
TITLE 326 AIR POLLUTION CONTROL BOARD**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #10-571

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING SOURCE SPECIFIC OPERATING AGREEMENTS FOR CRUSHED STONE PROCESSING PLANTS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 2-1.1](#) and [326 IAC 2-9](#) concerning source specific operating agreements (SSOAs) for crushed stone processing plants. 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 2-1.1](#); [326 IAC 2-9](#).

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 SSOA program, codified in [326 IAC 2-9](#), is one air permitting option that is available for certain source categories in Indiana. The SSOA program provides a simplified permitting alternative for source categories that typically have actual emissions far below their potential to emit (PTE). Depending on their unrestricted PTE, these sources would otherwise be required to obtain an operating permit under [326 IAC 2-5.1](#) (Construction of New Sources), [326 IAC 2-6.1](#) (Minor Source Operating Permit Program), [326 IAC 2-7](#) (Part 70 Permit Program), or [326 IAC 2-8](#) (Federally Enforceable State Operating Permit Program).

The SSOA program requires sources to comply with preestablished requirements that limit the source's PTE. These limits may be either physical, such as requiring sources to use air pollution control equipment or operational, such as restrictions on the type or amount of material that may be processed at the source. A source may operate under multiple SSOAs, as long as the PTE for any regulated air pollutant does not exceed major source levels under [326 IAC 2-2](#) (Prevention of Significant Deterioration (PSD) Requirements), [326 IAC 2-3](#) (Emission Offset), and [326 IAC 2-7](#) (Part 70 Permit Program).

Crushed stone processing plants under [326 IAC 2-9-8](#) are a source category that may obtain a SSOA. Major rock types processed by the crushed stone industry include limestone, granite, dolomite, traprock, sandstone, quartz, and quartzite. Rock and crushed stone products generally are loosened by drilling and blasting and then are loaded by power shovel or front-end loader into large haul trucks that transport the material to the processing operations. Processing operations may include crushing, screening, size classification, material handling, and storage operations. If uncontrolled, these operations can be significant sources of particulate matter (PM) emissions. Factors affecting PM emissions include stone size distribution and the surface moisture content of the stone processed, the process throughput rate, the type of equipment and operating practices used, and topographical and climatic factors.

IDEM is proposing the following amendments to the crushed stone processing plant SSOA rule at [326 IAC 2-9-8](#):

- Expand the list of materials that may be crushed at sources to include concrete and reclaimed asphalt pavement (RAP).
- Revise the rule to account for updated AP-42 emission factors.
- Provide new or revised options that would limit PM, PM₁₀, and PM_{2.5} emissions to less than 25 tons per year each, so that a SSOA could be issued without requiring New Source Review under [326 IAC 2-2](#) or [326 IAC 2-3](#), similar to the exemption currently provided to crushed stone processing plants at [326 IAC 2-1.1-3\(d\)\(1\)\(E\)](#).
- Specify either the type of crusher that can be used at a source or provide new options that specify SSOA limitations that are based on the type of crusher used at a source.
- Include new or revised work practice standards, record keeping and reporting requirements, test methods, and compliance monitoring requirements so that IDEM may submit this rule to U.S. EPA for approval as part of Indiana's state implementation plan (SIP).

IDEM has identified a need from existing sources operating under [326 IAC 2-9-8](#) for additional operational flexibility to crush additional types of materials. Therefore, IDEM is proposing to expand the list of materials that may be crushed at sources operating under [326 IAC 2-9-8](#) to include concrete and reclaimed asphalt pavement (RAP). Crushed concrete is generated through the demolition of Portland cement concrete elements of roads, runways, and structures during road reconstruction, utility excavations, or demolition operations. RAP is the term given to removed or reprocessed, or both, pavement materials containing asphalt and aggregates. These

materials are generated when asphalt pavements are removed for reconstruction or resurfacing or to obtain access to buried utilities. This rule change will provide additional permitting flexibility for crushed stone processing plants.

The AP-42 emission factors for this source category (crushed stone processing) were updated by the United States Environmental Protection Agency (U.S. EPA) in 2004, and IDEM is considering updating [326 IAC 2-9-8](#) to account for the revised emission factors. Any change to the SSOA limits would ensure that all crushed stone processing plants are limited to less than 250 tons per year PM and less than 100 tons per year of PM₁₀ and PM_{2.5} each, in order to render the requirements of [326 IAC 2-2](#) (Prevention of Significant Deterioration), [326 IAC 2-3](#) (Emission Offset), and [326 IAC 2-7](#) (Part 70 Permits) not applicable.

IDEM is also considering amendments to [326 IAC 2-1.1](#) and [326 IAC 2-9](#) that may be necessary to correct, clarify, or address consistency issues with existing rule language as a result of amendments to [326 IAC 2-9-8](#).

