TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #99-264

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On August 2, 2000, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 2-2. Comments were made by the following parties:

John Blair, Valley Watch	(VW)
Bernie Paul, Eli Lilly and Company	(ELC)
Tom Neltner, Improving Kids' Environment	(IKE)
Andy Knott, Hoosier Environmental Council	(HEC)
Steve Loeschner, citizen	(SL)
Miriam Dant, representing GE Plastics	(GEP)

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

Comment: The commenter supports the three (3) items in IDEM's discussion of the rule. Section 5(c)(2) on page 19, model deemed inappropriate, should be removed from the rule as IDEM should only be using a U.S. EPA approved model. Models shouldn't be modified to get specific answers. New board members should be aware that Indiana is 48th-50th among all states in the release of SO2, PM, and NOx in the last fifteen (15) years. Indiana has air emission problems and needs to make changes to rectify them. (VW)

Response: U.S. EPA has to approve all models used. If a model is deemed inappropriate for a particular situation, a substitute model can be submitted, but cannot be used until reviewed and approved by U.S. EPA. 326 IAC 2-2-5(c)(3) requires that the U.S. EPA approve any modifications or substitutions of models.

Comment: Burning coal creates air pollution, is a solid waste problem, and just can't be clean so the term Clean Coal Technology isn't appropriate. The board should amend the term "Clean Coal Technology" by deleting the word "clean" before the word "coal" if there is no good reason for it being there. (VW)(SL)

Response: Section 415 of Title IV of the 1990 Clean Air Act Amendments (CAAA) created exemptions from PSD for certain clean coal technology demonstration projects and granted special treatment to utilities that sought to comply with the acid rain reductions by repowering with a qualifying

Clean Coal Technology. On July 21, 1992, U.S. EPA incorporated the clean coal technology exemptions into the federal PSD rules. IDEM is incorporating these provisions directly from the federal requirements to obtain federal approval of the rules.

Comment: IDEM should obtain U.S. EPA approval for the PSD rules but should adopt good policy during the rule process and not just adopt current federal language. Certain rules have been invalidated by court rulings within the last five (5) years or overridden by 1990 Clean Air Act Amendments and IDEM has not accepted comments to make those changes. The word "federally" has been struck down by the D.C. Circuit Court three (3) times in 1995, and Indiana should delete that term from their rule. Under the definition of "major stationary source", chemical process plants should not be categorized under the Standardized Industrial Code of 28 but rather a more descriptive 4-digit code. Under the definition of "significant", asbestos, beryllium, mercury, and vinyl chloride should be deleted from the rule as listed in U.S. EPA's proposed Federal Register in 1996. With other regulations being issued for these four (4) pollutants, this rule isn't needed. IDEM needs to expand the list of ozone depleting substances in the rule to include the list of compounds from the 1996 proposed Federal Register. Those substances not currently included in the rule require a PSD permit for any emission limit over zero. The board needs to expand the list of eight (8) ozone depleting substances in the rule to those in the 1996 proposed Federal Register. (ELC)(GEP)

Response: The D.C. Circuit Court spoke to the word "federally enforceable" only as it pertains to the definition of potential to emit. IDEM will review the language in 326 IAC 2-2-1 and may propose amendments to the rule at final adoption if appropriate to the court's decision and approvable by U.S. EPA. IDEM follows U.S. EPA's guidance in the use of the two-digit SIC code for chemical process plants. IDEM may be more stringent than U.S. EPA by including the four (4) substances of asbestos, beryllium, mercury, and vinyl chloride under the definition of "significant". IDEM believes it is important to consider these hazardous air pollutants when determining whether a modification to a plant is significant for PSD review purposes. IDEM will review the list of ozone depleting substances in the proposed 1996 Federal Register and consult with U.S. EPA regarding their inclusion into the proposed rule at final adoption.

Comment: The commenter supports IDEM's definition of "significant" by maintaining beryllium, asbestos, vinyl chloride, and mercury in the rule. These pollutants are some of the more serious hazardous air pollutants that U.S. EPA chooses to regulate. The regulations have been in effect for twenty (20) years and Indiana shouldn't backslide now and delete them from the rules. (IKE)

Comment: Indiana is the state with the fifth highest levels of mercury emissions in the country from power plants. This rule will regulate sources not already regulated, such as power plants. (HEC)

Response: IDEM agrees that these hazardous air pollutants should be included in the definition of significant.

Comment: The level for mercury in the rule should be lowered from one-tenth (.10) ton per year to fifty (50) pounds per year. The power industry is putting out five (5) tons per year of mercury here. There is a need for a better definition for fossil fuel fired steam electric plant. Subsections (w) and (o) should be amended so that whenever the amount of water injection is ten percent (10%) or greater, it should be called a steam electric generating unit.(SL)

Response: IDEM is researching the number of sources that would be affected if the mercury threshold is lower. A report will be given to the board at the time of final adoption. U.S. EPA provides an interpretation of the definition of a fossil fuel-fired steam electric plants with respect to combustion turbines in a guidance memo dated February 2, 1993 entitled "Determining PSD Applicability Thresholds for Gas Turbine Based Facilities". This guidance document was sent to the commenter from U.S. EPA. Since the purpose of this rule making is to obtain federal approval of the state PSD rule, IDEM will continue to follow the U.S. EPA interpretation according to the guidance document.