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**TITLE 326 AIR POLLUTION CONTROL DIVISION****SECOND NOTICE OF COMMENT PERIOD**

LSA Document #17-395

**ELECTRONIC NOTICE FOR AIR PERMITS****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 2-1.1-6](#), [326 IAC 2-7-13](#), [326 IAC 2-7-17](#), [326 IAC 2-8-13](#), [326 IAC 2-8-18](#), and [326 IAC 2-12-1](#), concerning legal notice provisions for permits issued under the New Source Review (NSR) and Title V permit programs. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: September 6, 2017, Indiana Register (DIN: [20170906-IR-326170395FNA](#)).

**CITATIONS AFFECTED:** [326 IAC 2-1.1-6](#); [326 IAC 2-7-13](#); [326 IAC 2-7-17](#); [326 IAC 2-8-13](#); [326 IAC 2-8-18](#); [326 IAC 2-12-1](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3-1](#); [IC 13-17-3-4](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

On October 18, 2016, the United States Environmental Protection Agency (U.S. EPA) published a final rule in the Federal Register (81 FR 71613) that became effective on November 17, 2016, revising the public notice provisions for the NSR and Title V permit programs. The final rule revised the requirement to provide public notice of certain draft air permits through publication in a newspaper. Instead, the final rule requires the publication of an electronic notice for draft permits and actions issued by U.S. EPA or by permitting authorities implementing U.S. EPA's federal permitting rules and allows for electronic notice as an option for actions by permitting authorities implementing U.S. EPA-approved programs.

Indiana implements a U.S. EPA-approved program that meets the requirements of 40 CFR 51 and 40 CFR 70. The rule allows states with an approved program the option of adopting either electronic notice or newspaper publication as the primary method of public notice. The final rule states that whichever method the permitting authority chooses to adopt must be indicated to the public as the consistent noticing method used, and must provide reasonable access to other materials that support the permit decision, including the draft permit. The final rule does not prevent permitting authorities from supplementing electronic notice with a newspaper notice or additional means of notification to the public.

Historically, IDEM has relied on local newspapers to provide public notice for permit and other agency actions. However, as newspaper circulation continues to decline, smaller newspapers are going out of business while others are being bought by larger corporations, making printed newspaper advertisements less effective in providing widespread public notice of permit actions. The average weekday circulation of both print and digital newspapers fell seven percent in 2015, which was the greatest decline experienced by the industry since 2010.<sup>1</sup> More recently, ten Indiana newspapers were bought by an out-of-state company, which has led to hurdles and delays regarding the publication of some permit actions. In some cases, publications have been delayed up to two weeks, which causes further delays issuing permits and can negatively impact businesses seeking the permit. In addition, public notices in newspapers can only reach the individuals that subscribe to the specific newspaper where the notice is published and that happened to read that issue, while an electronic notice is available to anyone for free and remains on the webpage for an extended period of time.

The Internet has become the predominant medium by which the public obtains information, and usage continues to spread throughout all demographic groups. A report by the Department of Commerce notes that as of July 2015, 77 percent of all adults and children above the age of three years old in Indiana use the Internet regularly.<sup>2</sup> During the last decade, the federal government and many state governments have increased their use of the Internet and information technology to bring about improvements in government operations and customer service. As a result, agencies and permitting authorities are utilizing electronic notices as a more convenient, cost-effective, and expedient method of communicating important agency notices and actions to the public.

In this rulemaking, IDEM is proposing to adopt electronic notices as the primary and consistent means for communicating air permit notices to the public. Several of IDEM's program areas already publish public notices electronically on the department webpage located at <http://www.in.gov/idem/5474.htm>. IDEM's air permitting program has a searchable online database for the public that links directly to the public notices and is found at <http://www.in.gov/ai/appfiles/idem-caats/>. IDEM anticipates that converting to electronic notices as the primary

method of public notice will enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently.

For individuals that do not have convenient computer or Internet access, they can request to receive notice through the mail about air quality permit actions in their area or related to specific sources. Individuals on this list receive a mailed notice any time a permit action in their area goes to public notice, and again when the permit is issued. The public can choose to have their names added for permit actions in a specific county or multiple counties, or for permit actions pertaining to just one source or multiple sources. Additionally, individuals may subscribe to the agency email notification system to receive email notifications for public notices based on geographic region, by visiting <http://www.in.gov/idem/5474.htm>.

Comments received by U.S. EPA from permitting authorities already implementing electronic notices found it has been effective and convenient in communicating permitting activity to the public and enables broader and faster dissemination of information compared to newspaper notices. Similarly, IDEM anticipates that electronic notices will expand public access to permit-related documents. Transitioning from printed newspaper notices to electronic notices will also provide a cost savings for the department of approximately \$17,000 per year.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other provisions of Title 326 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

#### **IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

#### **Potential Fiscal Impact**

Transitioning to electronic notices for permit actions will provide a cost savings to the department of approximately \$17,000 per year.

#### **Public Participation and Work Group Information**

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Keelyn Walsh, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

### **SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from September 6, 2017, through October 6, 2017, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

|                                 |                                |                       |
|---------------------------------|--------------------------------|-----------------------|
| Anonymous (A1)                  | Anonymous (A2)                 | Anonymous (A3)        |
| Anonymous (A4)                  | Anonymous (A5)                 | Anonymous (A6)        |
| Anonymous (A7)                  | Anonymous (A8)                 | Anonymous (A9)        |
| Anonymous (A10)                 | Anonymous (A11)                | Anonymous (A12)       |
| Anonymous (A13)                 | Anonymous (A14)                | Anonymous (A15)       |
| Anonymous (A16)                 | Anonymous (A17)                | Anonymous (A18)       |
| A. French (AF)                  | A. Zamudio (AZ)                | Abigail Surles (ASu)  |
| Alan Mcpherson (AM)             | Alexandra Miles-Lasseter (AML) | Alison Leslie (AL)    |
| Alison Stankrauff (ASta)        | Allison Strang (ASt)           | Amanda Rodenberg (AR) |
| Amanda Shepherd (ASh)           | Amber Angel (AA)               | Amy Hammer (AHA)      |
| Amy Odean (AO)                  | Andrea Ebbert Dixon (AED)      | Andrea Holwager (AH)  |
| Angie Jones (AJ)                | Angie Sieb (AS)                | Anita Golba (AG)      |
| Anita Gyojin Cherlin (AGC)      | Anitra Potts (AP)              | Ann Baas (AB)         |
| Ann Frutkin (AFru)              | Ann Trierweiler (AT)           | Anna Pratt (APr)      |
| Anne Fraker (AFr)               | Annie C. (AC)                  | Antonia Matthew (AMa) |
| Ari Hodes (AHo)                 | Ashley Smith (ASm)             | Ashley Williams (AW)  |
| Austin Williams (AWi)           | Babulal Banthia (BBa)          | Barb Horban (BHo)     |
| Barbara and Philip Pitzer (BPP) | Barbara Bell (BBe)             | Barbara Cox (BC)      |
| Barbara Gelder (BG)             | Barbara Hargrove (BHarg)       | Barbara Howard (BHow) |
| Barbara King (BK)               | Barbara Maugeri (BM)           | Bejamin Wiebe (BW)    |
| Ben Ring (BR)                   | Beth Laurer (BL)               | Beverly Cox (BCo)     |
| Beverly Phillips (BP)           | Bill Bailey (BB)               | Bill Staunton (BS)    |
| Billy Houston (BH)              | Bonnie T. Wagner (BTW)         | Brandon Harris (BHa)  |
| Brenda Brannigan (BBr)          | Brian Hardwick (BHAr)          | Bruce Outcalt (BO)    |
| Bruce Simmons (BSi)             | Camille Roberts Krick (CRK)    | Camille Thorns (CT)   |
| Candie Glisson (CG)             | Carol Gray (CGa)               | Carol Hatfield (CH)   |

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|--|------------------------------|--------------------------|
| Carol McDowell (CMD)                   | Carol Montgomery (CMo)       | Caroline Lipp (CLi)      |
| Carolyn Beck (CB)                      | Carolyn De Voe (CDV)         | Caron Leader (CL)        |
| Cassie Majetic (CMa)                   | Cathy Roemer (CR)            | Cecilia Mora (CM)        |
| Chad Spangler (CS)                     | Charles Gray (CGr)           | Charles Retherford (CRe) |
| Charlotte Read (CRea)                  | Cheryl Chapman (CC)          | Chris Erickson (CEr)     |
| Christi L. M. Doolittle (CLMD)         | Christy Finocy (CF)          | Cindi Baringer (CBa)     |
| Cindy Peters (CP)                      | Colby Jay Holmes (CJH)       | Colleen Cleary (CCl)     |
| Connie Everts (CE)                     | Cynthia Wuertth (CW)         | D. L. Rivers (DLR)       |
| D. R. Mckee (DRM)                      | Dale Biberstein (DBi)        | Dale Platt (DPI)         |
| Daneta Payne (DP)                      | Darilynn Mccoy (DMc)         | Darrell La Lone (DLL)    |
| Darren Lyle (DLy)                      | Daryl Emowrey (DEm)          | Dave Ellis (DEl)         |
| Dave Taylor (DT)                       | David Gotshall (DG)          | David James (DJam)       |
| David Jester (DJ)                      | David Kinkaid (DK)           | David Storey (DSt)       |
| Dawn Nye (DN)                          | Dayna Wick-Carlson (DWC)     | Dean Hensel (DHe)        |
| Deana Jacobs (DJa)                     | Deb Sitarski (DSi)           | Debbie Nowlin (DNo)      |
| Debby Willette (DW)                    | Deborah Cavanaugh (DCa)      | Deborah Larkin (DLa)     |
| Deborah Pierce (DPI)                   | Dee Evans-Hein (DEH)         | Dee Moore (DM)           |
| Deena Chambers (DC)                    | Denise Burch (DBu)           | Denise Sleppy (DSl)      |
| Derrick Gamble (DGA)                   | Devin Kellerman (DKe)        | Diana Lee (DL)           |
| Diane Hill (DH)                        | Dinah Holtzman (DHo)         | Donald Baumis (DB)       |
| Donna Cunningham (DCu)                 | Donna Ehret (DE)             | Dorothy Spencer (DSp)    |
| Dorrie Steele (DS)                     | Doug Reynolds (DR)           | Douglas Kirk (DKi)       |
| Duane Hartley (DHa)                    | Earl Scott (ES)              | Ed Benner (EBe)          |
| Ed Webb (EW)                           | Edith Hardcastle (EH)        | Edward Sulicz (ESu)      |
| Eileen Badder (EB)                     | Elaine Declue (ED)           | Elizabeth Sierra (ESi)   |
| Elizabeth Smoyer (ESm)                 | Ellen Germaine (EG)          | Ellen Urbanski (EU)      |
| Elliott Kavanaugh (EKa)                | Emily Griffith (EGr)         | Erica Salzman (ESa)      |
| Erick Hedrick (EHe)                    | Erin Howe (EHo)              | Ernest Cooper (EC)       |
| Ernest Jones (EJ)                      | Ernest R. Frazo (ERF)        | Ernest Todd (ET)         |
| Eugene Odonnell (EO)                   | Evelyn Kilgore (EK)          | Fran Hughes (FH)         |
| Frances Ginther (FG)                   | Frank D. Tigue, Esq. (FDT)   | Gabriel Basile (GBa)     |
| Gail Griffin (GG)                      | Gene Boyer (GBo)             | Geoffrey Conrad (GC)     |
| Glen Boise (GBo)                       | Glenn Boberg (GB)            | Gregory Mowry (GM)       |
| Gwinn Forrest (GF)                     | Haley Lavris (HL)            | Harold Crooks (HC)       |
| Harold Smith (HS)                      | Haylee Schwerdt (HSch)       | Hayley Schwitz (HSc)     |
| Heather Beery (HBe)                    | Helen Smith (HSm)            | Helga Behroozi (HB)      |
| Heliene Houdek (HH)                    | Holly Bahr (HBa)             | Holly Crane (HCr)        |
| Hoosier State Press Association (HSPA) | Howard Williams (HW)         | J. Wackowski (JWa)       |
| Jack Blanchard (JBI)                   | Jacob Harmon (JHar)          | Jacque Kubley (JKu)      |
| James Defrancisco (JDe)                | James Donnelly (JD)          | James Haddock (JHa)      |
| James Kelly (JK)                       | James L. Wolcott (JLW)       | James Thomson (JT)       |
| Jamie Young (JY)                       | Jan Oostland (JO)            | Jane Halteman (JHal)     |
| Jane Perry (JP)                        | Jane Stangel (JSt)           | Janel Rogers (JRo)       |
| Janell Collins (JCo)                   | Janice Weeks (JWe)           | Jason Carlisle (JCa)     |
| Jason Wuthrich (JW)                    | Jean Barr (JBar)             | Jeanne Melchior (JMelc)  |
| Jeanne Sipahigil (JS)                  | Jeff Bloomgarden (JBlo)      | Jeff Cefali (JCe)        |
| Jeff Gruszewski (JG)                   | Jeff Kleinlein (JKl)         | Jeffrey W. Miller (JWM)  |
| Jennifer C. Rockhold (JCR)             | Jennifer Kinney (JKi)        | Jennifer Washburn (JWas) |
| Jesse Kirkham (JKirk)                  | Jessica Cresseveur (JC)      | Jil Browne (JBr)         |
| Jill Boughton (JB)                     | Jill Hemminger (JHe)         | Jim Grimes (JGr)         |
| Jim Merkle (JMe)                       | Jim Sweeney (JSw)            | Jo Carpenter (JCar)      |
| Joan Crist (JCri)                      | Joan Harris (JHarr)          | Joann Hudson (JH)        |
| Johanna Lakin Thomas (JLT)             | John & Maureen Staicer (JMS) | John Blair (JBl)         |
| John C. DePrez Jr. (JCDJR)             | John D. Moore (JDM)          | John Kirchner (JKir)     |
| John Marquis (JMar)                    | John Newbauer (JN)           | John Reynolds (JR)       |

