test cycle). If a vehicle successfully meets the criteria, the applicable vehicle must be presented at a Clean Air Car Check

vehicle emission test site within two years of the date of each of its future registration expiration anniversary dates. No revisions have been made to this language.

Comment: We recommend the addition of "GVWR" after "pounds" in 326 IAC 13-1.1-2(d)(1) to be consistent with use GVWR in the definitions section. (NCS)

Response: IDEM concurs and has revised the draft rule language accordingly.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On September 5, 2007, the Air Pollution Control Board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 13-1.1. Comments were made by the following parties:

Charlotte Read (CR)

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

Comment: The inspection and maintenance program for Lake and Porter counties is one of the measures approved and forwarded to IDEM by the Air Quality Subcommittee of the Environmental Management Policy Committee of the Northwestern Indiana Regional Planning Commission. The proposed changes will help to identify problems in OBD cars before warranties expire. Identifying leaks in older cars will help improve air and water quality. I support preliminary adoption. (CR)

Response: IDEM appreciates the support for the enhancements proposed for this program.

326 IAC 13-1.1-1; 326 IAC 13-1.1-2; 326 IAC 13-1.1-5; 326 IAC 13-1.1-7; 326 IAC 13-1.1-8; 326 IAC 13-1.1-9; 326 IAC 13-1.1-10; 326 IAC 13-1.1-16; 326 IAC 13-1.1-17.1

SECTION 1. 326 IAC 13-1.1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-1 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 9-13-2-3; IC 13-15; IC 13-17

Sec. 1. The following definitions apply throughout this rule:

~~(1) "2500/idle" means a two (2) speed idle test as described in 40 CFR 51, Appendix B*.~~

(1) "Antique vehicle" has the meaning set forth in IC 9-13-2-3.

(2) "Basic inspection/maintenance (I/M)" means an I/M program that meets the requirements for a basic I/M program as defined in 40 CFR 51, **Subpart S*.**

(3) "Bureau" means the bureau of motor vehicles.

(4) "Centralized" means a vehicle emissions testing facility capable of performing enhanced I/M, OBDII, and basic I/M idle testing on motor vehicles.

~~(4)~~ **(5)** "Certificate of compliance" means a certificate issued to motor vehicle owners or operators:

(A) passing the emissions test and tampering inspection; or

(B) receiving a waiver pursuant to this rule, which must be presented to the bureau in order to receive a certificate of registration.

~~(5)~~ **(6)** "Certified configuration" means an engine or engine-chassis design ~~which~~ **that** has been certified by the U.S. EPA under 40 CFR 86* prior to the production of vehicles with that design.

~~(6)~~ **(7)** "Certified inspection and maintenance (I/M) emissions repair technician" means a technician that has satisfactorily completed approved department certified I/M emission repair technician training.

~~(7)~~ **(8)** "Certified inspector" means a contracted employee that has satisfactorily completed approved department certified inspector training.

~~(8)~~ **(9)** "Contractor" means any:

(A) offeror or organization selected as a result of the state procurement process to operate a vehicle emission testing program; and ~~any~~

(B) employees of ~~that contractor.~~ **the offeror or organization in clause (A).**

~~(9)~~ **(10)** "Dedicated alternative fuel vehicle" means a vehicle that is not capable of running on gasoline at any time.

~~(10)~~ **(11)** "Department" means the department of environmental management or its contractor.

(12) "Diagnostic trouble code" means a code number generated by a vehicle's on-board computer that corresponds to a specific vehicle component malfunction.

~~(11)~~ **(13)** "Dual fuel vehicle" means a vehicle capable of operating on either:

(A) gasoline; or

(B) one (1) of the fuels stated in section 4(b) of this rule.

~~(12)~~ **(14)** "Enhanced I/M" means an I/M program that meets the requirements for an enhanced I/M program as

defined in 40 CFR 51, **Subpart S*.**

~~(13)~~ **(15)** "Facility" means a motor vehicle testing location, either mobile or stationary:

(A) operated by the contractor; and

(B) established in accordance with this rule.

