



SUMMARY OF IDEM RULEMAKINGS - FEBRUARY 2020

Notices of Public Comment and Public Hearings

Title 326 Air Pollution Control Division

RULEMAKING ACTION:	Incorporation of increases to Title V air program permit fees - LSA Document #20-21	
Purpose:	<p>Public Comment/Notice of Public Hearing</p> <p>IDEM is soliciting written comment on the draft rule language and has scheduled a public hearing before the environmental rules board (board) for consideration of adoption of these rules.</p> <p>Proposed rule and public hearing tentatively scheduled for May 13, 2020, at 1:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Indianapolis, Indiana - Conference Room A.</p>	
Rulemaking Overview	Amendments to 326 IAC 2-1.1-7, concerning increases to Title V air program permit fees, as required by House Enrolled Act 1278 and as approved by the Environmental Rules Board on August 14, 2019.	
Statutory Information:	Shortened Rulemaking Process Pursuant to IC 13-14-9-7 LSA Document #20-21 Related Documents	
Comment Period Deadlines and Public Hearing Dates:	Comment Period: Public Hearing/Preliminary Adoption:	February 19, 2020 – March 20, 2020 May 13, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Seth Engdahl, Rules Development Branch, Office of Legal Counsel, (317) 234-9355, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov .	
Next Step:	Rulemaking anticipated to be "Preliminarily Adopted" on May 13, 2020.	

**Title 326 Air Pollution Control Division**

RULEMAKING ACTION:	Vertellus Particulate Matter (PM) Emission Limit Revisions - LSA Document #19-82	
Purpose:	<p>Public Comment/Notice of Public Hearing</p> <p>IDEM is soliciting written comment on the draft rule language and has scheduled a public hearing before the environmental rules board (board) for consideration of adoption of these rules.</p> <p>Proposed rule and public hearing tentatively scheduled for May 13, 2020, at 1:30 p.m., at the Indiana Government Center South, 10 North Senate Avenue, Indianapolis, Indiana - Conference Room A.</p>	
Rulemaking Overview	Amends 326 IAC 6.5-6-31 , concerning revisions to the particulate matter emission limits requested by Vertellus Integrated Pyridines, LLC (Vertellus).	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #18-542 Related Documents	
Comment Period Deadlines and Public Hearing Dates:	First Comment Period:	February 13, 2019 – March 15, 2019
	Second Comment Period:	February 12, 2020 – March 13, 2020
	Public Hearing/Preliminary Adoption:	May 13, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229, (800) 451-6027 (in Indiana), or kwalsh@idem.in.gov .	
Next Step:	Rulemaking anticipated to be "Preliminarily Adopted" on May 13, 2020.	

**Title 329 Solid Waste Management Division**

RULEMAKING ACTION:	Hazardous Waste Financial Assurance - LSA Document #14-287	
Purpose:	<p>Public Comment/Notice of Public Hearing</p> <p>IDEM is soliciting written comment on the draft rule language.</p> <p>These rules are not scheduled for hearing at this time. When the public hearing is scheduled, it will be noticed in the Changes in Notices of Public Hearing section of the Indiana Register.</p>	
Rulemaking Overview	Amends the hazardous waste financial assurance rules at 329 IAC 3.1-14 and 329 IAC 3.1-15 to revise the financial assurance requirements and mechanisms to account for current conditions in the hazardous waste industry, reflect changes made by other states' regulatory agencies, ensure that permittees will be able to meet closure and post-closure costs, include corrective action financial assurance requirements, and update appropriate language to be consistent with related federal requirements, other portions of 329 IAC 3.1 , and the solid waste financial assurance requirements in 329 IAC 10-39 .	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #14-287 Related Documents	
Comment Period Deadlines and Public Hearing Dates:	First Comment Period:	July 23, 2014 – August 22, 2014
	Second Comment Period:	February 12, 2020 – March 13, 2020
	Public Hearing/Preliminary Adoption:	TBD
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Daniel Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (in Indiana), or Dwatts1@idem.in.gov .	
Next Step:	Public Hearing/Preliminary Adoption - TBD	