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|------------------------------------|----------------------------|---------------------------------|
| John Triplett (JTr)                | John Zimmerman (JZ)        | Joleen Bartlett (JBa)           |
| Jon Macy (JMac)                    | Josh Ingram (JI)           | Joshua Ohmer (JOh)              |
| Joyce Bauman (JBau)                | Juan Marcucci (JM)         | Judith Ferrell (JF)             |
| Judith Melvin (JMeI)               | Judy Summerville (JSu)     | Julia Machado (JMa)             |
| Julia Roesler (JRoe)               | Julie Borum (JBo)          | Julie Garshwiler (JGa)          |
| Julie Klimas (JKli)                | Julie Lepper (JLe)         | Julie Lowe (JL)                 |
| Juno Farnsworth (JFa)              | Justin Miller (JMi)        | Kamilla Altberg (KAl)           |
| Karen and Will Lozow Cleary (KWLC) | Karen Asp (KA)             | Karen Demerly (KD)              |
| Karen Felts (KFe)                  | Karen Irvine (KI)          | Karen Wisniewski (KWi)          |
| Karissa Horst (KH)                 | Kasi Spyker-Duncan (KSD)   | Kate Lynch (KL)                 |
| Kathleen Cummings (KCu)            | Kathleen Nugent (KN)       | Kathleen O'Connell (KOC)        |
| Kathy D. Kalb (KDK)                | Kathy Thorpe (KT)          | Kay Rosen (KR)                  |
| Kaye Wolverton (KW)                | Kelly Childress (KCh)      | Ken Carter (KC)                 |
| Kenn Reynolds (KRe)                | Kenneth Bonhotal (KB)      | Kerry Catt (KCa)                |
| Kim Fox (KF)                       | Kim Goldak (KG)            | Kim Kideckel (KKi)              |
| Kim Musgrave (KM)                  | Kimberly Mayer (KMa)       | Kimberly Wellman (KWe)          |
| Kristen Toone (KTo)                | Kristin Konstanty (KKo)    | Kylie Carrithers (KCar)         |
| Ladonna Weber (LW)                 | Larry Davis (LDa)          | Larry Garrett (LG)              |
| Larry Rainey (LR)                  | Larry Yoder (LY)           | Laura Demchuck (LD)             |
| Laura Hill (LH)                    | Laura Nicholson (LN)       | Laura Vance (LV)                |
| Lavonne Dodson (LDo)               | Leah Hunter (LHu)          | Leah Leifer (LLe)               |
| LeeAnn LeBrun (LAL)                | Les Gustafson-Zook (LGZ)   | Leslie Esquivel (LEs)           |
| Leslie Nieves (LNi)                | Leslie Webb (LWe)          | Lincoln and Barbara Blake (LBB) |
| Linda Anderson (LA)                | Linda Eickmann (LEi)       | Linda Evinger (LEv)             |
| Linda Harrison (LHa)               | Linda Lemon (LL)           | Linda Patrick (LPa)             |
| Linda Proudfit (LP)                | Linda Szymoniak (LSz)      | Lisa Nelson (LNe)               |
| Liza H (LiH)                       | Lois Eskenazi (LE)         | Lora Stephens (LS)              |
| Lorraine Farrell (LFa)             | Lorrie Fox (LF)            | Lynn Jenkins (LJ)               |
| M. Chase (MCha)                    | Madeline Hirschland (MHir) | Mae Kilker (MKi)                |
| Maggie and Bill Faul (MBF)         | Marcy Wasinski (MW)        | Maren Pink (MPi)                |
| Margaret Corazzi (MC)              | Margaret Pearman (MP)      | Margaret Willis (MWi)           |
| Margee Stone (MSt)                 | Maria Velma Davis (MVD)    | Marie Sepeta (MSe)              |
| Marilyn Maddox (MMa)               | Marilyn Ping (MPin)        | Marion Tidwell (MTi)            |
| Mark Bryant (MB)                   | Mark Grassman (MGr)        | Mark Lamport (ML)               |
| Mark Murdock (MMu)                 | Mark Swanson (MSw)         | Martha Clancy (MCI)             |
| Mary Bronson (MBr)                 | Mary Demyer (MD)           | Mary Jo Arendt (MJA)            |
| Mary Jo Erdberg (MJE)              | Mary Lyn Stoll (MLS)       | Mary Reese (MR)                 |
| Mary Sturm (MStu)                  | Mary Turgi (MT)            | Marybeth Jansky (MJ)            |
| Maryla Scarpa (MSc)                | Matt Caldie (MCaI)         | Matthew Dorabialski (MDo)       |
| Matthew Mateja (MM)                | Megan Childers (MChi)      | Megan Hillman (MHi)             |
| Megan Quirk (MQ)                   | Melanie Leech (MLe)        | Melanie Wheeldon (MWh)          |
| Melinda Jones (MJo)                | Merrie Thornburg (MTh)     | Michael and Cindy Tachman (MCT) |
| Michael Carrithers (MCar)          | Michael Carroll (MCA)      | Michael Greenwald (MG)          |
| Michael Henry (MH)                 | Michael Naylor (MN)        | Michael Oles (MO)               |
| Michael Richey (MRi)               | Michael Weaver (MWe)       | Michelle Krueger (MK)           |
| Michelle Zimmerman (MZ)            | Mike Souza (MS)            | Molly Pasquali (MPa)            |
| Monica Cannaley (MCan)             | Nan Buckley (NBu)          | Nancy Adams (NAD)               |
| Nancy Alspaugh (NA)                | Nancy Burge (NB)           | Nancy Hanson (NH)               |
| Nancy Martin (NM)                  | Nancy Moldenhauer (NMo)    | Naomi Enamorado (NE)            |
| Natalie Niswander (NN)             | Nathan Pate (NP)           | Nicholas Fox (NF)               |
| Nicole Mcfarland (NMc)             | Nicole Webb (NW)           | Omar Martin (OM)                |
| P. Richard Hill (PRH)              | Pam Gurman (PG)            | Pam Kelly (PK)                  |
| Pamela Rogers (PR)                 | Pamela Ruggieri (PRu)      | Pamela Stearley (PSt)           |
| Patricia Fleetwood (PF)            | Patrick Callanan (PC)      | Patrick Niese (PN)              |
| Paul Brooks (PB)                   | Paul Eisenberg (PE)        | Paul Haseman (PH)               |

|                                      |                               |                          |
|--------------------------------------|-------------------------------|--------------------------|
| Paul Labovitz (PL)                   | Paul Longville (PLo)          | Paul Mefford (PM)        |
| Paul Shuck (PS)                      | Paul Till (PT)                | Paulina Ball (PBa)       |
| Peg Winternheimer (PW)               | Peggy Harger-Allen (PHA)      | Peter Cashel-Cordo (PCC) |
| Philip Dennany (PD)                  | Philip Mikulak (PMi)          | Priscilla Wolf (PWo)     |
| Public Notice Resource Center (PNRC) | R. Duncan (RDu)               | R. John Gibson (RJG)     |
| Rachel Eickhoff (RE)                 | Rachel Pietrykowski (RP)      | Rachel Reagan (RR)       |
| Rachel Saxon (RS)                    | Rae Wood (RWo)                | Ralph Collier (RCo)      |
| Raymond Wisman (RWi)                 | Rebecca Bradshaw (RB)         | Rebecca Call (RC)        |
| Rebecca Dien-Johns (RDJ)             | Rebecca Marcus (RM)           | Renee Stout (RSt)        |
| Reva Bayles (RBA)                    | Reynold and Ann Frutkin (RAF) | Richard Byers (RBy)      |
| Richard Landrum (RLan)               | Richard Skrzynecki (RSk)      | Richard Steiner (RSte)   |
| Rick Hocking (RH)                    | Ricki Newman (RNe)            | Rita Sinsko (RSi)        |
| Robert Buzzard (RBu)                 | Robert Compton (RCom)         | Robert L. Kerby (RLK)    |
| Robert Newman (RN)                   | Robert Weiser (RW)            | Roberta Nahas (RNa)      |
| Robin Latta (RLa)                    | Robin Neft (RNef)             | Robin Young (RY)         |
| Robyn Zapp (RZ)                      | Robynn Merkel (RMe)           | Rochelle Foran (RF)      |
| Roger Williams (RWil)                | Ronald Drahos (RD)            | Rosalind Webb (RWe)      |
| Roxanne Hartung (RHa)                | Roxanne Ling (RL)             | Rut T. (RT)              |
| S. Reiff (SRe)                       | Sabine Sturm (SSt)            | Sally Kiebdaj (SKi)      |
| Sam Wilson (SWi)                     | Sandra French (SFr)           | Sandra Hoy (SHo)         |
| Sara Pappas (SP)                     | Sarah Bilek (SBi)             | Sarah Clevenger (SCle)   |
| Sarah Gray (SGr)                     | Sarah Haefner (SHA)           | Sarah Kopeschka (SKO)    |
| Sarah Spelbring (SSp)                | Schuyler Kempton (SKe)        | Scott Shafer (SS)        |
| Shaun C. Lighty (SCL)                | Shawn Spinney (SSpi)          | Shayna Burko (SB)        |
| Shellee Klausmeier (SK)              | Sherry Ballard (SBa)          | Sierra Club (SC)         |
| Silvia Holman (SH)                   | Skip Lyford (SL)              | Stephanie Everts (SE)    |
| Stephanie Pierce (SPi)               | Stephanie Scarbrough (SSc)    | Steve Cashdollar (SCa)   |
| Steve Gamblin (SG)                   | Steve Gerber (SGe)            | Steve Leyndyke (SLe)     |
| Steve Mcpherson (SM)                 | Steve Shoemaker (SSh)         | Steven R. Coomer (SRC)   |
| Steven Rody (SR)                     | Steven Wilson (SW)            | Sue Freas (SF)           |
| Sue King (SKin)                      | Sue McClellan (SMc)           | Sue Norris (SN)          |
| Susan Barhan (SBar)                  | Susan Hansen (SHan)           | Susan Kenning (SKen)     |
| Susan Odonnell (SO)                  | Susan Sirnic (SSi)            | Tamara Robbins (TR)      |
| Tammy Fisher (TF)                    | Tammy Swoboda (TSw)           | Taylor Mock (TM)         |
| Ted Claghorn (TCI)                   | Teresa Koschmeder (TKo)       | Terrance DeShone (TDS)   |
| Terri Waywood (TWa)                  | Thomas Hoover (THo)           | Thomas Klages (TK)       |
| Timothy Gonsorek (TG)                | Tina Costin (TC)              | Tisa Gray (TGr)          |
| Tom Hougham (TH)                     | Tom Mee (TMe)                 | Tom Sunlake (TS)         |
| Toni Long (TLo)                      | Toni Wisener (TW)             | Traci Morick (TMo)       |
| Trevor Laughlin (TLa)                | Trudy Dunaway-Brown (TDB)     | Tuck Langland (TL)       |
| Tyson Domer (TD)                     | V. Streiff (VSt)              | Venita Hooper (VH)       |
| Veronica Gabet (VG)                  | Vicki Brown (VB)              | Vickie Shearer (VS)      |
| Walter Robinson (WR)                 | Wanda Wilkey (WW)             | Warren Cross (WC)        |
| Wayne Urton (WU)                     | Wes Milner (WM)               | Wesley Evans (WE)        |
| William James (WJ)                   | William Keys (WK)             | William Smith (WS)       |
| Wilma Davison (WD)                   |                               |                          |

