

## FIRST NOTICE OF COMMENT PERIOD

LSA Document #12-392

## DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING TEMPORARY ALTERNATIVE OPACITY LIMITS (TAOL) FOR THE AEP ROCKPORT GENERATING STATION

## PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 5-1](#) concerning startup and shutdown conditions under the temporary alternative opacity limit (TAOL) provisions at [326 IAC 5-1-3](#) for American Electric Power (AEP) Rockport Generating Station in Rockport, Indiana. 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 5-1](#).

**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

AEP Rockport operates a coal-fired electric generating station in Rockport (Spencer County), Indiana, consisting of two units, boiler Units #1 and #2. Both of these units are subject to the New Source Performance Standard (NSPS) for Fossil-Fuel-Fired Steam Generators. Since the NSPS does not apply emission limits during startup and shutdown, the opacity limit at [326 IAC 5-1-2](#) applies to these units during startup and shutdown. State rules at [326 IAC 5-1-2](#) require a 40% opacity limit for any six minute averaging period. When building a new fire in a boiler, or shutting down a boiler, opacity is limited to 60% for any six minute averaging period for not more than two six minute averaging periods in 24 hours ([326 IAC 5-1-3\(a\)](#)). Historically, boilers that use fuel oil as a startup fuel and have an electrostatic precipitator (ESP) as a control device have trouble meeting an opacity limit until the exhaust gases have reached a certain temperature. To address this issue, IDEM amended [326 IAC 5-1-3](#) in 1998 by adding a new subsection (e) to allow sources that had existing startup and shutdown conditions in their construction or operating permits to be exempt from the opacity limit until the exhaust gases achieved a temperature of 250 degrees Fahrenheit at the inlet of the baghouses or ESP. The United States Environmental Protection Agency (U.S. EPA) approved this new exemption provision, along with a process for other sources to obtain temporary alternative opacity limitations, into Indiana's State Implementation Plan (SIP) on July 16, 2002. U.S. EPA approved the limited exemption from opacity limits in [326 IAC 5-1-3\(e\)](#) based on a modeling analysis assessing the worst-case impact showing that the exemption would not jeopardize continued attainment of the air quality standard (PM<sub>10</sub>). AEP Rockport's units did not have preexisting opacity exemptions in their permits at that time and, therefore, are not part of the limited exemption in [326 IAC 3-5-1\(e\)](#).

Indiana's opacity rules at [326 IAC 5-1-3\(d\)](#) allow a source to request a temporary alternative opacity limit (TAOL) for periods of startup or shutdown of a boiler. AEP has requested a TAOL for both boilers (Units #1 and #2) at its Rockport Generating Station. IDEM is reviewing available information to establish the TAOL and confirm that the TAOL will not impact maintenance of air quality standards. Spencer County was recently designated as attainment for fine particulate matter (PM<sub>2.5</sub>). The TAOL will be submitted to U.S. EPA as a SIP revision.

## Alternatives to Be Considered Within the Rulemaking

Alternative 1. Adding startup and shutdown conditions to AEP Rockport similar to the startup and shutdown conditions allowed for other sources at [326 IAC 5-1-3\(e\)](#).

- 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. The current opacity requirements at [326 IAC 5-1-3](#) are approved at the federal level into Indiana's State Implementation Plan (SIP).
- 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. No rulemaking.

- 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. The current opacity requirements at [326 IAC 5-1-3](#) are approved at the federal level into Indiana's SIP.
- 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**

Units #1 and #2 at AEP Rockport are subject to the opacity limit in the New Source Performance Standard (NSPS) at 40 CFR 60, Subpart D. The opacity limit in the NSPS does not apply during startup and shutdown, and the state rule does not provide an exemption for these units during startup and shutdown.

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. The source currently operates under similar conditions as specified in the permit; therefore this rulemaking should have no fiscal impact on the affected source.

Potential Fiscal Impact of Alternative 2. There is no fiscal impact with alternative 2. Without this rulemaking U.S. EPA would not be able to approve the TAOL into the Indiana SIP as required by the current 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:

[www.in.gov/idem/ctap](http://www.in.gov/idem/ctap)

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin  
IDEM Small Business Regulatory Coordinator  
MC 60-04 IGCS W041  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto: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:

Eric P. Shields  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 234-3997  
[smallbizombudsman@iedc.in.gov](mailto: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 1301  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 234-3386 or (800) 451-6027  
[bbaughn@idem.in.gov](mailto: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 Susan Bem, Rule and State Implementation Plan Development Section, Office of Air Quality at (317) 233-5697 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.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #12-392 Opacity TAOL  
Susan Bem 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, IN 46204-2251

- (2) By facsimile to (317) 233-5967. Please confirm the timely receipt of faxed comments by calling the Rule and State Implementation Plan Development Section at (317) 234-6530.

- (3) By electronic mail to sbem@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

## COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped no later than August 10, 2012. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Susan Bem, Rule and State Implementation Plan Development Section, Office of Air Quality, (317) 233-5697 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief  
Air Programs Branch  
Office of Air Quality

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