~~(14)~~ **(16)** "Fleet" means a group of light-duty motor vehicles, medium-duty motor vehicles, or a combination thereof owned or operated by:

(A) an individual;

(B) a company;

(C) a corporation; or

(D) a federal, state, or local government unit.

~~(15)~~ **(17)** "Heavy-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating (GVWR) greater than nine thousand (9,000) pounds.

~~(16)~~ **(18)** "Idle test" means a single speed idle test as described in 40 CFR 51, **Subpart S,** Appendix B*.

~~(17)~~ **(19)** "I/M" means inspection/maintenance.

~~(18)~~ **(20)** "I/M 240" means a transient emission test as described in 40 CFR 51, **Subpart S,** Appendix B*.

~~(19)~~ **(21)** "I/M 93" means a version of I/M 240 that:

(A) is shorter in duration by utilizing only phase I (ninety-three (93) second drive trace) of the I/M 240 driving cycle; **and**

(B) allows a second attempt to pass. ~~and~~

~~(C) eliminates both the purge and pressure tests.~~

~~(20)~~ **(22)** "Light-duty motor vehicle" means a motor vehicle with a GVWR less than or equal to six thousand (6,000) pounds.

~~(21)~~ **(23)** "Medium-duty motor vehicle" means a motor vehicle with a GVWR of:

(A) six thousand one (6,001) pounds or greater; and

(B) less than or equal to nine thousand (9,000) pounds.

~~(22)~~ **(24)** "Motor vehicle" means a self-propelled vehicle used on the public roads.

~~(23)~~ **(25)** "Motor vehicle emission inspector" means an individual meeting the requirements of section 15 of this rule.

~~(24)~~ **(26)** "Motor vehicle model year" or "model year" means the date of manufacture of the original motor vehicle within the annual production period of ~~such~~ **the** motor vehicle as designated by the manufacturer.

~~(25)~~ **(27)** "Motorcycle" means a motor vehicle:

(A) having a seat or saddle for the rider; and

(B) designed to travel on not more than three (3) wheels in contact with the ground.

~~(26)~~ **(28)** "OBDII" means second generation on-board diagnostics systems.

~~(27) "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications (dated April 1994)** and 40 CFR 51*.~~

~~(28)~~ **(29)** "Pressure test" means a test that pressurizes the evaporative system to check for leakage as described in ~~High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications (dated April 1994)**~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000**** and 40 CFR 51*.

(30) "Purge test" means a test that measures the total purge flow occurring in the vehicle's evaporative system during the transient dynamometer emission test as described in "IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000 and 40 CFR 51*.**

~~(29)~~ **(31)** "Recall" means a voluntary emissions recall as described in 40 CFR 85.1902(d)*.

(32) "Show vehicle" means a vehicle that meets the following criteria:

(A) The vehicle must be exhibited at a car show at least twice a calendar year as verified through car show registration or entrance forms.

(B) The vehicle shall be restricted to the addition of three thousand (3,000) miles per calendar year to the vehicle.

(C) The condition of the vehicle must be show quality, indicated by the interior and exterior of the vehicle maintained in good condition.

(D) 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 it is still a show vehicle.

~~(30)~~ **(33)** "Tampering check" means a visual inspection of **the following:**

(A) Catalytic converters.

(B) Fuel filler caps.

(C) Positive crankcase ventilation (PCV) systems. ~~and~~

(D) Evaporative systems.

~~(31)~~ **(34)** "VIN" means vehicle identification number.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**This document is incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; 326 IAC 13-1.1-1; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2730; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1463; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 76)

SECTION 2. 326 IAC 13-1.1-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-2 Applicability

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

Sec. 2. (a) The following motor vehicles in Lake and Porter counties are subject to the requirements of this rule unless ~~such~~ **the** vehicles are exempt or have received a waiver from the requirements as specified in section 10 of this rule:
(1) Vehicle model years 1976 and newer.
(2) ~~Light~~ **Light-duty** and medium-duty motor vehicles.
(3) Vehicles registered or reregistered for highway use.
(4) Fleets primarily operated within Lake **County** or Porter County.
(5) Leased vehicles that have the registration or titling in the name of the equity owner other than the lessee or user.
(6) Vehicles that are operated on federal installations located within Lake **County** or Porter County, regardless of whether the vehicles are registered with the federal installation or in Lake **County** or Porter County. This requirement applies to all employee-owned or leased vehicles, including vehicles owned, leased, or operated by civilian and military personnel on federal installations, ~~as well as~~ **and** agency-owned or operated vehicles operated on the installation. This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as the visits do not exceed sixty (60) calendar days per year.