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

*Comment:* Social media like FB should be used. Not newspapers. (A2)

*Comment:* Despite editorials in our local newspaper to the contrary, I believe the idea of having electronic postings versus newspaper public notices to be a good one. Our world today revolves around the internet and young people read everything online. Just as banks have found that branches are becoming less necessary because of internet banking, government needs to adjust its approach as well. The money saved along with the equal and perhaps wider reach of internet posting is an obvious next step. (CMD)

*Response:* IDEM agrees that trends in information dissemination have increasingly changed to more computer and internet-based sources than newspaper or other printed sources over the years. The use of social media as a news source by younger generations is also a growing trend, and one that will be even more prevalent

as these generations reach adulthood. IDEM has a responsibility to keep pace with these trends in order to continue providing the best service to the public, and converting to electronic notices as the primary method of public notice will help achieve this goal.

*Comment:* I oppose changes on public notification regarding air pollution emissions. (A1)

*Comment:* Please do not stop publishing public notices in the newspaper! (HB)

*Comment:* Please do not change to electronic notice for IDEM air pollution permits. Printed notice continues to be necessary and expected. (MM)

*Comment:* I am writing to express my disapproval of the proposed plan to eliminate newspaper notices. (LD)

*Comment:* Printed notices in local newspapers remain an important and centralized source of public information for civic-minded Hoosiers. (TD)

*Comment:* Please do not stop publishing public notice ads in local newspapers. Publishing such notices only online will not serve the public well. (CR)

*Comment:* I strongly urge IDEM to continue to publish public notices in the applicable local newspapers. I read these notices diligently as I have property in the state and want to be informed of any potential effects to this land. (PLo)

*Comment:* Public notice by way of news media is still appropriate for making communities aware of projects. Postings only on your website are not sufficient. (TR)

*Comment:* Please continue to publish IDEM notifications in all newspapers. (RLan)

*Comment:* We the people you got to be kidding me. (A18)

*Comment:* Very bad idea. This is very important for the public to know. "We the People" have every right to know what is going on in our community. We are tax payers also! (GBoy)

*Comment:* I do believe that these notifications are statutorily required to be published in the newspapers. I will be contacting my State Representative Matt Lehman about this matter of only publishing these notifications on the State website. (TCI)

*Comment:* As a taxpayer and lifelong resident of Indiana I do not want the elimination of public air pollution notices eliminated from being posted in public newspapers. It is important as most people do not go online or follow government websites routinely to be aware of such postings. Saving a few dollars does not justify this action of eliminating published public notices and it takes away from the open transparency of our government agencies and their activities. (RN)

*Comment:* There is no way that people will know when to check a website. This is not a solution. I do check the local paper online which is how I found out about the lead permit and then spoke to the Hammond Environment office. (JH)

*Comment:* As an Indiana tax-payer, I oppose IDEM's proposed elimination of printing public ads. It's too vital a public service to discontinue. Many Hoosiers don't even have internet, so how would these folks learn about these notices. (SCL)

*Comment:* I suffer from lung problems and appreciate that agencies care enough to notify me about dangers to my health via printed notices. As you probably know, the public has various levels of electronic expertise, and those who don't have the skills to avail themselves of electronic notifications are at a real loss. Even for those who do have the ability to tune in, who wants to visit numerous agency websites to find the latest warnings? I know I don't have the time for that. With work, family responsibilities, and other daily distractions, the public must be advised of health dangers in the most accessible way possible, and that would be through print media, possibly supplemented by radio and TV. (KR)

*Comment:* It seems shortsighted to expect anyone to check obscure websites for information. The government is to be transparent. Only when public records can be retrieved for reference and verification is it transparent. Information can be changed if not in print. Trying to save \$17,000 is laughable. Raise taxes to provide necessary services government should provide all of us. I am opposed to your proposed 'savings'. (RM)

*Comment:* Air pollution permits need to be kept in the public eye. Newspaper notices are by far the most effective means of getting the information out. Not everyone has access to reliable internet service and some of the elderly have problems navigating it. The idea of posting it on the web where info can be changed without any recourse sounds too 1984ish for my taste. (A3)

*Comment:* Please continue to publish the notices in the local newspapers, as they are the central source of legal notices for residents of the area. If every agency took the approach you are advocating, it would become virtually impossible to follow all the pending actions, meetings, etc., that are conducted by public agencies. You must also consider the burden put on the public to constantly check your website, along with any other agency website that would post notices as you are considering doing. The local newspaper is one I read daily and each day, I do read the legal notices for information about what my government bodies are doing or have done. (ERF)

*Comment:* We do not want, and many are not able to access, governmental websites to comb through for announcements that may be important. (A4)

*Comment:* Many of the polluted areas are located where there is government subsidized housing. How many disadvantaged Hoosiers have computers or would use their computer to check multiple government websites on a weekly basis to see whether anything has been posted that will directly affect or interest them? Speaking for

myself, I rely on newspapers for this information and would consider it an unacceptable inconvenience to get the information as IDEM is proposing. IDEM would be imposing an unnecessary burden upon Hoosiers by eliminating the air pollution public notice ads. The inconvenience is not worth the estimated \$17,000 per year savings in advertising costs. (DS)

*Comment:* 1.) Indiana does not provide affordable internet service to all of its citizens. 2.) Indiana lacks the capability to provide an easily navigable way of announcing and accessing this type of information. I say this because I am an income tax preparer who must deal with the DOR's ineptitude every tax season in regard to electronic filing of individual tax returns. Indiana seems to be way behind the times in regard to technology advancements and availability to its citizens. (JDM)

*Comment:* I am web literate but I do not relish the thought of having to go to each of the Indiana government's webpages to see if there are any proposed changes to policy. When published in the newspaper, it gives me a better "feel" for the direction that my government is heading, where if I am reading about each individual department or agency, the overall "direction" is lost. (JWM)

*Comment:* Keep public notices in newspapers. Who would ever check government websites every day for these notices? (A5)

*Comment:* Keep using newspaper notices and use the electronic strategy, more notice is better than less. I'm a new Hoosier, and I'm underwhelmed by IDEM's vigor in keeping me safe. (PL)

*Comment:* I subscribe to two newspapers in order to be more informed. Yes, I do have a computer, but many do not, and even though I have a computer, I only use it for the 'social aspect' of life. A savings of \$17,000.00 seems paltry considering your total budget. I am sure that amount of money could be saved by eliminating waste(s) in the department and therefore, not deprive the public of being informed. It would be so easy to use both methods of publishing, therefore, those who read the notices would have full opportunity to the advertising program and if there are some who do not read the postings, but would see the electronic version, the public would then be kept 'in the know.' It is no wonder that we, the public, feel we are becoming more and more left out of decisions we should and need to know. (MP)

*Comment:* Curtailing the way government informs people about environmental permit applications is not a good idea and not in the public interest. I believe people will fail to be informed if it is presented online only and not printed in newspaper. (A6)

*Comment:* The citizens' right to know in an easily accessible newspaper ad far exceeds in value the estimated cost of saving \$17,000. The advertising of public notices, I believe, is important for an informed citizenry. It is unrealistic that we would need to check multiple websites to look for such notices and evaluate them. It is my understanding that the proposed change includes electronic notice for air pollution permits. Such notices are important, too, for the health and well-being of all of us in Indiana. (MJE)

*Comment:* This is a clear attempt to avoid transparency since the public would have to access your web site every day, and some people cannot do so, to try and keep up with any notices on anything your department is involved with. A public notice is to be public and is to be available to the public, whether they have internet access or not. Therefore I totally object to publishing "public" notices on the department's own web site and not in newspapers and other media. (KDK)

*Comment:* Publication to a website that the department maintains is inadequate notice. As the Hoosier Press Association has shown, the number of Hoosiers who visit the department's website where notices are placed is but a few hundred per week whereas the readership of Indiana's newspapers is nearly four million per week. The public has a right to know about the work of its government and the state's newspapers are the proper and reliable location for such mandated notices. (JK)

*Comment:* Indiana should continue to advertise increases in pollution. If you want to add information to your websites and increase access to information that is great, however decreasing access to this important information is wrong. (A7)

*Comment:* We should not have to hunt for such information. It should be sent to us. (A8)

*Comment:* We are inundated with electronic news, so to think that the general public will seek out notices on a web site is totally unreasonable. The cost of publishing notices in print is a small price to pay for our health. I would encourage you to do both: post on your web site and continue to publish in local papers. (DSt)

*Comment:* Presumably, the purpose of a "Public" Notice is to make its contents public. Newspaper subscribers read their newspapers. This is especially true in smaller communities. Few Hoosiers waste time browsing through countless government websites looking for things they know nothing about, and in which they have no prior interest. This is the first time I have had occasion to interface electronically with "Environmental Management" and, hopefully, the last. Posting "Public" Notices only online would be the equivalent of burying them in an abandoned graveyard. Don't do it. (RLK)

*Comment:* I always believed that the role of IDEM is to help protect residents of Indiana from pollution and to ensure companies, businesses and individuals comply with the laws that protect our environment. One of the best ways to ensure compliance, is to bring compliance into the light; that is, make the public aware of any type of action by your agency. This has been achieved in large part through the reporting of your actions via Indiana newspapers, which includes placing your "public notices" in Indiana newspapers. Oftentimes, the "public notice"

itself prompts a news story which further brings environmental news/actions into the public arena in an informative, explanatory manner. Placing any type of IDEM action, such as "air permit notices" on your website would, in my view, diminish the public's knowledge and concern about their particular local issue. The vast majority of people are not going to check your web site on a weekly basis to see if there is any "news" about their locality. However, people will read an article and/or notice in their local newspaper pertaining to the environment. For these reasons, I hope your agency reconsiders the decision to put notices on your website. (BK)

*Comment:* It would be difficult for people to find information unless they are proficient with computers, most are not. With corporations now self-monitoring, I wonder who we will turn to when problems arise in the future. (KC)

