TITLE 326 AIR POLLUTION CONTROL BOARD

CONTINUATION OF FIRST NOTICE OF COMMENT PERIOD
LSA Document #07-353

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING STAGE I VAPOR RECOVERY MEASURES FOR GASOLINE DISPENSING FACILITIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 326 IAC 8-1-3 and 326 IAC 8-4 concerning stage I vapor recovery measures for gasoline dispensing facilities in Indiana. The First Notice of Comment Period, published on June 27, 2007 (DIN: 20070627-IR-326070353FNA), requested comments on expanding the applicability of the existing stage I vapor recovery rule. That comment period has ended; however, IDEM has identified additional amendments to rules implementing stage I vapor recovery to assure clarity and consistency in the rulemaking. IDEM seeks comment on the alternatives described in this notice, the affected citations listed, and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: June 27, 2007, Indiana Register (DIN: 20070627-IR-326070353FNA).

CITATIONS AFFECTED: 326 IAC 8-1-3; 326 IAC 8-4.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

A First Notice of Comment Period for the stage I vapor recovery rule was published in the Indiana Register on June 27, 2007 (DIN: 20070627-IR-326070353FNA). This Continuation of First Notice of Comment Period addresses additional amendments to be considered during this rulemaking.

Stage I vapor recovery refers to the collection of gasoline vapors displaced from underground storage tanks when filled by delivery trucks. VOC emissions are released into the atmosphere when the gasoline vapors in the underground storage tank are displaced by gasoline being loaded into the tank. In the absence of systems designed to recapture the gasoline vapors otherwise lost into the atmosphere, about 7.6 pounds of VOCs are released into the air for every 1,000 gallons of gasoline that is dispensed.

Stage I vapor recovery requirements apply to the following:

(1) Gasoline storage tanks at gasoline dispensing facilities located in Boone, Dearborn, Hamilton, Hancock, Harrison, Johnson, Morgan, Shelby, Clark, Elkhart, Floyd, Hendricks, Lake, Marion, Porter, St. Joseph, and Vanderburgh counties.

(2) Any gasoline storage tank installed after July 1,1989, at a gasoline dispensing facility.

Stage I vapor recovery requirements do not apply to gasoline dispensing facilities that have monthly gasoline throughputs of less than 10,000 gallons per month and that were in existence prior to July 1, 1989. Stage I vapor recovery requirements also do not apply to gasoline dispensing facilities that have monthly gasoline throughputs of less than 10,000 gallons per month and that are located at farms or private residences.

Stage I vapor recovery requirements are implemented under 326 IAC 8-4-6 and require the use of a submerged fill pipe to minimize the creation of vapors and the connection of a vapor balance system between the tank and transport that allows gasoline vapors from the underground storage tank to be displaced back to the tank truck during loading.

IDEM estimates that rules requiring submerged loading and vapor balancing achieve a 90% reduction in VOC emissions versus uncontrolled underground storage tank loading. Currently, virtually all gasoline dispensing facilities in Indiana with monthly gasoline throughputs of greater than 10,000 gallons per month already meet current stage I vapor recovery requirements.

In the First Notice of Comment Period, IDEM proposed to amend 326 IAC 8-4-1, applicability, to remove the applicability date of July 1, 1989, for gasoline storage tanks at gasoline dispensing facilities in order for IDEM to reduce VOC emissions from tanks installed before July 1, 1989, if those tanks do not already have stage I controls. With this Continuation of First Notice of Comment Period, IDEM is clarifying the purpose of this rulemaking and those rules the department proposes to amend.

First, IDEM is proposing to amend 326 IAC 8-4-1(e), applicability, to remove the applicability date of July 1, 1989. The result of this amendment would be to require stage I vapor recovery controls at all gasoline dispensing facilities statewide.

Second, IDEM is proposing to amend 326 IAC 8-1-3, compliance schedules, to clarify the compliance

schedule for stage I vapor recovery controls for gasoline storage tanks at gasoline dispensing facilities that have a monthly gasoline throughput that exceeds 10,000 gallons per month and that were in existence prior to July 1, 1989.

Third, IDEM is proposing to amend the definition of a "gasoline dispensing facility" in 326 IAC 8-4-6(a)(8) to decrease the minimum capacity of a storage tank to 250 gallons from the current minimum capacity of 575 gallons to comply with the January 10, 2008, area source NESHAP for Source Categories: Gasoline Dispensing Facilities, 73 FR 1916.