(b) Motor vehicles subject to this rule in Lake and Porter counties shall be tested under the parameters specified for ~~I/M 240 or~~ I/M 93 found at section 7 of this rule.

(c) ~~Light~~ **Light-duty** and medium-duty motor vehicles in Lake and Porter counties of model year 1996 or newer are subject to the provisions of the ~~second generation on-board diagnostics systems~~ OBDII check found at section 17.1 of this rule. ~~starting January 1, 2001.~~

(d) The following motor vehicles are exempt from the testing requirements of this rule:
(1) Heavy-duty motor vehicles **with a gross vehicle weight rating of nine thousand (9,000) pounds or more.**
(2) Motorcycles.
(3) Motor vehicles with engine displacement less than two hundred (200) cubic centimeters.
(4) Farm tractors, farm trucks, and farm equipment used in connection with agricultural pursuits usual and normal to the user's primary operation.
(5) Motor vehicles registered as recreational vehicles (RV).
(6) Motor vehicles using diesel fuel.
(7) All motor vehicles with a chassis year and engine year prior to 1976 as identified by the:
(A) vehicle identification number; and
(B) engine identification number.
(8) Electric vehicles or vehicles that have been certified by the department as being electric.
(9) Off highway construction equipment.
(10) Antique vehicles.

(11) Show vehicles.

(e) Motor vehicles registered in Lake **County** or Porter County but operated in another I/M area shall be:
(1) tested where they are primarily operated; or
(2) given an extension by the department so that testing can occur when the vehicle is brought into the county of registration.
The bureau may accept a certificate of compliance from another U.S. EPA approved I/M program.

(f) Model year vehicles 1996 and newer shall be tested beginning four (4) calendar years after the model year of the vehicle in order to demonstrate initial compliance. After the initial demonstration of compliance, model year vehicles 1996 and newer shall be tested in the calendar year that corresponds to the model year of the vehicle as specified at section 5 of this rule.

(g) Owners or operators of vehicles registered in a state other than Indiana who are subject to their state's I/M regulations may have their vehicles tested in Lake **County** or Porter County under either of the following conditions:
(1) The owner or operator of the vehicle has resided in Lake **County** or Porter County for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.
(2) The owner or operator of the vehicle has operated the vehicle in Lake **County** or Porter County for a minimum of three (3) months of the previous twelve (12) month period as of the date the vehicle is presented for emissions testing.

(Air Pollution Control Board; 326 IAC 13-1.1-2; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2731; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1464; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Apr 24, 2007, 3:09 p.m.: 20070523-IR-326060285FRA)

SECTION 3. 326 IAC 13-1.1-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-5 Issuance of certificates of compliance; testing and inspection schedule

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

Sec. 5. (a) Effective January 1, 1990, an owner or operator of a motor vehicle subject to the testing and inspection requirements of this rule shall present ~~such~~ **the** motor vehicle to a facility for an emissions test and tampering inspection during the month and year, or within three (3) months ~~prior to such~~ **before the** year, determined as follows:
(1) The month that corresponds to the registration month for ~~such~~ **the** vehicle as determined by the bureau.
(2) The model year of the vehicle as follows:
(A) If the model year of the vehicle is an even number, ~~such~~ **the** vehicle shall be tested in even-numbered calendar years.
(B) If the model year of the vehicle is an odd-numbered year, ~~such~~ **the** vehicle shall be tested in odd-numbered calendar years.