IDEM is seeking comments on the rule changes discussed in this notice to [326 IAC 2-1.1](#), [326 IAC 2-9](#), and any other provisions of Title 326 that may be affected by this rulemaking. This rulemaking will potentially affect sources currently operating with a SSOA under [326 IAC 2-9-8](#) and new sources applying for a SSOA under [326 IAC 2-9-8](#). Upon completion, this rule will be submitted to U.S. EPA for approval into the SIP.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend the applicability of [326 IAC 2-9-8](#) to allow crushed stone processing plants to crush concrete and reclaimed asphalt pavement (RAP).

- 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. Amend [326 IAC 2-9-8](#) to reflect the updated (as of 2004) AP-42 emission factors for this source category (crushed stone processing operations).

- 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. Provide new or revised options to limit PM, PM₁₀, and PM_{2.5} emissions to less than 25 tons per year, so that a SSOA could be issued without triggering New Source Review.

- 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. Specify either the type of crusher a source may use as a SSOA condition or provide new options that specify SSOA limitations based on the type of crusher that will be used by the source.

- 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 5. Amend [326 IAC 2-9-8](#) to include or revise requirements such as work practice standards, record keeping and reporting requirements, test methods, and compliance monitoring requirements in order for the rule to be approved by U.S. EPA into Indiana's SIP.

- 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? Not a specific requirement, but a SIP approved rule must meet a general standard of clarity and enforceability.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 6. Amend other provisions in [326 IAC 2-1.1](#) and [326 IAC 2-9](#) to correct, clarify, or address consistency issues resulting from amendments to [326 IAC 2-9-8](#).

- 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 7. Do not amend [326 IAC 2-9-8](#).

- 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 60 (Standards of Performance for New Stationary Sources); 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants); 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories); 40 CFR 70 (State Operating Permit Programs); 40 CFR 75 (Continuous Emission Monitoring).

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. Amending the applicability of this rule would expand the availability of this SSOA to any source that may crush stone, concrete, or RAP in Indiana. IDEM expects minimal fiscal impact on existing sources, because these sources are either already operating with a SSOA under [326 IAC 2-9-8](#) for crushed stone processing plants or are already operating under one of IDEM's other permitting programs and would now have the option to transition to the amended SSOA.

Potential Fiscal Impact of Alternative 2. The impact of this proposal would be minimal. The proposed amendments are not expected to change the applicability of the rule to exclude sources that are currently operating with a SSOA under [326 IAC 2-9-8](#).

Potential Fiscal Impact of Alternative 3. Amending the rule would expand the options available to sources. IDEM expects minimal fiscal impact on existing sources, because these sources are either already operating with a SSOA under [326 IAC 2-9-8](#) for crushed stone processing plants or are already operating under one of IDEM's other permitting programs and would now have the option to transition to the amended SSOA. Additionally, the proposed amendments are not expected to change the applicability of the rule to exclude sources that are currently operating with a SSOA under [326 IAC 2-9-8](#).

Potential Fiscal Impact of Alternative 4. This proposal may result in crushed stone processing plants operating with a SSOA under [326 IAC 2-9-8](#) having to purchase new equipment to comply with SSOA requirements. IDEM has not yet clarified the specifics of this alternative and, therefore, has not yet determined how many sources could be affected and what additional equipment and associated costs would be incurred by sources for this alternative.

Potential Fiscal Impact of Alternative 5. Crushed stone processing plants currently operating with a SSOA under [326 IAC 2-9-8](#) would have to comply with new or revised record keeping and reporting requirements, test methods, and compliance monitoring requirements to which they are not currently subject. However, IDEM expects minimal fiscal impact on existing sources already operating with a SSOA under [326 IAC 2-9-8](#) because the amendments will be similar to the existing SSOA requirements.

Potential Fiscal Impact of Alternative 6. No fiscal impact. This alternative is administrative and will correct, clarify, or address consistency issues resulting from amendments to [326 IAC 2-9-8](#).

Potential Fiscal Impact of Alternative 7. No fiscal impact. No changes would be made to the existing rule.

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/4108.htm>

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Alison Beumer
IDEM Compliance and Technical Assistance Program - OPPTA
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Ryan Asberry
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, Indiana 46204
(317) 232-8962
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman

MC 50-01 IGCN 1307
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
bbaughn@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 Amy Smith, Rule and State Implementation Plan Development Section, Office of Air Quality at (317) 233-8628 or (800) 451-6027 (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:

#10-571 (APCB) Crushed Stone Processing SSOA
Amy Smith Mail Code 61-50
Rule and State Implementation Plan 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, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5967, 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 and State Implementation Plan Development Section at (317) 234-6530.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by October 15, 2010.

Additional information regarding this action may be obtained from Amy Smith, Rule and State Implementation Plan Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief
Air Programs Branch
Office of Air Quality

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