Fourth, IDEM is proposing to amend 326 IAC 8-4-6(b)(1) to include specific guidelines for the installation of a submerged fill pipe (12 inches from the bottom of the gasoline storage tank if the fill pipe was installed on or before November 9, 2006, or six inches from the bottom of the gasoline storage tank if the fill pipe was installed after November 9, 2006) to comply with the January 10, 2008, area source NESHAP for Source Categories: Gasoline Dispensing Facilities.\

In combination with other efforts to reduce VOCs in Indiana and the other states, the revisions to the stage I vapor recovery rule under consideration in Indiana will contribute to regional control of VOC that will assist many counties in reaching and maintaining attainment for the eight-hour ozone standard while balancing the regulatory requirements across the state. This rule will require stage I vapor recovery at gasoline dispensing facilities, located in counties that have never been in nonattainment for the ozone NAAQS, with a monthly gasoline throughput of 10,000 gallons per month or greater where gasoline storage tanks were installed before July 1, 1989. The proposed amendments to the stage I vapor recovery rule would update the rule to reflect the actuality that stage I vapor recovery systems are already currently in extensive use at gasoline dispensing facilities throughout the state. IDEM is specifically requesting comments on whether to decrease the minimum capacity of a storage tank to 250 gallons from the current minimum capacity of 575 gallons and to include specific guidelines for the installation of a submerged fill pipe to comply with the January 10, 2008, area source NESHAP for Source Categories: Gasoline Dispensing Facilities. Upon completion of the rulemaking, this rule will be submitted to the U.S. EPA for approval into the SIP.

Alternatives To Be Considered Within the Rulemaking

The First Notice of Comment Period, published on June 27, 2007 (DIN: 20070627-IR-326070353FNA), included two alternatives for which comments were received. This Continuation of First Notice of Comment Period restates the two alternatives from the First Notice of Comment Period and adds three additional alternatives to be considered.

Alternative 1. Adopt amendments to rules expanding applicability of stage I vapor recovery requirements.

• 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? Yes, there is a comparable federal law that requires stage I vapor recovery at gasoline dispensing facilities with a monthly throughput of 100,000 gallons or more. All gasoline dispensing facilities above 10,000 gallons per month throughput must employ submerged filling of gasoline storage tanks. However, gasoline dispensing facilities that have tanks with a capacity of less than 250 gallons, regardless of monthly throughput, are not required to comply with either the submerged fill or vapor balancing requirements. This alternative is designed to provide statewide credit for VOC emission reductions and will help Indiana and other states more accurately document and account for VOC emissions reductions and demonstrate attainment with the eight-hour federal ozone standard under the Clean Air Act.

• If it is a federal requirement, is it different from federal law? The applicability differs, the requirements do not.

• If it is different, describe the differences. Not applicable.

Alternative 2. Amend the compliance schedule for stage I vapor recovery to provide a new compliance schedule for those gasoline dispensing facilities and gasoline storage tanks in existence prior to July 1, 1989, that were exempt under the current 326 IAC 8-4-1, but would be included if the applicability of stage I vapor recovery requirements was expanded to all gasoline storage tanks.

• 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. Amend the definition of a "gasoline dispensing facility" in 326 IAC 8-4-6(a)(8) to decrease the minimum capacity of a storage tank to 250 gallons from the current minimum capacity of 575 gallons to comply with the January 10, 2008, area source NESHAP for Source Categories: Gasoline Dispensing Facilities.

• 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? Yes, there is a comparable federal law that requires that all gasoline dispensing facilities that have a monthly throughput of 10,000 gallons or greater employ submerged filling of gasoline storage tanks if the storage tanks at those gasoline dispensing facilities have a capacity of 250 gallons or greater. This alternative is designed to provide statewide credit for VOC emission reductions and will help Indiana and other states more accurately

document and account for VOC emissions reductions and demonstrate attainment with the eight-hour federal ozone standard under the Clean Air Act.

• If it is a federal requirement, is it different from federal law? The applicability differs, the requirements do not.

• If it is different, describe the differences. Not applicable.

Alternative 4. Amend 326 IAC 8-4-6(b)(1) to include specific guidelines for the installation of a submerged fill pipe (12 inches from the bottom of the gasoline storage tank if the fill pipe was installed on or before November 9, 2006, or six inches from the bottom of the gasoline storage tank if the fill pipe was installed after November 9, 2006) to comply with the January 10, 2008, area source NESHAP for Source Categories: Gasoline Dispensing Facilities.