(b) A certificate of compliance shall be issued to owners or operators of motor vehicles that pass the emissions test and tampering inspection and to motor vehicles that are granted a waiver in accordance with this rule. Upon successful completion of an I/M test, ~~a~~ **an electronic or** paper based certificate of compliance shall be issued to the owner or operator and shall clearly indicate the certificate is for the purposes of registration. The certificate shall indicate the following:
(1) **The** expiration date of the certificate.
(2) Unambiguous vehicle identification information.
(3) Whether the vehicle passed or received a waiver.
Except as provided in section 2(f) of this rule, ~~such~~ **the** certificate shall be presented to the bureau in order to obtain registration only during the year that testing is required based on the model year of the vehicle. The certificate of compliance shall be valid through the end of the month and year indicated on the certificate.

(c) The department may notify motorists in advance of the required test; however, each owner or operator of a

motor vehicle subject to this rule is responsible for ensuring that the vehicle is tested.

(Air Pollution Control Board; 326 IAC 13-1.1-5; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2732; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1465; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 4. 326 IAC 13-1.1-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-7 Test parameters

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

Sec. 7. ~~(a) The parameters for I/M 240 are as follows:~~

~~Test Type~~	
~~I/M 240~~	~~1981 and newer model years~~
~~Purge~~	~~1981 and newer model years~~
~~Pressure~~	~~1976 and newer model years~~
~~Idle~~	~~1976 through 1980 model years~~
~~Tampering check~~	~~1976 and newer model years~~
~~Items~~	~~PCV system disablements, catalyst removals, evaporative system disablements, and damaged or missing fuel filler cap~~
~~OBDII~~	~~1996 and newer model years, starting January 1, 2001~~

~~(b)~~ **(a)** The parameters for basic I/M are as follows:

Test Type	
~~2500/idle~~	~~1981 and newer model years~~
Idle	1976 through 1980 model years
Fuel filler cap pressure	1976 and newer model years
Tampering check	1976 and newer model years
Items	~~PCV system disablements,~~ Catalyst removals ~~evaporative system disablements,~~ and damaged or missing fuel filler caps

~~(c)~~ **(b)** The parameters for I/M 93 are as follows:

Test Type	
I/M 93	1981 ~~and newer~~ **through 1995** model years
~~Idle~~ **Hydrocarbon leak inspection**	1976 through ~~1980~~ **1995** model years
Fuel filler cap pressure	1976 and newer model years
Tampering check	1976 and newer model years
Items	Catalyst removals and damaged or missing fuel filler caps
OBDII	1996 and newer model years ~~starting January 1, 2001~~

(Air Pollution Control Board; 326 IAC 13-1.1-7; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2732; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1466; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 5. 326 IAC 13-1.1-8 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-8 Testing procedures and standards

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

Sec. 8. (a) Each motor vehicle shall be presented for testing and inspection at a facility with its certificate of registration or proof of ownership that identifies the motor vehicle by **the following:**

(1) Make.
(2) Model year.
(3) Vehicle identification number. ~~and~~
(4) License number.

(b) The contractor shall only test vehicles if all of the following conditions are met:
(1) The exhaust system is intact and without leaks.
(2) The vehicle is in safe condition for testing.
(3) **For an I/M 93 test only,** the motorist ~~has~~ **and any passengers have** exited from the vehicle.

(c) All tests shall be performed by a certified inspector.

(d) Test procedures for I/M emission testing shall comply with ~~"High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996*.~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000*.**

(e) Emission standards shall comply with ~~"High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996*.~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000*.**

(f) Vehicles shall be retested after repair for any portion of the inspection that was failed. To the extent that repairs to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emission retest. Exhaust emission retests shall not be conducted unless the owner or operator of the vehicle demonstrates that the vehicle has had appropriate repairs for the reason of failure. In the case of tampering failures, the owner or operator must demonstrate that the tampered condition or equipment has been repaired or replaced before a retest is performed.

~~(g) Vehicles that are subject to an emissions recall but have not had recall repairs shall not be tested until such repairs have been made.~~

~~(h)~~ **(g)** If the U.S. EPA has granted a waiver in accordance with Section 182(f) of the Clean Air Act* for any county or counties subject to this rule, the department may determine that during the period when the NO_x waiver is in effect, failure of the NO_x portion of the I/M test is not grounds for denial of a certificate of compliance for vehicles within that county or counties. Upon making such a determination, the department shall notify the contractor in writing indicating the effective dates of the determination.