Public Notices and Continuations

Title 326 Air Pollution Control Division

RULEMAKING ACTION:	Greenhouse Gas Emissions from Existing Electric Generating Units - LSA Document #20-22	
Purpose:	Notice of Comment Period The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules at 326 IAC 27 concerning guidelines for carbon dioxide emissions from existing electric utility generating units.	
Rulemaking Overview	New draft rules at 326 IAC 27 concerning guidelines for carbon dioxide emissions from existing electric utility generating units. On July 8, 2019, the United States Environmental Protection Agency (U.S. EPA) finalized the Affordable Clean Energy (ACE) rule (84 FR 32520). This rule was promulgated under Section 111 (42 U.S.C. 7411) of the Clean Air Act (CAA). In general, the ACE rule provides states with new requirements for reducing carbon dioxide (CO ₂) emissions from existing coal-fired electric generating units (EGUs). IDEM has tentatively identified 35 units in Indiana that are affected by the ACE rule. To comply with the ACE rule, IDEM is proposing rulemaking that would codify the standards of performance for each affected unit in the form of pounds of CO ₂ per kilowatt hour. This rule would be an essential component of Indiana's state plan under the ACE rule as it would demonstrate that the state's standards of performance are permanent and enforceable. IDEM will be soliciting information and working with affected utilities to determine BSER for each affected unit. Evaluation of disbenefits for pollutants with air quality standards will be considered. IDEM will also work in cooperation with the Office of Utility Consumer Counselor and the Indiana Utility Regulatory Commission.	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-22 Related Documents	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Seth Engdahl, Rules Development Branch, Office of Legal Counsel, (317) 234-9355, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov .	
Next Step:	Second Comment Period	

**Title 327 Water Pollution Control Division**

RULEMAKING ACTION:	Water Program Permitting Fees - LSA Document #20-26	
Purpose:	<p>Notice of Comment Period</p> <p>The Indiana Department of Environmental Management (IDEM) is soliciting public comment on new rules and amendments to rules in 327 IAC 5, 327 IAC 15, 327 IAC 8, and 327 IAC 19-7-1 concerning water program permit fees as required by House Enrolled Act (HEA) 1278. IDEM seeks comment on the affected citations listed and any other provisions of Title 327 that may be affected by this rulemaking.</p>	
Rulemaking Overview	<p>HEA 1278, also referred to as Public Law 250-2019, was passed by the 2019 General Assembly to amend the process in IC 13-16 concerning the adoption of environmental fees by the Environmental Rules Board. In addition to the process established in IC 13-16 for future rulemakings to increase environmental fees, HEA 1278 requires the board to adopt rules once before January 1, 2022, to increase the amount of the fees for water-related programs. This rulemaking addresses the one-time fee increases required under HEA 1278 for IC 13-18-10, IC 13-18-20, and IC 13-18-20.5, regarding confined feeding operations, NPDES permits, and public water systems, respectively.</p>	
Statutory Information:	<p>Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-26 Related Documents</p>	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	<p>Additional information regarding this rulemaking action can be obtained from and comments can be submitted to MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232- 8635, (800) 451-6027 (in Indiana), or mstevens@idem.in.gov.</p>	
Next Step:	Second Comment Period	

**Title 329 Solid Waste Management Division**

RULEMAKING ACTION:	Solid Waste Financial Assurance - LSA Document #20-20	
Purpose:	Notice of Comment Period The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 10-39 , 329 IAC 11.5-8 , 329 IAC 11.6-9 , and 329 IAC 11.7-9 concerning financial assurance requirements for solid waste facilities. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.	
Rulemaking Overview	Amendments to the financial assurance requirements for solid waste facilities at 329 IAC 10-39 , 329 IAC 11.5-8 , 329 IAC 11.6-9 , and 329 IAC 11.7-9 . The amendments include resolving inconsistencies in the financial assurance rules across different articles in Title 329, correcting errors in the rule language, revising outdated requirements, and proposing other changes to provide additional compliance flexibility for regulated entities and improve the administration of the financial assurance requirements.	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-20 Related Documents	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Daniel Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (in Indiana), or Dwatts1@idem.in.gov .	
Next Step:	Second Comment Period	

