

**FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO
[IC 13-14-9-7](#) AND SECOND NOTICE OF COMMENT PERIOD**
LSA Document #19-388

SULFUR DIOXIDE REVISIONS FOR INDIANA HARBOR COKE COMPANY AND COKENERGY LLC

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 7-4.1-7](#) and [326 IAC 7-4.1-8](#) for sulfur dioxide emission limitations for Indiana Harbor Coke Company and Cokenergy LLC. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: [326 IAC 7-4.1-7](#); [326 IAC 7-4.1-8](#).

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

STATUTORY REQUIREMENTS

[IC 13-14-9-7](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the first notice of public comment period would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule, IDEM may forgo this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by [IC 13-14-9-7](#), the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-7](#).

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [\[IC 13-14-9-3\]](#) . . . would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

On October 25, 2018, the federal government of the United States of America, state of Indiana, Indiana Harbor Coke Company, SunCoke Energy Inc., and Cokenergy LLC entered into a federal consent decree that required both Indiana Harbor Coke Company and Cokenergy LLC to submit a request to IDEM for changes to site-specific sulfur dioxide emission limitations. As a result of the consent decree requirement, IDEM must revise its applicable rules and request the United States Environmental Protection Agency (U.S. EPA) to revise the State Implementation Plan for sulfur dioxide emission limitations from the coke oven facilities operated by Indiana Harbor Coke Company and Cokenergy LLC.

In December 2018, the affected entities submitted letters to IDEM requesting specific changes to the rules at [326 IAC 7-4.1-7](#) and [326 IAC 7-4.1-8](#). The requests in the letters proposed to amend the annual bypass venting limits and add the requirement to operate and maintain a permanent flow monitor at the affected facilities, as determined in the consent decree. Incorporating these changes into Indiana's rules will make the requirements enforceable and enable the requirements to be included in Indiana's revised State Implementation Plan. After adoption of this rulemaking, the revisions to Indiana's State Implementation Plan will be submitted to the U.S. EPA for approval.

IDEM is conducting this rulemaking using the abbreviated rulemaking process authorized by [IC 13-14-9-7](#) because IDEM is proposing changes that are pursuant to a federal consent decree applicable to Indiana. The proposed amendments will not have a substantive effect on the scope or intended application of the required changes resulting from the federal consent decree or on an existing Indiana rule. The first notice of comment period will not provide substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule. Therefore, IDEM has determined that using the abbreviated rulemaking process authorized by [IC 13-14-9-7](#) is appropriate for this 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. This draft rule imposes no restrictions or requirements because it is proposing requirements pursuant to a federal consent decree applicable to Indiana with no substantive effect on

an existing Indiana rule and contains no amendments that have a substantive effect on the scope or application of the requirements pursuant to the federal consent decree.

Potential Fiscal Impact

This rulemaking will not have a fiscal impact because the proposed amendments to Indiana's sulfur dioxide emission limitations rules are a result of federal consent decree requirements. Regulated entities are required to comply with the consent decree before the completion of this rulemaking and any fiscal impact derives from the consent decree requirements. Beyond the requirements of the consent decree, the rulemaking is not proposing any additional amendments that will require compliance by the regulated entities. Therefore, this rulemaking will not include any additional state-initiated requirements that will have a potential fiscal impact on regulated entities.

Public Participation and Work Group Information

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 Dan Watts, Rules Development Branch, Office of Legal Counsel at (317) 234-5345 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Angela Taylor
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 233-0572 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Katelyn Colclazier
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 431-1560
kcolclazier@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Erin Moorhous
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8921 or (800) 451-6027
emoorhous@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on sulfur dioxide emission limitations for Indiana Harbor Coke Company and Cokerenergy LLC. These findings are prepared under [IC 13-14-9-7](#) and are as follows:

- (1) Indiana is initiating this rulemaking action pursuant to a federal consent decree requirement to revise Indiana's State Implementation Plan with respect to the sulfur dioxide emission limitations for the Indiana Harbor Coke Company and Cokerenergy LLC. The necessary action was agreed upon by the regulated entities, state of Indiana, and the federal government in the United States District Court for the Northern District of Indiana.
- (2) This rule is proposing the adoption of requirements resulting from a federal consent decree that is applicable to Indiana and the rule contains no amendments that have a substantive effect on the scope or

intended application of the requirements resulting from the federal consent decree.

(3) The environment and persons regulated or otherwise affected by the draft rule will benefit from prompt adoption of this rule, because the federal consent decree requires that the changes to the sulfur dioxide emission limitations be included in Indiana's revised State Implementation Plan.

(4) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.

(5) The draft rule is hereby incorporated into these findings.

Bruno L. Pigott
Commissioner
Indiana Department of Environmental Management

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 #19-388 Sulfur Dioxide Revisions for Indiana Harbor Coke Company and Cokenergy LLC
Dan Watts
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 your faxed comments by calling the Rules Development Branch at (317) 232-8922.

(3) By electronic mail to dwatts1@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 September 13, 2019.

