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## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **FIRST NOTICE OF COMMENT PERIOD** LSA Document #05-268(APCB)

## **DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING OPEN BURNING FOR FIRE EXTINGUISHER TRAINING**

### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to 326 IAC 4-1 concerning open burning for fire extinguisher training. 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 4-1-0.5; 326 IAC 4-1-3.

**AUTHORITY:** IC 13-15-2-1; IC 13-17-3-4; IC 13-17-9-1.

### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

#### **Basic Purpose and Background**

IDEM has received a request from NiSource for amendments to the open burning rules under 326 IAC 4-1 to provide exemptions for additional fuels used for fire extinguisher training.

IDEM proposes to include the use of propane and natural gas under the definition of clean petroleum products usable for fire extinguisher training at 326 IAC 4-1-0.5(2). Natural gas is defined as a mixture of hydrocarbon gases that occurs with petroleum deposits including methane, together with varying quantities of ethane, propane, butane, and other gases. It is used as a fuel in the manufacture of organic compounds. Propane is defined as a colorless gas found in natural gas and petroleum. It is widely used as a fuel.

The Occupational Safety and Health Administration (OSHA) requires fire safety training for employees that are expected to use a fire extinguisher. This includes employees and supervisors at generating stations, electric and gas operations, manufacturing operations, and other industrial operations. Each facility has a plan that specifies which employees are expected to use a fire extinguisher in the event of an emergency.

Currently portable containers filled with clean petroleum products such as kerosene, gasoline, or diesel fuel are used for fire extinguisher training. Gasoline is a more volatile liquid than propane or natural gas. An amendment to the definition section will allow the use of either propane or natural gas as a clean petroleum product and eliminate the volatility issues. With the additional use of these fuels for fire extinguisher training, fire training personnel will no longer be required by IDEM to obtain an annual approval under 326 IAC 4-1 each year. These proposed rule changes will allow the regulated community to more effectively train staff without any increased environmental risk.

Affected parties will include affected sources' staff and fire training personnel, IDEM compliance staff, local fire and health departments, and adjacent landowners.

#### **Alternatives To Be Considered Within the Rulemaking**

##### Alternative 1. Allow the burning of propane and natural gas as clean petroleum products for fire extinguisher training.

- Is this alternative an incorporation by reference of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No. This alternative is not required by federal law, however, businesses are required by federal Occupational Safety and Health Administration (OSHA) laws to provide their employees with hands-on fire training if staff are handling fire extinguishers.
- If it is a federal requirement, is it different from federal law? No.
- If it is different, describe the differences. Not applicable.

##### Alternative 2. Allowing the burning of propane and natural gas for fire extinguisher training only through approval.

- Is this alternative an incorporation by reference of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

### **Applicable Federal Law**

Sources are required by OSHA to provide firefighter training to employees under the following federal laws:

29 CFR 1910.57(g)(3) "The employer shall provide employees, who have been designated to use fire fighting equipment as part of an emergency plan, with training in the use of the appropriate equipment."

29 CFR 1910.57 "The employer shall provide the training required in paragraph (g)(3) of this section upon initial assignment to the designated group of employees and at least annually thereafter."

29 CFR 1910.155(c)(41) "Training means the process of making proficient through instruction and hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used in the performance of assigned duties."

There are no federal requirements under Title 40 CFR for U.S. EPA that govern this fire training.

### **Potential Fiscal Impact**

The potential fiscal impact between the two alternatives compares automatic changes in fuel types or costs to prepare annual approvals to use alternative fuels.

Potential Fiscal Impact of Alternative 1. Provide an exemption within the rule to use propane or natural gas for fire extinguisher training. Cost savings include time saved in preparing and submitting applications (NiSource estimates three and five-tenths (3.5) man days to gather information, complete forms, prepare Notification of Potentially Affected Parties forms, prepare cover letters, prepare and send letters to county health department for fire training sites requested), reduction of travel costs for trainees able to attend trainings in more locations than just those in the application (seven and five-tenths (7.5) man-days for employees) and an additional savings of two (2) man-days to prepare requests for additional training sites. IDEM also receives applications from other sources to burn other clean fuels and clean wood products.

Potential Fiscal Impact of Alternative 2. No exemption added to the rule to use propane or natural gas for fire extinguisher training. NiSource must submit an annual request to use fuels not exempted in the rule. NiSource estimates seven and five-tenths (7.5) man-days for employees and an additional cost of two (2) man-days to prepare variance applications for additional sites.

### **Small Business Assistance Information**

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

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

Sandra El-Yusuf

IDEV Compliance and Technical Assistance Program

OPPTA - MC60-04

100 North Senate Avenue

W-041

Indianapolis, IN 46204-2251

317-232-8578

[selyusuf@idem.in.gov](mailto:selyusuf@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen

IDEV Small Business Assistance Program Ombudsman

External Affairs - MC50-01

100 North Senate Avenue

IGCN 1301

Indianapolis, IN 46204-2251

317-234-3386

[elevenha@idem.in.gov](mailto:elevenha@idem.in.gov)

### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Suzanne Whitmer, Rules Section, Office of Air Quality at (317) 232-8229 or (800) 451-6027 (in Indiana).

### **STATUTORY AND REGULATORY REQUIREMENTS**

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.

- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all personas to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of this rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#05-268(APCB) Open burning exemptions  
Suzanne Whitmer Mail Code 61-50  
c/o Administrative Assistant  
Rules Development Section  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by November 3, 2005.

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

Kathryn A. Watson, Chief  
Air Programs Branch  
Office of Air Quality