**Title 329 Solid Waste Management Division**

RULEMAKING ACTION:	Definition of Solid Waste for The Purposes of Hazardous Waste Management - LSA Document #20-23	
Purpose:	Notice of Comment Period The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 3.1 concerning updates to the identification of solid waste for the purposes of hazardous waste management and related hazardous waste requirements. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.	
Rulemaking Overview	Amendments to 329 IAC 3.1 that update the identification of solid waste for the purposes of hazardous waste management to be no less stringent than the current federal definition of solid waste. The amendments also will add state-specific standards for the hazardous secondary materials transfer-based exclusion at 40 CFR 261.4(a)(24). The proposed amendments will address certain provisions of the federal definition of solid waste affected by a vacatur ordered by a federal court on July 7, 2017, and the subsequent United States Environmental Protection Agency (U.S. EPA) final rule published on May 30, 2018 (83 FR 24664). The rulemaking will include updates to the federal definition of solid waste that resulted from these actions and state-specific requirements for the solid waste exclusion at 40 CFR 261.4(a)(24) that are based on vacated provisions of the January 13, 2015, definition of solid waste federal rule (80 FR 1693). The state-specific requirements will improve the availability of information and reduce the risks from the management of hazardous secondary materials while not requiring a hazardous waste facility permit if the regulated entity meets certain conditions.	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-23 Related Documents	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Daniel Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (in Indiana), or Dwatts1@idem.in.gov .	
Next Step:	Second Comment Period	

**Title 329 Solid Waste Management Division**

RULEMAKING ACTION:	Solid Waste and Hazardous Waste Program Permitting Fees - LSA Document #20-24	
Purpose:	<p>Notice of Comment Period</p> <p>The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules in 329 IAC 3.1-1-14.1, 329 IAC 10, 329 IAC 11, and 329 IAC 15, concerning solid waste and hazardous waste program permit fees as required by House Enrolled Act (HEA) 1278. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.</p>	
Rulemaking Overview	<p>HEA 1278, also referred to as Public Law 250-2019, was passed by the 2019 General Assembly to amend the process in IC 13-16 concerning the adoption of environmental fees by the Environmental Rules Board. In addition to the process established in IC 13-16 for future rulemakings to increase environmental fees, HEA 1278 requires the board to adopt rules once before January 1, 2022, to increase the amount of the fees for solid waste and hazardous waste programs. This rulemaking addresses the one-time fee increases required under HEA 1278 for IC 13-20-21 and IC 13-22-12, regarding solid waste and hazardous waste programs.</p>	
Statutory Information:	<p>Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-24 Related Documents</p>	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	<p>Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229, (800) 451-6027 (in Indiana), or kwalsh@idem.in.gov.</p>	
Next Step:	Second Comment Period	



Title 329 Solid Waste Management Division

RULEMAKING ACTION:	Underground Storage Tank Revisions - LSA Document #20-25	
Purpose:	Notice of Comment Period The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 9 concerning underground storage tanks. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.	
Rulemaking Overview	Amends portions of 329 IAC 9 , primarily 329 IAC 9-5 and 329 IAC 9-6 , which provide requirements for the initial response to a release from an UST, site investigation, corrective action, and UST closure. These changes will largely incorporate federal regulations by reference in order to ensure that stakeholders are not faced with more burdensome or duplicative processes than those required by federal regulations. Specifically, existing rules for initial site characterization under 329 IAC 9-5-5.1 , corrective action plans under 329 IAC 9-5-7 , site assessment for permanent closure or change-in-service under 329 IAC 9-6-2.5 , and site assessment sampling requirements under 329 IAC 9-6-2.6 are more stringent and have more requirements for UST owners and operators than those imposed by federal regulations. Federal UST regulations are less costly and less burdensome than the UST regulations currently found in 329 IAC 9 .	
Statutory Information:	Rulemaking Process Pursuant to IC 13-14-9 LSA Document #20-25 Related Documents	
Comment Period Deadlines:	First Comment Period:	February 19, 2020 – March 20, 2020
Inquiries and Comments:	Additional information regarding this rulemaking action can be obtained from and comments can be submitted to Seth Engdahl, Rules Development Branch, Office of Legal Counsel, (317) 234-9355, (800) 451-6027 (in Indiana), or sengdahl@idem.in.gov .	
Next Step:	Second Comment Period	