*These documents are incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; 326 IAC 13-1.1-8; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2733; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1466; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 77)

SECTION 6. 326 IAC 13-1.1-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-9 Tampering inspection

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

Sec. 9. (a) Each motor vehicle subject to the requirements of this rule shall be subjected to a visual tampering inspection at the facility. The motor vehicle shall be inspected for the presence and good operating condition of emission control devices included in the manufacturer's original design. At a minimum, emission control devices subject to inspection shall include the following:
~~(1) For I/M 240 emission testing:~~

~~(A) Catalytic converters.~~
~~(B) Fuel filler caps.~~
~~(C) Positive crankcase ventilation (PCV) systems.~~
~~(D) Evaporative systems.~~

~~(2)~~ **(1)** For I/M 93 emission testing, **the following:**
(A) Catalytic converters.
(B) Fuel filler caps.

~~(3)~~ **(2)** For basic I/M emissions testing, **the following:**
(A) Catalytic converters.
(B) Fuel filler caps.

If any emission control devices are found in a tampered condition, ~~such~~ **the** devices shall be repaired or replaced prior to any initial testing, retesting, or reinspection as provided in section 8(f) of this rule.

(b) Alteration of a vehicle's chassis configuration from a certified to a noncertified configuration is prohibited. In the inspection process, vehicles that have been altered from their original, certified configuration are to be tested in the same manner as other subject vehicles as follows:

(1) Vehicles with engines other than the engine originally installed by the manufacturer or an identical replacement of ~~such~~ **the** engine shall be subject to the inspection standards for the chassis type and model year for all parts that are part of the original or now-applicable certified configuration.

(2) Vehicles in which the engine of one (1) fuel type has been replaced or modified to an engine of a different fuel type that is subject to the I/M program, such as from a diesel engine to a gasoline engine, shall be subject to **the following:**

(A) The test procedures and standards for the current fuel type. ~~and to~~

(B) The requirements in subdivision (1).

(3) Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent I/M gasoline emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the department determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for the model year without ~~such~~ **the** devices.

(c) Mixing vehicle classes, such as light-duty with heavy-duty, and certification types, such as California with federal, within a single vehicle configuration shall be considered tampering.

(d) All vehicles must comply with 326 IAC 13-2.1.

(Air Pollution Control Board; 326 IAC 13-1.1-9; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2733; errata filed Sep 9, 1995, 9:00 a.m.: 19 IR 42; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1467; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 7. 326 IAC 13-1.1-10 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-10 Waivers and compliance through diagnostic inspection

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

Sec. 10. (a) A waiver of the requirement that a motor vehicle obtain a certificate of compliance may be issued only under the following conditions:

(1) A waiver shall be issued only after a vehicle has failed a retest performed after all emission-related repairs as described in subdivisions (3) through (5) have been completed. Vehicles that are subject to an emissions recall but have not had recall repairs shall not be eligible for a waiver until the repairs have been made.

(2) Waivers shall not be issued to vehicles for tampering-related repairs. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in subdivision (5). The department may issue exemptions for tampering-related repairs if the motorist can verify that the part in question or one similar to it is no longer available for sale.

(3) Repairs shall be appropriate to the cause of the test failure, and a visual check shall be made at the time of retest to determine if repairs were actually made. Receipts shall be submitted for review at the test site to further verify that qualifying repairs were performed.

(4) Repairs shall be performed at a certified I/M emission repair facility. A certified I/M emission repair facility shall meet the following criteria:

(A) Employ at least one (1) certified I/M emission repair technician as defined in this rule.

(B) For all I/M emission testing, possess the following:

(i) Reference material.

(ii) Digital multimeter.

(iii) Vacuum and fuel pressure testing equipment.

(iv) Carbon/fuel injection cleaning equipment.

(v) Ignition scope with distributorless ignition (DIS) capability.

(vi) 2, 3, 4, or 5 gas analyzer.

(vii) Scan tool.

~~(C) For all I/M emission testing beginning January 1, 2000, possess the following:~~

~~(i) All equipment listed in clause (B).~~

~~(ii)~~ **(viii)** Digital storage oscilloscope (DSO).