• 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? Yes, there is a comparable federal law that requires that all gasoline dispensing facilities that have a monthly throughput of 10,000 gallons or greater employ submerged filling of gasoline storage tanks if the storage tanks at those gasoline dispensing facilities have a capacity of 250 gallons or greater. The submerged filling requirement is met by either bottom filling the storage tank or by using a fill pipe to load the storage tank that extends not more than 12 inches from the bottom of the storage tank for fill pipes installed on or before November 9, 2006, and not more than six inches from the bottom of the storage tank for fill pipes installed after November 9, 2006. This alternative is designed to provide statewide credit for VOC emission reductions, and will help Indiana and other states more accurately document and account for VOC emissions reductions and demonstrate attainment with the eight-hour federal ozone standard under the Clean Air Act.

• If it is a federal requirement, is it different from federal law? The applicability differs, the requirements do not.

• If it is different, describe the differences. Not applicable.

Alternative 5. Do not amend the rule.

• 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? This alternative is not imposed by federal law and there is no comparable federal law. It is a "state-only" requirement.

• 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 50 (National Primary and Secondary Ambient Air Quality Standards); 40 CFR 81 (Designation of Areas for Air Quality Planning Purposes); and 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities) are applicable federal laws impacting this rulemaking. 40 CFR 50 (amended on July 18, 1997 (62 FR 38856)) contains the standards for criteria pollutants. Ozone is considered a criteria pollutant and air pollution controls reduce emissions of volatile organic compounds (VOC) to reduce ozone formation. 40 CFR 81 (amended on April 30, 2004 (69 FR 23858)) lists the areas of the United States, specific to each state, that the U.S. EPA has determined are not attaining the standards (nonattainment) for criteria pollutants such as ozone.

Section 182 of the Clean Air Act requires states to develop a State Implementation Plan requiring the implementation of RACT in areas classified as moderate, serious, severe, or extreme nonattainment with respect to each category of VOC sources in the area covered by a Control Techniques Guidelines (CTG) document issued by the U.S. EPA. The U.S. EPA issued a CTG regarding stage I vapor recovery "Design Criteria for Stage I Vapor Control Systems Gasoline Service Stations" in November 1975.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. This alternative would extend the applicability of stage I vapor recovery requirements for gasoline storage tanks at gasoline dispensing facilities to all counties in Indiana. The cost of installing stage I vapor recovery on a gasoline storage tank with a "single point coax" system is in the range of $700 to $900, and the cost of installing stage I vapor recovery on a gasoline storage tank with a "dual point" fill system is in the range of $300 to $500. Therefore, the fiscal impact is expected to be minimal.

Potential Fiscal Impact of Alternative 2. There are few gasoline dispensing facilities and gasoline storage tanks that are expected to be affected by an amended compliance schedule because most gasoline dispensing facilities are already using stage I vapor recovery systems. Therefore, there is expected to be minimal fiscal impact from amending the compliance schedule for stage I vapor recovery systems.

Potential Fiscal Impact of Alternative 3. This alternative would extend the applicability of stage I vapor recovery requirements to gasoline storage tanks with a minimum capacity of 250 gallons. The cost of installing stage I vapor recovery on a gasoline storage tank with a "single point coax" system is in the range of $700 to $900, and the cost of installing stage I vapor recovery on a gasoline storage tank with a "dual point" fill system is in the range of $300 to $500. Therefore, the fiscal impact is expected to be minimal.

Potential Fiscal Impact of Alternative 4. A majority of gasoline dispensing facilities in Indiana already utilize a

fill pipe that is submerged not more than six inches from the bottom of the storage tank; therefore, there are few gasoline dispensing facilities and gasoline storage tanks that are expected to be affected by an addition of specific guidelines for the installation of a submerged fill pipe. The fiscal impact is expected to be minimal.

Potential Fiscal Impact of Alternative 5. 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:

Alison Surface, Senior Environmental Manager
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 North Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Megan Tretter
IDEM Small Business Assistance Program Ombudsman
MC50-01 - IGCN 1307
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
mtretter@idem.in.gov

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 Manda Clevenger, Rules Development Section, Office of Air Quality at (317) 232-8229 or (800) 451-6021 (in Indiana).

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:

#07-353(APCB) Stage I Vapor Recovery
Manda Clevenger 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 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 Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 10, 2008.

Additional information regarding this action may be obtained from Manda Clevenger, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief
Air Programs Branch
Office of Air Quality

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