*Comment:* If you want to keep providing information to many Indiana residents, continue your public notices in local newspapers. If you want to limit the information to fewer people, only place it on the IDEM website. (JCDJR)

*Comment:* It is important that these types of notices remain available to the public through print media. Online notification in addition to print is fine, but there are those who do not have access to electronic sources whose lives and health can be negatively impacted by the proposal. This is especially true in rural areas such as in Jefferson County where not every household has internet access. (JMS)

*Comment:* If you want to put the info on the website, fine. But that alone is not sufficient. The information is too critical and important for keeping the public informed. It must be made known and there are still members of the public who read newspapers. (DSp)

*Comment:* Moving public notices from newspapers to a state run website will greatly diminish the exposure of such notifications. This is nothing more than a blatant political move to prevent potential opposition to unpopular positions. Multiple surveys have demonstrated that the majority of Indiana residents prefer to receive public notice advertising through easily accessible newspapers. Unlike newspapers, Internet access is not universally available. IDEM's explanation of communicating "more quickly and efficiently" is nothing more than bureaucratic doubletalk. (JKu)

*Comment:* Do we really expect that citizens will regularly go to IDEM's website to see there are new petitions to pollute? Surveys find that 85% of Hoosier respondents prefer that notices be posted in newspapers and are likely to read these. Obviously, many fewer people will look for an electronic notice on IDEM's website. This proposal smacks of trying to hide this information from the public. It is not a reputation that our government, paid by Hoosier taxpayers, should want. The proposed change does not serve the people. It serves the wanna-be polluters. (MHir)

*Comment:* Please continue to post public notice advertisements in local papers rather than make taxpayers hunt various websites to find what should be easily accessible notices. I am not in favor of the proposal to stop newspaper publications of these notices. (A10)

*Comment:* I much prefer if IDEM continued to publish notifications in local newspapers so that people have a real shot of seeing these notifications. (WS)

*Comment:* The public deserves to know what is going on in their community. It would be very wrong to further hide what industrial facilities are doing. We have enough trouble finding the tiny notices in the newspaper, and now you're considering posting them only on your website where most people would never see them. Please don't make this change. (MMA)

*Comment:* When an industrial facility seeks permission to emit air pollutants, with just putting that notice on IDEM's website is not a good idea. Please continue to place public notices in local newspapers when industrial facilities wish to emit air pollutants into the air. Not only is this a very bad idea it is not transparent and certainly does not serve the best interests of the citizens most affected. It is a misguided proposal that makes it much more difficult for Hoosiers to find information they are used to getting in local newspapers and this certainly is not a move for transparency. Even in our ignorance you have a responsibility to protect us and have the citizens best interest in mind at all times. (A11)

*Comment:* When an industrial facility seeks permission to emit air pollutants, with just putting that notice on IDEM's website is not a good idea. Please continue to place public notices in local newspapers when industrial facilities wish to emit air pollutants into the air. Not only is this a very bad idea it is not transparent and certainly does not serve the best interests of the citizens most affected. Your website is not considered a public access for information, although the public may have access to it not all of the public has access to the internet therefore making it inaccessible to all of the public, whereas the newspaper is available to all venues. (A12)

*Comment:* Relegating industrial pollution notices to an agency website is offensive to the public on so many levels! People cannot act on what they do not know. (A14)

*Comment:* Currently, IDEM has to notify residents via an ad in local newspapers. I think this is a good rule, and should be kept. It means people have a real chance at seeing that advertisement. I have read that IDEM wants to change this rule so that IDEM only has to post these types of notices on its website. I believe this will make people less informed about and thus less able to resist polluters in our neighborhoods and communities. Please do not authorize this rule change. (VSt)

*Comment:* It's too hard for people to find this information on your website. I had to call your office and talk to



you to get directions on where to find the public comment period for this proposed rule change. Doing this will be very difficult and therefore largely inaccessible for the average Indiana citizen! If it is this difficult to submit comments on the proposed rule change, how can we trust the IDEM website will be transparent and accountable on other public comments? IDEM owes it to Indiana citizens to do their job in a transparent and accountable manner that is easily accessible to the public. I have yet to find the public comment section on the IDEM website. If we can't find it on the website, does it really exist? At least when you publish it in the newspaper there is a public record of the public notice. I urge you to not approve the proposed elimination of newspaper publication for air permitting notices. (LWe)

*Comment:* This could be info that may be of interest to me, but I more than likely will never see it as I don't use this way of checking out things on a computer. I would be more likely to see it in the newspaper. (DBi)

*Comment:* The intent of the current rules is to allow those potentially affected an opportunity to comment prior to approval of a permit or permit revision. To comment, you have to be aware of the permit proposal. Notices published on a website will be less likely seen (and therefore commented on) by those not specifically looking for them because this form of notification is very passive. Only those already aware and actively looking for such notices will find them. Newspaper ads represent a more active form of notification, especially for those that are not internet savvy. Paper copy newspaper circulations are declining, but electronic versions of the same newspapers are commonplace and efficient at reaching the internet savvy public. Thus, newspaper ads provide better visibility to those affected but not aware. Therefore, to meet the dual objective of reducing costs without reducing the opportunity to comment by those affected, I recommend that the internet address of the website containing the legal notices be published in the newspaper (paper and electronic versions) instead of the actual notices. One newspaper ad could be used for several individual notices. Just put the titles of the notices and the single website address in the ad. This won't eliminate all newspaper ad costs, but it would reduce the costs and still provide visibility to those affected but not aware and allow them an opportunity to comment. (JGr)

*Comment:* The proposal by IDEM to save \$17,000 by eliminating notice by publication in newspapers of air permit applications is one of the silliest proposals – among many silly anti-citizen/anti-environment proposals – that IDEM has ever made. The amount to be saved is trivial. The result is the denigration of every citizen's right to clean air. It is completely understandable that businesses do not want pesky citizens interfering with business's efforts to minimize regulation and maximize profits at the expense of breathable air. Too bad that the "cost conscious" businesses and their lackeys in the legislature and administration simply ignore the proven fact that bad air increases the incidence of respiratory disease which, in turn, increases the public expenditure on health costs and the loss of productivity due to illness. You also overlook that bad air severely diminishes the attractiveness of neighborhoods for those who might think about investing in residences for their families. \$17,000? Pretty much a rounding error, is it not? Operating government to serve exclusively the interests of business is a betrayal of the public trust. In spite of the many tax breaks business has received, and in spite of the many loopholes that favor the truly wealthy, there is no evidence at all to support the assertion that such toadying ever has resulted in the creation of a single job – despite the many false claims to the contrary. I read newspapers every day. I do not care to visit a government website every day. Your proposal would make it significantly more cumbersome for me to find out about projects that would directly affect the quality of my life. Your party claims to represent "the people". That is nonsense, as demonstrated by this silly proposal. (MG)

*Comment:* I urge the Indiana Department of Environmental Management to continue its current practice of publishing public notices for air permits in local newspapers, while also continuing to provide electronic notice. IDEM's proposed rule change would greatly reduce the availability and ease of access for Hoosiers to IDEM's air permitting decisions that impact our communities. Please do not approve the proposed elimination of newspaper publication for air permitting notices (LSA Document #17-395, Electronic Notice for Air Permits).

IDEM's rationale for the proposed rule is flawed. Many Hoosiers lack access to the Internet or experience using the web. While it's true that access to the Internet has increased in the United States, widespread adoption has not occurred uniformly in Indiana, due to demographic, economic, and geographic factors.

A Broadband Now study shows that there are about 286,000 Hoosiers without any wired Internet providers available where they live. In addition, older Hoosiers may not have experience with using the web to locate information. Given these and other limitations of IDEM's website, eliminating newspaper publication of notices would make it less likely that Hoosiers are informed about air pollution issues in their communities, and in a state that had made national headlines for its poor air quality, we need more, not less information.

IDEM says it will save \$17,000 per year by eliminating newspaper publication of air permitting notices. This money benefits small town newspapers and the communities that depend on them and is a small price to pay to ensure that all residents of Indiana have good access to information about air permitting decisions that impact our health.

While I support IDEM providing electronic notice of all air permitting actions, the agency must provide another means to give notice of these actions to people who do not have access to the web, especially for Hoosiers who live relatively near to a particular pollution-emitting facility. Accountability and transparency are critical values that underlie our system of state government. I urge you to reject this proposal that would decrease citizen access to government decisions about these important public-health matters. (SG, DP, MPi, RD, KRe, SS, DE, RW, JM,

CLMD, JLT, BBa, MMu, SSt, MC, WE, NF, AB, DH, BC, ET, JKl, JKI, NW, JC, PRH, SO, JMa, SP, BG, KL, LH, DEI, NB, RWi, SHo, LN, LR, SRC, DL, LNi, JD, MS, DG, JB, NA, NM, SSi, JCo, ML, HS, JG, SB, PS, RWo, PT, MK, PHA, DC, JGa, HSc, TK, JMe, PW, DSI, LF, MW, DLa, JS, AA, MB, AJ, BCo, MCT, NAd, PF, DW, JW, AR, WR, CB, JBl, JKir, LL, LBB, RJG, MO, JZ, SSc, MGr, DK, RWe, WJ, GF, RS, BH, NP, PD, MCA, AS, JR, VG, EK, JCri, MTh, SK, ES, CBa, DGa, AG, PG, CG, LE, TLo, LGZ, JWe, MCal, JRo, RBy, DHe, RAF, LS, DB, DT, DLL, KT, EW, CW, MR, KA, EJ, MSe, MSt, HSch, JF, JBo, CS, AF, JFa, PM, WK, DKe, JCe, KOC, SN, NBu, JO, NH, JBa, EKa, JP, SM, TKo, SF, VB, KWLC, RY, MJ, SW, LP, MTi, BHa, BTW, WD, AED, SKo, RNe, CF, AGC, LSz, JMar, KM, RC, EC, EG, CM, RBa, EH, RH, MPin, LFa, JI, LW, DPi, BO, SMC, MBF, DCu, DEm, RL, SSp, LG, AFR, TC, GM, MSc, RE, RMe, MZ, RCo, KK, RF, AZ, TM, KW, DN, KN, CRe, KCa, JCa, Rcom, JHa, JMel, SC, DEH, TH, LLe, MVD, JMac, MLe, JHar, KH, SPi, ESa, LEi, MCan, PR, SFr, WU, DKi, AM, GB, RBu, MWe, DNo, BR, LV, VS, WW, DHo, JMelc, AH, JDe, AMa, GC, MJo, CGa, JWa, CP, CRea, SKe, PC, GBo, SGe, PSt, TF, KKi, AHo, WC, CE, SGr, VH, DJ, JSu, JHarr, BS, RT, PRu, JBar, BBr, LHu, TW, KB, DWC, ESu, THo, PCC, NMc, BHar, AP, JT, RSk, TLa, TS, RSt, EH0, HC, CMo, KSD, PE, ESi, CH, FDT, PWo, NE, BBe, RDJ, PN, PB, Ski, OM, SR, RHa, JWas, BL, JCar, KCu, RSte, JBla, MH, RStei, Aha, KWi, JBau, KWe, JCR, MRi, JL, JSw, CC, NMo, DM, MWi, AC, PMi, MBr, MLS, JKirk, Sha, CL, NN, CLi, JLW, JHe, CCI, AW, MQ, TSw, SBa, KD, MD, LY, DR, PBa, ESm, EHe, MCha, SL, RWil, HH, MSw, SWi, MHi, KF, KFe, LDo, JKli, MJA, LEs, CGr, BSi, GBa, LAL, ED, Ash, MCI, KMa, AL, JBlo, SBar, DRM, DLR, KCh, SE, MPa, AT, SKen, BHo, JN, MDo, DPI, LDa, LNe, JHal, DJa, KTo, MKi, KAI, SSpi, LPa, TDB, KI, DCa, HBe, JMi, SRe, DSI, RP, BHarg, JOh, CMA, PH, FH, AWi, TMO, HL, RZ, EB, APr, EU, PK, JSt, RLa, MN, HSm, JTr, DJam, ASu, BP, CT, RB, AO, TG, EO, TGr, FG, DHa, ASt, LA, KCar, AML, MStu, GG, BW, RDU, LEv, MWh, AFru, WM, SBi, LJ, DMc, RR, CJH, JY, RNeF, ASm, Sca, CRK, RSi, JBr, MChi, EGr, TWa, TMe, EBe, JRoe, BPP, ASta, BM, MT, BHow, HBa, DBu, HCr, LiH, CDV, SLe, SKin, HW, MCar, JLe, DLy, DCun, RNa, CEr, LHa)

*Comment:* The Hoosier State Press Association urges the Indiana Department of Environmental Management to reject a proposed rule change that would eliminate the publication requirement in Indiana newspapers for notices of New Source Review and Title V permit programs.