~~(iii)~~ **(ix)** OBDII scan tool.

~~(D) For I/M 240 emission testing, possess the following:~~

~~(i) All equipment listed in clauses (A) and (B).~~

~~(ii) Purge-flow tester.~~

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair facility if the facility fails to adhere to program requirements.

(5) In order to qualify for a waiver, repairs shall be performed by a certified I/M emission repair technician who:

~~(A) is certified and maintains current certification as an Automotive Service Excellence (ASE) A6 (Electrical/Electronic Systems) technician and an A8 (Engine Performance) technician;~~

~~(B) on and after January 1, 2000,~~ **(A)** is certified and maintains current certification as an ASE L1 (Advanced Engine Performance) technician;

~~(C)~~ **(B)** has successfully completed the department approved emission and driveability training program;

~~(D)~~ **(C)** is professionally engaged in emission/driveability repair; and

~~(E)~~ **(D)** is employed at a certified I/M emission repair facility.

The department may suspend, revoke, or deny renewal of a certification of a certified I/M emission repair technician if the technician fails to adhere to program requirements.

(6) Repairs appropriate to the reason for the failure may be performed by nontechnicians, such as owners, to apply toward the waiver limit for model year vehicles 1976 through 1980.

(7) In order to qualify for a minimum expenditure waiver, motorists in Lake **County** or Porter County ~~with 1981 model year or newer vehicles~~ shall expend the following **amounts in repairs at a certified emissions repair facility:**

(A) **For 1981 and newer model year vehicles,** at least four hundred fifty dollars ($450) ~~in repairs on or after January 1, 1999.~~ **and the following criteria shall be met:**

(i) The vehicle must be at least eight (8) model years of age.

(ii) The vehicle must have been driven at least one hundred fifty thousand (150,000) miles.

(iii) The owner or operator of the vehicle must have spent at least four hundred fifty dollars ($450) for repairs at a certified emissions repair facility.

(B) ~~Motorists in Lake or Porter County with~~ **For** 1976 through 1980 model year vehicles, ~~shall expend~~ at least seventy-five dollars ($75). ~~in repairs in order to qualify for a minimum expenditure waiver.~~

~~The costs of owner performed repairs shall not include labor costs. Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits. The operator of a vehicle within the statutory age and mileage coverage under Section 207(b) of the Clean Air Act* shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.~~

(8) Vehicles subject to an enhanced I/M emission test at the cutpoints established in 40 CFR 51.351* may be issued a certificate of compliance without meeting the prescribed emission cutpoints if, after failing a retest, a complete, documented physical and functional diagnosis and inspection performed by the contractor shows no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to EPA approval.

(9) After an initial I/M emission test failure, a vehicle may be retested up to four (4) additional times. A vehicle shall not be retested a fifth time until the type of repairs or modifications necessary has been fully evaluated by department and contractor personnel.

(10) Waivers shall be issued only by the test site manager or other employee specifically designated for this purpose.

(11) A waiver shall be valid for not more than one (1) test cycle.

(b) No vehicle in its lifetime shall receive more than one (1) waiver.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; 326 IAC 13-1.1-10; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2734; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1468; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 78; filed Apr 24, 2007, 3:09 p.m.: 20070523-IR-326060285FRA)

SECTION 8. 326 IAC 13-1.1-16 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-16 Facility quality assurance program

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

Sec. 16. (a) No emission tests shall be conducted with any analyzer that is not operating within all specifications developed or approved by the department. The following practices, in addition to those described in ~~High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications dated June 1996*,~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000*,** shall be followed:

(1) Preventive maintenance on all inspection equipment shall be performed to ensure accurate and repeatable operation.
(2) Computerized analyzers shall automatically record:
(A) quality control check information;
(B) lockouts; and
(C) attempted tampering;
which shall be monitored to ensure proper quality control.