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 Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [326 IAC 7-4.1-7](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 7-4.1-7](#) Cokenergy LLC sulfur dioxide emission limitations

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

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

Sec. 7. (a) Cokenergy LLC, Source Identification Number 00383, shall comply with the sulfur dioxide emission limit in pounds per hour for the heat recovery coke carbonization waste gas stack, identified as Stack ID 201, combined with the sixteen (16) vents from the Indiana Harbor Coke Company of a twenty-four (24) hour average emission rate of one thousand six hundred fifty-six (1,656) pounds per hour.

(b) Cokenergy LLC shall install, operate, and maintain a permanent flow monitor to continuously measure the flow rate in Stack ID 201.

(c) Except under subsection (d), beginning on January 1, 2020, Cokenergy LLC in combination with Indiana Harbor Coke Company may vent a maximum of thirteen percent (13%) of the coke oven waste gases leaving the common tunnel to the atmosphere through the bypass vent stacks, as determined on an annual basis.

(d) Beginning on January 1, 2020, if Cokenergy LLC undertakes heat recovery steam generator (HRSG) retubing, as defined in subsection (e), then the following apply:

(1) Cokenergy LLC in combination with Indiana Harbor Coke Company may vent a maximum of fourteen percent (14%) of the coke oven waste gases leaving the common tunnel to the atmosphere through the bypass vent stacks, as determined:

(A) on an annual basis; and

(B) in any calendar year that Cokenergy LLC undertakes HRSG retubing.

(2) The bypass venting percentage resulting from HRSG retubing must account for at least three and one-quarter percent (3.25%) of the annual bypass venting.

(3) Bypass venting resulting from tube leaks, inspections, routine cleaning or maintenance, or unplanned HRSG outages may not be included in calculating the bypass venting percentage resulting from HRSG retubing.

(e) For the purposes of this section and section 8 of this rule, "heat recovery steam generator retubing" or "HRSG retubing" means replacement of:

(1) waterwalls, evaporator tubes, economizer tubes, or superheater module pendants within the heat recovery steam generator; and

(2) exterior casing, insulation, and refractory, as needed.

(Air Pollution Control Division; [326 IAC 7-4.1-7](#); filed May 25, 2005, 10:50 a.m.: 28 IR 2957)

SECTION 2. [326 IAC 7-4.1-8](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 7-4.1-8](#) Indiana Harbor Coke Company sulfur dioxide emission limitations

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

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

Sec. 8. (a) Indiana Harbor Coke Company (IHCC), Source Identification Number 00382, shall comply with the sulfur dioxide emission limits in pounds per ton, pounds per hour, and other requirements as follows:

Emissions Unit Description	Emission Limit lbs/ton	Emission Limit lbs/hour
(1) IHCC Coal Carbonization Charging	0.0068 each	1.57 total
(2) IHCC Coal Carbonization Pushing	0.0084	1.96
(3) IHCC Coal Carbonization Quenching	0.0053	1.232 total
(4) IHCC Coal Carbonization Thaw Shed	0.0006 lbs/1,000 cubic feet natural gas	0.015
(5) IHCC Vent Stacks (16 total) in combination with Cokenergy's heat recovery coke carbonization waste gas stack identified as Stack ID 201		1,656 total for a 24 hour average

(b) The coke ovens shall **must** recycle the gases emitted during the coking process and utilize it as in accordance with the following:

(1) The recycled gases **must be** the only fuel source **used** for the ovens during normal operations.

(2) The gases shall **must** not be routed directly to the atmosphere unless they first pass through the common tunnel afterburner.

(3) A maximum of nineteen percent (19%) of the coke oven waste gases leaving the common tunnel shall be allowed to **may** be vented to the atmosphere on a twenty-four (24) hour basis. and fourteen percent (14%) on an annual basis.

(c) Except under subsection (d), beginning on January 1, 2020, Indiana Harbor Coke Company in combination with Cokenergy LLC may vent a maximum of thirteen percent (13%) of the coke oven waste

gases leaving the common tunnel to the atmosphere through the bypass vent stacks, as determined on an annual basis.

(d) Beginning on January 1, 2020, if Cokenergy LLC undertakes HRSG retubing, as defined in section 7(e) of this rule, then the following apply:

(1) Indiana Harbor Coke Company in combination with Cokenergy LLC may vent a maximum of fourteen percent (14%) of the coke oven waste gases leaving the common tunnel to the atmosphere through the bypass vent stacks, as determined:

(A) on an annual basis; and

(B) in any calendar year that Cokenergy LLC undertakes HRSG retubing.

(2) The bypass venting percentage resulting from HRSG retubing must account for at least three and one-quarter percent (3.25%) of the annual bypass venting.

(3) Bypass venting resulting from tube leaks, inspections, routine cleaning or maintenance, or unplanned HRSG outages may not be included in calculating the bypass venting percentage resulting from HRSG retubing.

(Air Pollution Control Division; [326 IAC 7-4.1-8](#); filed May 25, 2005, 10:50 a.m.: 28 IR 2957)

[Notice of Public Hearing](#)

Posted: 08/14/2019 by Legislative Services Agency

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