The IDEM proposal is based on a change by the U.S. Environmental Protection Agency public notice rule provisions. Unfortunately, the EPA change is based on a flawed premise: "The EPA anticipates that e-notice...will enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently..."

Yes, e-mail notice is easier for the IDEM staff, but that is not the goal of public notice. The goal is to inform the public of these actions and newspapers remain the most effective means to accomplish that goal.

There are nearly 4.7 million adult Hoosiers who deserve to know what actions IDEM takes that impact air quality in their communities. It's obviously impractical to mail everyone notice, so democratic governments have been tasked with choosing the most effective means to reach a maximum number of people. Newspapers have been found for hundreds of years to be that best way to reach the public for government units.

A survey this summer conducted by American Opinion Research found that 2.9 million Hoosiers read a newspaper at least once a week and the number increases to 3.6 million when you include those who read their newspaper electronically. That doesn't mean every story, ad or notice in each issue of a newspaper is read, but it puts that information into the hands of someone who has paid to have that newspaper delivered to their doorstep or laptop computer.

Compare that reach to the number of visitors to the IDEM webpages where the notices of hearings are posted. The last time HSPA checked with IDEM, the average number of unique visitors to those pages per week was 105 individuals. It was a lower number than the number of hearings being noticed by IDEM at that time - 113. It's safe to assume many of those unique visitors are representatives of businesses seeking permit approval, which would reduce the number of members of the general public who actually see these e-notices to an even smaller average.

E-notices are effective if the goal is to hide information in plain sight. Yes, the public has the ability to regularly go to the IDEM website and look for permits that might impact their specific community, but it apparently isn't happening now and won't be happening in the future. Logic should tell you that people are too busy to spend time every week checking various government websites to see if there's something that would concern them. They are accustomed though to reading their daily or weekly newspaper to discover information that affects their lives.

IDEM argues that changes in the newspaper industry make public notice advertising less effective. It's true that print readership has declined, but that's because more individuals are reading the electronic version of the newspapers. There's a lot more zeros behind 2.9 million Hoosiers reading printed newspapers than the number of unique visitors to IDEM's pertinent webpages.

IDEM complains about a service issue provided by a newly purchased newspaper. Yes, when humans are involved, you can have a hiccup with customer service, but you don't stop buying food at grocery stores because you had a bad experience at one meat counter. If service is a problem for IDEM, HSPA stands ready to help tackle those issues as it has in the past with the state Attorney General's office and the Indiana Alcohol & Tobacco Commission.

The third argument is that IDEM will save \$17,000 by eliminating the public notice advertisements. That's not even a drop in the bucket for IDEM's yearly budget for its Air Permit Program - a total of \$12,852,822. The cost to effectively inform Hoosiers of program hearings is 0.13 percent of the Air Permit budget, yet IDEM doesn't even want to spend that meager amount to inform the public.

The American Opinion Survey though shows Hoosiers want public notices in newspapers and are fine with their taxpayer dollars being used to make it happen. The survey found that 63 percent of adult Hoosiers supported the publication of public notices even when told it could cost government units several thousand dollars. And when asked if they would read these notices more often or less often if moved to government websites, the survey showed there would be a 60% drop in the readership of public notices.

A cynic might argue that government bureaucrats would prefer Hoosiers, who aren't part of the inside game, not show up at hearings and question decisions being made. Hiding information on a website that citizens aren't going to see would surely accomplish that self-centered goal.

On the other hand, publication in affected communities' newspapers of these air quality decisions does give Hoosiers an opportunity to voice their opinion. It also increases the chances a reporter will write a story, which also increases the opportunity for the public to learn about the process and its impact on the air they breathe or the ability of businesses to continue operations and provide jobs in that community.

These decisions are too important to hide on a seldom-seen webpage. Government transparency is the bulwark of a democratic government. The public needs to know what its government officials are doing to judge whether they are being represented well by those elected and by the public employees who carry out the duties of state and local government units.

In Indiana, transparency rests on a three-legged stool with the three legs comprised of the Open Door Law ([IC 5-14-1.5](#)), Access to Public Records Act ([IC 5-14-3](#)) and Public Notice Advertising law ([IC 5-3-1](#)). Without proper notice of these hearings through public notice advertising, the Open Door Law and Access to Public Records Act become useless because the public doesn't learn about the IDEM action until it's too late to act. (HSPA)

*Comment:* The Public Notice Resource Center (PNRC) is certain that if the Indiana Department of Environmental Management doesn't abandon its proposal to eliminate the newspaper notice requirement for New Source Review (NSR) and Title V Permit programs, the decision will eventually come back to haunt the agency.

For that reason, we urge you to speak with Heidi Grether, director of the Michigan Department of Environmental Quality (MDEQ) and Teresa Marks, former director of the Arkansas Department of Environmental Quality (ADEQ), before finalizing your ruling. Both executives suffered through major controversies that resulted from moving notices from newspapers to their agencies' websites, so they are likely to have a valuable perspective on the subject.

In September 2016, the MDEQ posted notice on its website of its draft approval of a proposal to allow Nestle Waters North America to extract significantly more groundwater in Osceola County for its Ice Mountain bottling plant in the state. Although the notice had been posted on the MDEQ website for 42 days, citizens in Michigan were shocked to learn about the proposal when a story about it was published on Oct. 31 in a local newspaper, the Grand Rapids Press, and on its website, MLive.com. MDEQ had not received a single comment on the proposal before the newspaper story brought it to light. Within three days after the article was published the agency had received 1,100 email messages about the proposal. The flood of citizen input forced the agency to extend the comment period on three separate occasions by a total of 165 days, and to schedule a public hearing. By early December, the agency had received over 3,000 comments; by April of the following year, MDEQ Director Grether said she had personally received over 35,000 emails on the subject. Speaking to a group of environmental lawyers, Ms. Grether admitted that the notice on the MDEQ website wasn't enough. "Was (the Nestle proposal) advertised and noticed in a way it should have been? Probably not, it appears to me."

In August 2012, the ADEQ approved a permit to allow Cargill and a group of local farmers to build a Concentrated Animal Feeding Operation (CAFO) on the banks of the Buffalo National River in Arkansas. Although it had been posted for 30 days on the ADEQ website, citizens in Newton County, Arkansas, were astonished when they discovered later that year that a hog farm was being built near their homes. The state of Arkansas likely has spent, at a minimum, hundreds of thousands of dollars defending and settling lawsuits filed over the hog farm. If ADEQ had instead spent a few hundred dollars publishing notices in a local newspaper, the citizens living near the farm would have had an opportunity to weigh in on the proposal and much of the conflict may have been avoided. The irony surely wasn't lost on Ms. Marks, the former ADEQ director. "I understand the way people feel," she told a local newspaper when she was still heading the agency. "They feel like this happened and nobody knew anything about it." That's what happens when state environmental agencies decide to post notices on their websites instead of local newspapers.

We have a theory of why federal and state environmental agencies persist in moving their public notices from newspapers to government websites despite clear evidence that it reduces transparency and citizen engagement and increases the risk of public outrage over controversial decisions. Employees who work at agencies like IDEM and the Environmental Protection Agency (EPA) generally work in large metropolitan regions. Like many other urban professionals, they often spend much of their day working on the internet from their computers and

smartphones. They are also aware that print circulation at most newspapers has declined, as IDEM notes in the first paragraph of its proposal. So perhaps it's understandable that they come to believe that newspaper notice is a wasted expense. But it only requires a few moments of reflection on the issue to realize that despite the decline in circulation, newspapers are still far more effective at providing official notice than government websites.

First, newspapers are intrinsically superior to the internet as a communication tool for public notice because of the difference in how humans process information. Reading a newspaper is a serendipitous process. Readers always find information in newspapers they weren't expecting to see. That guarantees that public notices in local newspapers will always be seen by many people who didn't pick up the paper intending to read them. People behave differently on the internet. They tend to be more goal-directed, seeking specific information via direct access or search tools like Google or Bing. Therefore, they are unlikely to find information that they aren't looking for. That's why public notices on websites get lost and are easily hidden. The serendipity factor is especially significant with regard to public notices because few people actively seek out public notice advertising. This helps to explain why, for over 200 years, policymakers have chosen to publish notices where people are likely to find them.

Second, when public notices are eliminated from newspapers, they are also removed from newspaper websites. That's important because the great majority of newspaper websites in the state of Indiana generate significantly more traffic than the IDEM site. So by eliminating newspaper notice, IDEM is not only jettisoning print distribution. It is also vastly reducing the digital distribution of its notices.

Third, people who read local newspapers are more likely to be civically engaged than the average citizen. Of those who always vote in local elections, 27 percent are more likely to read the daily newspaper than a typical adult. Seven in 10 of those voters read newspaper media in print, online or on mobile devices in a typical week, and nearly eight in 10 contribute money to political organizations. Comments the EPA made in connection with the rule that serves as the basis for IDEM's proposal indicate that it is an agency goal to increase civic engagement in its rulemaking process. Although IDEM's proposal never addresses the issue, we presume that it is a goal of IDEM as well.

We would ask how, in light of these facts, IDEM can seriously argue that its proposal will increase transparency for NSR and Title V permit programs? However, we note that IDEM's proposed rule never actually claims e-notice will reach more Indiana citizens. It focuses instead on cost, convenience and expedience. Those are all worthy goals. Unfortunately, none are the primary purpose of public notice laws. (PNRC)

*Comment:* On behalf of Sierra Club and its over 10,000 Indiana members, we submit these comments on Indiana Department of Environmental Management ("IDEM") proposed rule, LSA Document #17-395, concerning public notice provisions for permits issued under the Clean Air Act's New Source Review ("NSR") and Title V programs, which was noticed for public comment on September 6, 2017 ("Draft Air Permit Notice Rule"). As explained below, Sierra Club urges IDEM to continue newspaper publication as the primary means of public notices for draft air permits in order to keep all Hoosiers informed of agency decisions regarding public health, and therefore better maintain transparency and accountability in state government.

The U.S. Environmental Protection Agency ("U.S. EPA") published a final rule revising the public notice provisions for the NSR and Title V permit programs last year. 81 Fed. Reg. 71,613 (Oct. 18, 2016). The U.S. EPA rule requires electronic publication of notices intended to inform the public of draft air permits, and removes the former mandatory requirement of newspaper publication. State permitting agencies, such as IDEM, may continue to supplement e-notice with newspaper or other means of notice. IDEM must select one means of notice as the official one for giving legal notice.

IDEM currently provides notice of draft air permitting decisions both through publication in a local newspaper and its website. In the Draft Air Permit Notice Rule, IDEM is proposing to terminate newspaper publication and convert entirely to e-notice, citing reduced time to notify the public, \$17,000 cost savings, and expanded public access to permit-related documents.

The Clean Air Act's NSR program requires installation of state-of-the-art pollution controls for certain new and modified sources of air pollution. The Title V program imposes emission limits and other requirements on major sources of air pollution. Both programs are critical components of Congress's scheme for protecting public health from air pollution.