Other Notices

REGULATORY ACTION:	Notice of Public Comment Period for the 2019 Assessment of Laughery Creek Watershed Water Quality Data for the Development of a Total Maximum Daily Load Report Under Section 303(d) of the Clean Water Act and Pursuant to IC 13-18-2-3 – LSA Document #20-74	
Purpose:	<p>Notice of Comment Period</p> <p>Pursuant to IC 13-18-2-3, the Indiana Department of Environmental Management (IDEM) is soliciting public comment on the assessment of water quality data for the development of a total maximum daily load (TMDL) report. These data were collected by IDEM staff from November of 2018 through October of 2019, following the IDEM quality assured work plan and IDEM standard operating procedures. They were assessed using IDEM's Consolidated Assessment and Listing Methodology (CALM). At this time, IDEM solicits water quality-related information to support or refute the assessments.</p>	
Action Overview	<p>Chemical, physical, and biological samples of the Laughery Creek Watershed were collected in 1985, 2000, 2005, 2010, 2011, and 2017 using the fish tissue, probabilistic, and targeted monitoring programs. Additionally, fixed station monitoring has been conducted in the watershed since 1998. Based on these monitoring programs, impairments listed on the 303(d) List of Impaired Waters include <i>E. coli</i>, dissolved oxygen (DO), and impaired biotic communities (IBC). In 2018, the Laughery Creek Watershed was selected for an intensive watershed characterization monitoring project to identify the sources and extent of impairments based on those waters that were previously listed. Twenty-four sites were assessed for general chemistry, pathogens, nutrients, habitat, and fish and macroinvertebrate communities. Based on the watershed characterization study assessments in 2020, there are 19 stream segments, tracked using assessment unit IDs (AUIDs), where additional impairments are identified. The additional impairments across all stream segments sampled within the Laughery Creek watershed total 31, including 19 <i>E. coli</i>, 5 IBC, 5 DO, and 2 nutrients. Also as a result of the assessments, a total of five historical impairments (including two IBC, two <i>E. coli</i>, and one dissolved oxygen impairment), are identified as no longer applicable. Those segments now demonstrate attainment of applicable water quality standards.</p>	
Comment Period Deadlines:	Comment Period:	February 26, 2020 – May 26, 2020
Comments or Inquiries:	<p>Additional information regarding this notice can be obtained from and comments can be submitted to Lindsay Hylton Adams in the Watershed Assessment and Planning Branch, Office of Water Quality, (317) 308-3378 or (800) 451-6027 (in Indiana), or lhylton@idem.in.gov. Mail: Document #20-74 2020 Assessment of Laughery Creek Water Quality Data, Lindsay Hylton Adams, Watershed Assessment and Planning Branch, Indiana Department of Environmental Management 2525 North Shadeland Avenue, Suite 100, Indianapolis, IN 46219</p>	
Next Step:	After the public comment period, the determination of impairments for TMDL development will be presented to the commissioner for final approval.	



Emergency Rules

Title 326 Air Pollution Control Division

RULEMAKING ACTION:	Emergency Rule LSA Document #20-67(E) - LSA Document #20-67(E)
Purpose:	Temporarily amends 326 IAC 1-4-46 and 326 IAC 1-4-65 to reclassify Lake and Porter counties from moderate nonattainment to serious nonattainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS), and amends 326 IAC 1-4-85 to redesignate Fayette and Harrison townships in Vigo County to attainment for the 2010 primary 1-hour sulfur dioxide (SO ₂) NAAQS. <i>NOTE: The original emergency document, LSA Document #19-593(E) posted at 20191120-IR-326190593ERA effective November 14, 2019, expires February 12, 2020.</i> Statutory authority: IC 13-14-8-1 . Effective February 12, 2020.

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