(b) The contractor shall maintain the equipment according to demonstrated good engineering practices to assure test accuracy. The calibration and adjustment requirements in ~~"High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications" dated June 1996*~~ **"IM240 & Evap Technical Guidance", EPA420-R-00-007, April 2000*,** shall apply to all steady-state test equipment. Calibration schedules and other quality control frequencies may be adjusted by using statistical process control to monitor equipment performance on an ongoing basis. Additional requirements shall be as follows:

(1) For analyzers that use ambient air as the starting point for emission readings, the air shall be drawn from the air outside the inspection bay or lane in which the analyzer is situated.
(2) The analyzer housing shall be constructed to protect the analyzer bench and electrical components from ambient temperature and humidity fluctuations that exceed the range of the analyzer's design specifications.
(3) Analyzers shall automatically purge the analytical system after each test.

(c) Measures shall be instituted to maintain the security of all documents by which compliance with the inspection requirement is established, including, but not limited to, inspection certificates and waiver certificates. This section shall in no way require the use of paper documents (except for certificates of compliance and waivers) but shall apply if they are used by the program for these purposes.

(d) Compliance documents are to be counterfeit-resistant through the use of:
(1) special fonts;
(2) watermarks;
(3) ultraviolet inks;
(4) encoded magnetic strips;
(5) unique bar coded identifiers;
(6) difficult to acquire materials; or
(7) other measures;
as approved by the department.

(e) All inspection certificates and waiver certificates shall be printed with:
(1) a unique serial number; and
(2) an official program seal.

*This document is incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; 326 IAC 13-1.1-16; filed Jun 21, 1995, 4:00 p.m.: 18 IR 2736; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1470; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1570; filed Aug 26, 2004, 11:30 a.m.: 28 IR 81)

SECTION 9. 326 IAC 13-1.1-17.1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 13-1.1-17.1 On-board diagnostic check

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

Sec. 17.1. (a) A certified inspector shall check ~~second-generation on-board diagnostic~~ OBDII systems to determine if the self-diagnostic system is functioning properly and within the parameters specified at 40 CFR 85.2207*. ~~Beginning January 1, 2001,~~ Failure of the OBDII test shall be a basis for failure of the I/M emission test. For vehicles that are 1996 model year or newer, reasons for failure of the OBDII test include any of the following conditions:
(1) The vehicle's OBDII connector:
(A) is missing;
(B) has been tampered with; or
(C) is otherwise inoperable.
(2) The malfunction indicator light (MIL) does not illuminate upon vehicle startup.
(3) The MIL is:
(A) commanded to be illuminated; and ~~it is~~
(B) not illuminated based on visual inspection.
(4) The MIL is commanded to be illuminated by any of the OBDII codes specified at 40 CFR 85.2207(c)*.

(b) The test sequence for the inspection of OBDII systems shall consist of the steps described at 40 CFR 85.2222*.

(c) Motorists whose vehicles fail the OBDII test described in subsection (b) shall be provided with the OBDII test result as specified at 40 CFR 85.2223*, including the following information:
(1) The various OBDII codes retrieved.
(2) The status of the MIL illumination command.
(3) The customer alert statement.
Any retrieved codes listed at 40 CFR 85.2223(b)* shall be listed on the test report as specified in that paragraph.

(d) An OBDII equipped vehicle is eligible for the I/M 93 test procedure under the following circumstances:
(1) The OBDII equipped vehicle has failed three (3) consecutive OBDII test procedures.
(2) The owner or operator of the OBDII equipped vehicle has made a good faith effort to repair the vehicle in accordance with the applicable diagnostic trouble codes.
(3) The OBDII equipped vehicle is tested based on applicable vehicle emission standards under the I/M 93 test procedure.

~~(d)~~ **(e)** The air pollution control board incorporates by reference the following:
(1) 40 CFR 51, Subpart S, "Requirements for Preparation, Adoption, and Submittal of Implementation Plans: **Inspection/Maintenance Program Requirements"*.**
(2) 40 CFR 85, Subpart W, "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines: **Mobile Sources, Emission Control System Performance Warranty Short Tests"*.**

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; 326 IAC 13-1.1-17.1; filed Dec 23, 1998, 4:44 p.m.: 22 IR 1471; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3083)

Notice of Public Hearing

Posted: 09/26/2007 by Legislative Services Agency
An html version of this document.