There is no legal obligation for IDEM to terminate newspaper publication of public notices. Rather, U.S. EPA's final rule—an example of the cooperative federalism embodied by the Clean Air Act—allows state permitting authorities to supplement e-notice with newspaper notice or additional means of notification to the public, and decide which means of notice is the official one for agency purposes. Simply put, IDEM is free to choose the appropriate means for giving Hoosiers notice of these important air permitting decisions that affect their communities, and U.S. EPA's final rule has essentially no effect on IDEM's decision regarding discontinuing newspaper publication.

IDEM is wrong that the Draft Air Permit Notice Rule will "expand" access to permitting decision-making. IDEM suggests that its proposed rule will somehow increase access to agency decision-making because more people are using the Internet. But IDEM already publishes notices of draft permits on its website. Hoosiers who have access to the Internet—and the time and inclination to search for air permit decisions—can already get access to

this permitting information. Moreover, a fundamental problem with IDEM's proposal to rely on e-notice alone is that it imposes a state-created obligation on citizens to periodically check IDEM's website for public-health information. And while it is true that Internet usage has increased in the United States in the last decade, 23.1% of Hoosiers still do not use the Internet at all. This means approximately 1.5 million Hoosiers would have no access to public notices if IDEM solely relies on e-notification.

Many Hoosiers do not have the resources or time to accept the obligation to search IDEM's website. Most Hoosiers are accustomed to look to their local newspaper for information affecting their communities. Thus, IDEM's Draft Air Permit Notice Rule, if adopted, will very likely decrease public awareness of IDEM air permits. According to the IDEM website, "IDEM ensures that regulated entities comply with federal and state environmental laws and rules that help protect Hoosiers and [the] environment [and] educates the public about air quality issues and agency decisions." Without Internet access or the time to search the web, many Hoosiers would be left uninformed of air quality issues if IDEM's proposal is adopted.

With an opportunity to comment on draft air permits for facilities located in their own backyards, Hoosiers would have the ability to ensure that IDEM complies with the law and adequately protects public health. In order to maintain agency transparency, IDEM needs to ensure that all Hoosiers stay informed and can voice their opinions through the public comment process. This transparency is vital to increasing community engagement and building trust that Hoosiers' input is accounted for in agency decisions. IDEM has tremendous responsibilities to implement the Clean Air Act to protect public health—and Hoosiers deserve to have actual notice of important IDEM decisions that impact their communities.

In its Draft Air Permit Notice Rule, IDEM wrongly suggested that its proposed rule might expand access to agency decision-making. As explained above, this is incorrect because the agency already provides e-notice, and the only practical effect of the proposed rule would be to eliminate newspaper notice which many Hoosiers rely on. Accordingly, there are no actual benefits of the proposed rule other than saving IDEM some money.

In addition, IDEM appears to have failed to weigh the benefits that Indiana newspapers provide to Indiana communities. Local newspapers rely on advertisements to stay in business, and IDEM's notices are a small part of that business. The \$17,000 that IDEM spends on air permit notices benefits these local newspapers, their employees, and readers. This money also benefits the local economy more broadly through economic multiplier effects. Rather than contribute to the decline of print media, IDEM should view its newspaper publications, in part, as a way to help local communities economically and sustain citizen engagement.

We believe that \$17,000 a year is an appropriate amount to spend to maintain and improve public access to IDEM's decision-making. But, at a minimum, IDEM has not appropriately weighed the costs and benefits of terminating newspaper publication. Thus, IDEM has not met its obligations to make reasoned decisions. (SC)

*Comment:* Rather than eliminate one method of notification for air quality issues, why not improve the notification by using both? If the proposed cost savings is \$17,000, I would think that 17 cases of childhood asthma at a medical cost of \$1,000 per child is a small price to pay for Hoosier health. Penny wise and pound foolish. (BB)

*Comment:* It would be the height of foolishness to change from printed to electronic notifications concerning industrial waste etc. This is clearly a plan cooked up for the convenience of the people doing the job, and just another way to get out of some work, and certainly not for the purpose of informing the public. Look at the polls of those in favor and opposed, then do the people's wishes. And in a state budget \$17,000 is peanuts. (TL)

*Comment:* The safety of the people of Indiana is worth more than your proposed savings. This smacks of an underhanded profit motive dealing. At some point, the health of American citizens should come before profit. If not you will see Democrats in office in both 2018 and 2020. Think about this, is a paltry \$17K worth it? I vote and I have a loud mouth! (KG)

*Comment:* To save 17,000? Silliness. Newspaper notices should continue. (A9)

*Comment:* This is what is called "business friendly". Make it easier for a greed head to forge ahead with polluting while collaterally developing support for his/her entity from the economic vibrancy that the pollutants create. Helluva deal for anyone not sickened by the toxicity. (TDS)

*Comment:* Those from NW Indiana suffer from poor air quality as it is. Profit before people is standard practice in this state. Your agency is well known for this. (SH)

*Comment:* You want transparency from your government agencies, especially when it comes to public health. (BBa)

*Comment:* As a taxpayer and lifelong resident of Indiana I do not want the elimination of public air pollution notices eliminated from being posted in public newspapers. It is important as most people do not go online or follow government websites routinely to be aware of such postings. Saving a few dollars does not justify this action of eliminating published public notices and it takes away from the open transparency of our government agencies and their activities. (RN)

*Comment:* Any move by a governing body to be less transparent in dealings that affect their voting constituency without their knowledge can only be interpreted in a limited way and in a negative light. The government exists to serve the people, not the other way around and as such, we must insist on the continued transparency from those we place in positions of authority. Ignorance should never be misconstrued as

compliance. Please refrain from removing this information from local papers. (A13)

*Comment:* In my area of northeast Henry County, we depend on the local newspaper to find out what is transpiring in the county. At the edge of my road frontage, there are three "No Wind Farm" signs spaced approximately 1-200 feet apart. They would not have been there without the local paper and the all of their coverage. Companies like the ones trying to sneak their way into areas like ours----areas that are not right for wind farms----rely on state agencies like you to look the other way. Just remember, you are an agency of the state, and the state is the people who populate it. You should operate in the best interest of the people. We have invested a lot of money buying our acreage, building a beautiful home, and producing crops. We have been here for 33 years, and I don't want to spend the rest of my days seeing and listening to the wind turbines!!! (A15)

*Comment:* IDEM wants to stop putting notices in the newspaper about industrial pollution. This is not the way our country works. I disagree with their desire to hide from the public their intentions. (SHan)

*Comment:* What is your department trying to hide? This is a horrible idea! How long did it take to come up with this idea? Your department is supposed to work for the people, not against it. Please re-think this unthinkable action. (SSh)

*Comment:* I would like to encourage you to continue to put notices of new pollution in the newspapers and not just post them on your web site. The public is interested in their community and need to know about these changes. We are counting on you to keep the public informed! (A16)

*Comment:* The notices were small before and easy to miss but now nothing? Do you have something to hide? Even if it is on your web site it could still be missed. I feel this is wrong and should be reconsidered. (A17)

*Response:* IDEM received a total of 546 comments during the comment period for this rulemaking. IDEM appreciates the time and effort of the members of the public who submitted comments for this rulemaking, and each comment has been considered in IDEM's response.

IDEM recognizes that some Indiana residents still prefer to read newspapers as the main source of information for permit actions. However, multiple studies over the years have shown that the global newspaper industry is shifting steadily towards digital platforms. Two-thirds of all adults now use some form of social media as the primary source of their news, and 55 percent of Americans 50 years old or older are now using social media for news updates.<sup>3</sup> According to the same Broadband Now study mentioned in the comments received from Sierra Club, 86 percent of Hoosiers have internet access and one hundred percent have access to mobile broadband services.<sup>4</sup> IDEM has a responsibility to keep pace with these trends in order to continue providing the best service to the public, and electronic publication of notices is at least as effective, and in many cases, more effective, in providing notice to the public about draft air permits.

As a result of the decline experienced by the newspaper industry over the years, printed newspaper advertisements have become less effective in providing widespread public notice of permit actions. As more newspapers are going out of business or being bought by out-of-state companies, publication delays are occurring more frequently, which negatively affects the timely issuance of agency permits. Consequently, this negatively impacts businesses seeking permits. Additional delays are caused by newspapers that have reduced print circulation to just once or twice per week, or newspapers that shut down for periods of time over holiday breaks. Given the fact that information on the internet today is plentiful and largely free, people are more likely than ever before to forego paying for newspaper service and opt for internet service instead.

It is important to distinguish between a notice published under a public notice section in the back of a newspaper, versus an article about a permit action on the front page or featured within the newspaper. The public notice only provides a brief description of the permit action, and provides information on how to locate copies of the documents. A newspaper article, however, contains significantly more information for the reader and is far more likely to be seen and read by newspaper subscribers. Nothing in this proposed rulemaking action limits the ability of journalists to cover permitting actions relevant to their readers. IDEM encourages newspaper staff to visit IDEM's public notice webpage or request to receive mailed copies of notices related to actions that may be of interest to their subscribers, and provide information to their readers through an article about the permit action.

Several of IDEM's program areas already publish public notices on the department webpage. These notices can be found at <http://www.in.gov/idem/5474.htm>. Additionally, IDEM's air permitting program has a searchable online database for the public to use that links directly to the public notices and is found at <http://www.in.gov/ai/appfiles/idem-caats/>. Public notices posted on IDEM's webpage can be accessed for the duration of the public comment period, as opposed to only one day in a newspaper ad. The longer availability of public notices online increases the likelihood that interested parties will be able to read pertinent draft permits, and reaches additional audiences who may not subscribe to a local newspaper but are able to access the notice and associated documents online.

IDEM understands that a major public concern of switching from newspaper notices to electronic notices is that many people do not have regular access to a computer, or enough knowledge or familiarity with using computers, to find the information they are seeking on IDEM's website. However, even in the currently published newspaper notices, the information IDEM provides in the ad is limited. In order to read the full details about the permit action contained in the notice, readers must access an online link that is provided in the body of the notice or visit a local library in order to review the documents.

Citizens also commented that searching IDEM's webpage for pertinent notices would take too much time and effort. IDEM has already addressed this concern by providing the direct link to the public notices on our website. Additionally, members of the public who are interested in knowing about permit actions that affect the area where they live can have their name added to IDEM's Office of Air Quality Permits Interested Parties list. Individuals on this list receive a paper copy of the permit action through the regular postal service any time a permit action in their area goes to public notice, and again once the permit is issued. People can choose to have their names added to the list for permit actions in a specific county or multiple counties, or for permit actions pertaining to just one source or multiple sources. This allows interested parties to receive the information directly at their home or business so that they do not have to navigate an online webpage. Anyone who would like their name added to the Office of Air Quality Permits Interested Parties list may contact Patty Pear at (317) 233-6875. Additionally, individuals may subscribe to the agency email notification system to receive email notifications for public notices based on geographic region, by visiting <http://www.in.gov/idem/5474.htm>.

One commenter suggested that permit notices will be difficult to access on the website due to difficulty accessing rulemaking documents. Nothing in this rule affects how rulemaking documents are published for public notice. Publication of rulemaking notices and documents is a separate and distinct process from publication of permit notices. Not only are rulemaking documents published on a different webpage from permit notices, they are also not published in any newspapers.

Several comments focused on concerns related to those citizens who may not have easy access to a computer due to being elderly, living in a rural location, or having low education or socio-economic status. IDEM understands these concerns but does not believe that these groups would be significantly adversely affected by this rule. Internet access is widely available, even for those who do not own a computer. Public libraries are a great resource for free computer use and internet access, and a 2010 study conducted by the University of Washington found that those living below the poverty line took the greatest advantage of library computer use, with 44 percent reporting use of public library computers to access the internet within the previous year.<sup>5</sup> Additionally, this rule does not prevent IDEM from using newspaper notices as a supplement to the electronic notice. This rule simply allows IDEM to use electronic notices as the primary and consistent method of notice for permit actions.

Some commenters were concerned with the issue of transparency, and stated that IDEM would not be fully transparent to the public if it only publishes notices on the department website, as opposed to in a newspaper. However, there is nothing inherently beneficial or neutral in an agency publishing notices through a newspaper instead of its website, as newspapers simply act as a vehicle for publishing notices prepared and provided by the permitting authority. Historically, newspapers were used to provide public notice because there was no comparable alternative method to disburse widespread notices to the public until internet usage became more common.

In regard to the \$17,000 savings IDEM will achieve from eliminating newspaper notices, IDEM disagrees that this amount is insignificant. There are costs associated with maintaining and posting information on the agency website as well; therefore, replicating these notices in a newspaper at an additional cost is unnecessary. Eliminating the amount the agency spends on newspaper notices will allow IDEM to streamline its funding and resources.

U.S. EPA's final rule gives permitting authorities the option to use either electronic or newspaper notice as the primary means of public notice. As previously stated, the federal rule does not preclude IDEM from also publishing permitting notices in newspapers. However, in the interest of providing access to important information to as many members of the public as can reasonably be expected to be interested, IDEM believes that electronic notice is the best method of primary communication for public notice of permit actions going forward.

<sup>1</sup> Pew Research Center, State of the News Media 2016 (Jun. 16, 2016).

<sup>2</sup> U.S. Department of Commerce, National Telecommunications & Information Administration, Digital National Data Explorer, available at <https://www.ntia.doc.gov/other-publication/2016/digitalnation-data-explorer>.

<sup>3</sup> Pew Research Center, News Use Across Social Media Platforms 2017.

<sup>4</sup> Broadband Now, Internet Service in Indiana.

<sup>5</sup> Samantha Becker, et al., Opportunity for All: How the American Public Benefits from Internet Access at U.S. Libraries, 2010.

## REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:  
LSA Document #17-395 Electronic Notice for Air Permits  
Keelyn Walsh  
Rules Development Branch



Office of Legal Counsel  
Indiana Department of Environmental Management  
Indiana Government Center North  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to [kwash@idem.in.gov](mailto:kwash@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 address indicated in this notice.**

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, 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 not later than May 18, 2018. 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 Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

### DRAFT RULE

SECTION 1. [326 IAC 2-1.1-6](#) IS AMENDED TO READ AS FOLLOWS:

#### [326 IAC 2-1.1-6](#) Public notice

**Authority:** [IC 13-14-8](#); [IC 13-15-2](#); [IC 13-15-3-1](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15-5-3](#); [IC 13-17](#)

Sec. 6. (a) Registrations, permits, modification approvals, and operating permit revisions issued under this article ~~shall be~~ **are** subject to the following public notice requirements, except as otherwise required in this article. The commissioner shall notify the public of the opportunity to comment on the proposed approval or denial of the registration, permit, modification approval, or operating permit revision as follows:

(1) The commissioner shall do the following:

(A) Provide notice of the receipt of a permit or operating permit revision application to the following:

(i) The county executive of a county that is affected by the permit application.

(ii) The executive of a city that is affected by the permit application.

(iii) The executive of a town council of a town that is affected by the permit application.

The commissioner may require a person who submits an application to provide information on the application necessary for the commissioner to implement this subdivision.

(B) Publish a notice requesting comment on the proposed permit or permit revision approval or denial ~~in a newspaper of general circulation in the area where the source or emissions unit is located.~~ **on the department website.**

(C) Provide a document supporting the proposed permit or permit revision for public inspection in the offices of the local air pollution control agency or the local health commissioner.

(D) Allow a period of at least thirty (30) calendar days opportunity for public comment.

(2) The commissioner may allow opportunity for a public hearing unless otherwise noted.

(3) The commissioner shall provide notice of the commissioner's issuance or denial to those parties listed in [IC 13-15-5-3\(c\)](#).

(b) The following approvals and operating permit revisions ~~shall~~ **are** not be subject to the public notice requirements of this section:

(1) Registrations issued under [326 IAC 2-5.1-2](#).

(2) Administrative amendment operating permit revisions under [326 IAC 2-6.1-6\(d\)](#).

(3) Administrative amendments under [326 IAC 2-7-11](#) and [326 IAC 2-8-10](#).

(4) A determination by the commissioner that a source is exempt from the requirements of this article.

(5) A minor permit revision or modification approval under the following:

(A) [326 IAC 2-6.1-6\(g\)](#).

(B) [326 IAC 2-7-10.5\(e\)](#).



(C) [326 IAC 2-8-11.1](#)(d).

(c) Within ten (10) days of the submission of an application, each applicant shall place a copy of the permit application or operating permit revision application for public review at a library in the county where the construction or modification is proposed. Each applicant shall notify the commissioner of the location of the library where the copy of the application was placed.

(d) Any person applying for a permit upon land that is either undeveloped or for which a valid existing permit has not been issued shall make, not more than ten (10) working days after submitting the permit application, a reasonable effort to provide notice to all owners or occupants of land adjoining the land that is the subject of the application. Each applicant shall pay the cost of compliance with this subsection. The notice shall: **must:**

- (1) be in writing; and
- (2) include:
  - (A) the date on which the application was submitted; and
  - (B) a brief description of the subject of the application.

(e) Upon written request to the commissioner, a person may be included on a list of persons to receive notification of public comment periods, issuances, or denials.

*(Air Pollution Control Division; [326 IAC 2-1.1-6](#); filed Nov 25, 1998, 12:13 p.m.: 22 IR 990; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; errata filed Jul 23, 2007, 4:19 p.m.: [20070815-IR-326070466ACA](#); filed Feb 6, 2012, 2:54 p.m.: [20120307-IR-326090493FRA](#); errata filed Jan 2, 2013, 2:19 p.m.: [20130123-IR-326130002ACA](#))*

SECTION 2. [326 IAC 2-7-13](#) IS AMENDED TO READ AS FOLLOWS:

### [326 IAC 2-7-13](#) General permits

**Authority:** [IC 13-14-8](#); [IC 13-15-2](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 13. (a) A general permit may be issued subject to the following conditions:

- (1) A Part 70 general permit shall **must** comply with all requirements applicable to other Part 70 permits and shall **must** identify criteria by which sources may qualify for the general permit.
- (2) The commissioner may, after complying with notice and opportunity for public participation provided under section 17 of this rule, issue a general permit covering numerous similar sources. In providing an opportunity for public comment, the commissioner shall ~~make a reasonable attempt to publish notice in newspapers in general circulation in~~ **on the department website under** those areas of the state in which sources that would qualify for coverage under the permit are believed to be located.
- (3) General permits shall **must** not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the CAA.

(b) For individual sources and source modifications to obtain general permit coverage, an applicant ~~must do~~ **shall complete** the following:

- (1) Apply to the commissioner for coverage by the general permit under the terms of the general permit or apply for a Part 70 permit consistent with section 4 of this rule. The commissioner may provide, in the general permit, for applications which deviate from the requirements of section 4 of this rule, provided that ~~such the~~ **the** applications meet the requirements of Title V of the CAA, and include all information necessary to determine qualification for, and ~~assure~~ **ensure** compliance with, the general permit.
- (2) Request authorization to operate under a general permit and meet the conditions and terms of the general permit. The commissioner shall grant authorization to operate subject to the terms and conditions of the general permit. The notice provisions of section 17 of this rule are not applicable to a grant by the commissioner of a source's request for authorization to operate under a general permit and ~~such a the grant~~ **shall must** not be a final action for purposes of judicial review.
- (3) Notwithstanding the shield provisions of section 15 of this rule, a source which requests and is granted authority to operate under a general permit ~~shall be~~ **is** subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.
- (4) General permits may be issued for modifications of existing sources.

*(Air Pollution Control Division; [326 IAC 2-7-13](#); filed May 25, 1994, 11:00 a.m.: 17 IR 2264)*

SECTION 3. [326 IAC 2-7-17](#) IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-7-17 Public participation and notice to affected states**

**Authority:** [IC 13-14-8](#); [IC 13-15](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15-5-3](#)

Sec. 17. (a) Any person applying for a Part 70 permit upon land that is either undeveloped or for which a valid existing permit has not been issued shall, not more than ten (10) working days after submitting the Part 70 permit application, make a reasonable effort to provide notice to all owners or occupants of land adjoining the land that is the subject of the application. Each applicant shall pay the cost of compliance with this requirement. The notice shall **must**:

- (1) be in writing; and
- (2) include:
  - (A) the date on which the application was submitted; and
  - (B) a brief description of the subject of the application.

(b) Each applicant for a Part 70 permit shall ~~do~~ **complete** the following:

- (1) Place a copy of the permit application, permit modification application, and any additional information submitted to the department for public review at a library in the county where the source is located or will be located not later than ten (10) days after submitting the permit application, permit modification application, or additional information to the department.
- (2) Provide the commissioner with the location of the library where the copy may be found.
- (3) Comply with the requirements of subdivisions (1) and (2) when providing any additional material regarding the application to the department.
- (4) The applicant may remove the Part 70 permit application and related information previously placed at the public library anytime not earlier than sixty (60) days after the final Part 70 permit has become effective.

(c) All Part 70 permit proceedings, including initial Part 70 permit issuance, significant modifications, minor permit modifications, and renewals, shall **must** provide adequate procedures for public notice, including offering an opportunity for public comment and a hearing on the draft Part 70 permit as follows:

- (1) Prior to issuing a Part 70 permit, the draft permit shall **must** be available for review in the following manner:
  - (A) The commissioner shall notify the public of the draft Part 70 permit as follows:
    - (i) By publication ~~in a newspaper of general circulation in the area where the source is located~~ **on the department website** or in a state publication designed to give general public notice.
    - (ii) To persons on a mailing list developed by the commissioner, including those who request in writing to be on the list.
    - (iii) By other means if necessary to ~~assure~~ **ensure** adequate notice to the affected public.
  - (B) The notice shall **must** identify the following:
    - (i) The affected facility.
    - (ii) The name and address of the permittee.
    - (iii) The name and address of the commissioner processing a Part 70 permit.
    - (iv) The activity or activities involved in a Part 70 permit action and information sufficient to notify the public as to the emissions implications of those activities.
    - (v) The emissions change involved in any Part 70 permit modification.
    - (vi) The name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of a Part 70 permit draft, the application, all relevant supporting materials, and all other materials available to the commissioner that are relevant to a Part 70 permit decision.
  - (C) The notice shall **must** include the following:
    - (i) Notification of receipt of the permit application.
    - (ii) The commissioner's draft approval of the permit application.
    - (iii) Notification to the public of the following:
      - (AA) At least a thirty (30) day period for submitting written comments to the commissioner and a brief description of the comment procedures required by this section.
      - (BB) The opportunity for a public hearing including a statement of procedures to request a hearing (unless a hearing has already been scheduled) for consideration of the permit application. Notification including the time and place of any hearing that may be held shall **must** be given at least thirty (30) days in advance of the hearing if ~~such a~~ **the** hearing has been scheduled.

- (CC) That a copy of the application and commissioner's analysis thereof are available for inspection at the library designated in subsection (b).
- (2) A copy of the notice provided under subdivision (1) shall **must** also be provided to the appropriate federal, state, or local agency.
- (3) The commissioner shall do the following:
- (A) Provide notice and opportunity for participation by affected states. Except as otherwise waived by the U.S. EPA, the commissioner shall give notice of each draft permit to any affected state on or before the time that the commissioner provides notice to the public under this section, except to the extent that section 12(b) and 12(c) of this rule requires timing of the notice to be different.
  - (B) Keep a record of the commenters and also of the issues raised during the public participation process so that the U.S. EPA may fulfill its obligation under Section 505(b)(2) of the CAA to determine whether a citizen petition may be granted. The records shall **must** be available to the public.
  - (C) Prepare a written response to comments that shall **must** be available to the public at the time a proposed permit is submitted to the U.S. EPA.
- (4) Notification, in writing, of the final determination shall **must** be:
- (A) given according to [IC 13-15-5-3](#); and
  - (B) made available for public inspection at the public library identified in subsection (b)(2).
- (5) A permit may be denied by the commissioner on the basis of adverse comment if the comment demonstrates the following:
- (A) The ambient air quality standards under [326 IAC 1-3](#) cannot be attained or maintained if a permit is issued.
  - (B) The prevention of significant deterioration requirements under [326 IAC 2-2](#) will not be met.
  - (C) The offset requirements under [326 IAC 2-3](#) will not be satisfied.
  - (D) For any other reason such as, but not limited to, interference with attainment and maintenance of the standards under [326 IAC 12](#).

(Air Pollution Control Division; [326 IAC 2-7-17](#); filed May 25, 1994, 11:00 a.m.: 17 IR 2266; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2348; filed Feb 6, 2012, 2:54 p.m.: [20120307-IR-326090493FRA](#))

SECTION 4. [326 IAC 2-8-13](#) IS AMENDED TO READ AS FOLLOWS:

#### **[326 IAC 2-8-13](#) Public notice**

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

**Affected:** [IC 13-15-5-3](#); [IC 13-17](#)

Sec. 13. (a) Any person applying for a FESOP upon land which is either undeveloped or for which a valid existing permit has not been issued shall, not more than ten (10) working days after submitting the FESOP application, make a reasonable effort to provide notice to all owners or occupants of land adjoining the land which is the subject of the application. Each applicant shall pay the cost of compliance with this requirement. The notice shall **must** be in writing and include the date on which the application was submitted and a brief description of the subject of the application.

(b) Each applicant for a FESOP shall ~~be~~ **complete** the following:

- (1) Place a copy of the permit application or permit modification application, and any information submitted to the department for public review at a library in the county where the source is or will be located not later than ten (10) days after submitting the permit application, permit modification application, or additional information to the department.
- (2) Provide the commissioner with the location of the library where the copy may be found.
- (3) Comply with the requirements of subdivisions (1) and (2) when providing any additional material regarding the application to the department.
- (4) The applicant may remove the FESOP application and related information previously placed at the public library anytime not earlier than sixty (60) days after the final FESOP has become effective.

(c) Prior to issuing a FESOP, the draft permit shall **must** be available for review in the following manner:

- (1) The commissioner shall notify the public of the draft FESOP by publishing ~~in a minimum of one (1) newspaper of general circulation in the county where the source is located~~, a notice **on the department website that** includes the following:
  - (A) Notification of receipt of the permit application.
  - (B) The commissioner's draft approval of the permit application.

- (C) Notification to the public of at least a thirty (30) day period for submitting written comments to the commissioner.
- (D) Notification to the public of the opportunity for a public hearing for consideration of the permit application or notice of ~~such~~ a hearing if one has been scheduled.
- (E) Notification to the public that a copy of the application and commissioner's analysis thereof are available for inspection in a convenient public office building in the area where the source is located.
- (2) A copy of the notice provided under subdivision (1) ~~shall~~ **must** also be provided to the appropriate federal, state, or local agency.
- (3) All comments received during the public comment period ~~shall~~ **must** be considered by the commissioner before the commissioner finally approves or disapproves the permit.
- (4) There ~~shall~~ **must** be an opportunity for a public hearing if deemed necessary by the commissioner.
- (5) Notification in writing of the final determination ~~shall~~ **must** be given according to [IC 13-15-5-3](#), and ~~such~~ notification ~~shall~~ **must** be made available for public inspection in the same public office buildings to be notified under subdivision (1)(E).
- (6) A permit may be denied by the commissioner on the basis of adverse comment if the comment demonstrates the following:
- (A) The ambient air quality standards under [326 IAC 1-3](#) cannot be attained or maintained if a permit is issued.
  - (B) The prevention of significant deterioration requirements under [326 IAC 2-2](#) will not be met.
  - (C) The offset requirements under [326 IAC 2-3](#) will not be satisfied.
  - (D) For any other reason such as, but not limited to, interference with attainment and maintenance of the standards under [326 IAC 12](#).
- (7) The commissioner may impose ~~such~~ conditions on the permit as necessary to ensure **that the following:**
- (A)** The source or facility will comply with all applicable rules. ~~and that the~~
  - (B) Attainment and maintenance of the following:**
    - (i)** Ambient air quality standards established under [326 IAC 1-3](#). ~~the~~
    - (ii)** Prevention of significant deterioration standards established under [326 IAC 2-2](#). ~~and the~~
    - (iii)** Offset requirements established under [326 IAC 2-3](#). ~~will be attained and maintained and that the~~
  - (C)** Public health will be protected.

*(Air Pollution Control Division; [326 IAC 2-8-13](#); filed May 25, 1994, 11:00 a.m.: 17 IR 2278; errata filed May 25, 1994, 11:10 a.m.: 17 IR 2358; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2361)*

SECTION 5. [326 IAC 2-8-18](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 2-8-18](#) FESOP general permits**

**Authority:** [IC 13-14-8](#); [IC 13-17](#)

**Affected:** [IC 13-15](#); [IC 13-16-2-1](#)

Sec. 18. (a) A FESOP general permit may be issued subject to the following conditions:

- (1) A FESOP general permit ~~shall~~ **must**:
- (A) comply with all requirements applicable to FESOPs under this rule; and
  - (B) identify criteria by which sources may qualify for the FESOP general permit.
- (2) A FESOP general permit ~~shall~~ **must** include operating conditions that ~~shall~~ apply to any source operating under the FESOP general permit.
- (3) The commissioner may, after complying with the notice and opportunity for public participation provided under section 13 of this rule, issue a FESOP general permit covering numerous similar sources. In providing an opportunity for public comment, the commissioner shall publish notice as follows:
- (A) ~~In newspapers of general circulation in~~ **On the department website under** those areas of the state in which sources that would qualify for coverage under the permit are believed to be located.
  - (B) In the Indiana Register.

(b) For individual sources that wish to obtain FESOP general permit coverage, an applicant ~~shall~~ **must** do the following:

- (1) Apply to the department for coverage by the FESOP general permit under the terms of the FESOP general permit or apply for a FESOP consistent with section 3 of this rule. The department may provide, in the FESOP general permit, for applications that deviate from the requirements of section 3 of this rule, provided that the applications include all information necessary to determine qualification for, and ~~assure~~ **ensure** compliance with, the FESOP general permit.

(2) Request authorization to operate under a FESOP general permit and meet the conditions and terms of the FESOP general permit. The notice provisions of section 13 of this rule are not applicable to a grant by the commissioner of a source's request for authorization to operate under a FESOP general permit.

(3) Upon billing, submit an application fee in accordance with [326 IAC 2-1.1-7\(f\)\(1\)](#). A source operating under a FESOP general permit issued under this section shall pay an annual operating fee in accordance with [326 IAC 2-1.1-7\(f\)\(2\)](#). If an annual fee is being paid under a payment schedule established under [IC 13-16-2-1](#), the fee ~~shall~~ **must** be paid according to that schedule. Establishment of a fee payment schedule must be consistent with the provisions of [IC 13-16-2-1](#), including the determination that:

- (A) a single payment of the entire fee is an undue hardship on the person; and
- (B) the department is not required to assess installments separately.

(c) A source that requests and is granted authority to operate under a FESOP general permit ~~shall be~~ **is** subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the FESOP general permit.

(d) General permits may be issued for modifications of existing sources.

*(Air Pollution Control Division; [326 IAC 2-8-18](#); filed Apr 22, 1997, 2:00 p.m.: 20 IR 2363; errata filed Jul 23, 2007, 4:19 p.m.: [20070815-IR-326070466ACA](#); filed Sep 28, 2011, 10:56 a.m.: [20111026-IR-326070286FRA](#))*

SECTION 6. [326 IAC 2-12-1](#) IS AMENDED TO READ AS FOLLOWS:

### **[326 IAC 2-12-1](#) General permit issuance**

**Authority:** [IC 13-14-8](#); [IC 13-15-2](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 4-21.5](#); [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule does not apply to permits issued under [326 IAC 2-7](#) or [326 IAC 2-8](#). The commissioner may establish a general permit for a class of emission units, processes, operations, or sources in accordance with the following conditions:

(1) A general permit ~~shall~~ **must**:

- (A) comply with all requirements applicable to operating permits under this article; and
- (B) identify criteria by which a source may qualify for the general permit.

(2) A general permit ~~shall~~ **must** include the following:

- (A) Operating conditions with which any source operating under the general permit will comply.
- (B) Identification of all applicable requirements.
- (C) Terms and conditions, including monitoring, testing, reporting, record keeping requirements, and other actions to demonstrate compliance with all applicable requirements under this title and the CAA.

(3) A general permit may include terms and conditions that limit source emissions below the applicability thresholds for applicable requirements under this title.

(4) A general permit ~~shall~~ **must** not be issued for a new source or modification subject to the requirements of [326 IAC 2-2](#), [326 IAC 2-3](#), or [326 IAC 2-4.1](#).

(5) The commissioner shall comply with the following provisions for notice and opportunity for public participation:

(A) Prior to establishing a general permit, the commissioner shall provide an opportunity for public comment by publishing a legal notice that includes the following:

(i) A description of the types of sources, processes, emission units, and pollutants to be covered by the general permit.

(ii) Notification to the public of the following:

(AA) A thirty (30) day period for submitting written comments to the commissioner.

(BB) The opportunity for a public hearing for consideration of the general permit or notice of ~~such a~~ hearing if one has been scheduled.

(CC) A copy of the general permit and any technical support documents are available upon request.

(B) The legal notice ~~shall~~ **must** be published as follows:

(i) ~~In newspapers of general circulation in a minimum of twelve (12) locations throughout the state.~~ **On the department website.**

(ii) In the Indiana Register.

(b) The commissioner may issue a general permit to an emission unit, process, operation, or source within the



class of emission units, processes, operations, or sources for which a general permit was established. An applicant for a general permit shall ~~de~~ **complete** the following:

- (1) Apply to the commissioner for coverage by the general permit under terms of the general permit or submit an application for a general permit under this section. The application for a general permit shall **must** include all information necessary to determine qualification for, and ~~assure~~ **ensure** compliance with, the general permit.
- (2) Request authorization to operate under a general permit and meet the conditions and terms of the general permit. The commissioner may grant authorization to operate subject to the terms and conditions of the general permit.
- (3) The notice provisions of [326 IAC 2-1.1-6](#) are not applicable to a decision by the commissioner on a source's request for authorization to operate under a general permit. This subdivision is not intended to affect applicability of [IC 4-21.5](#).
- (4) Upon billing, submit an application fee in accordance with [326 IAC 2-1.1-7\(k\)](#).
- (5) Pay an annual operating fee in accordance with [326 IAC 2-1.1-7\(k\)](#). Fees shall **must** be paid:
  - (A) by mail or in person; and
  - (B) upon billing by check or money order, payable to "Cashier, Indiana Department of Environmental Management" no later than thirty (30) calendar days after receipt of billing.Nonpayment shall ~~result~~ **results** in revocation of the permit.

(c) The commissioner shall not issue more than two (2) general permits to any one (1) source in any twelve (12) month period.

*(Air Pollution Control Division; [326 IAC 2-12-1](#); filed Nov 25, 1998, 12:13 p.m.: 22 IR 1063; filed Sep 28, 2011, 10:56 a.m.: [20111026-IR-326070286FRA](#))*

#### [Notice of Public Hearing](#)

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