

TITLE 326 AIR POLLUTION CONTROL DIVISION

LSA Document #22-109

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from April 6, 2022, through May 6, 2022, on IDEM's draft rule language. IDEM received comments from the following parties:

United States Environmental Protection Agency (U.S. EPA)

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

Comment: U.S. EPA has concerns that the rule language in 326 IAC 8-8.2 may be confusing to facilities and the public as written. U.S. EPA feels that the date of the July 1, 2021, edition of the Code of Federal Regulations (CFR) could be misread as referring to the date that the final rule promulgating 40 CFR Part 62, Subpart OOO (86 FR 27756), was published in the Federal Register. Additionally, the reference to “as amended by 87 FR 8203” can be confusing, because this final rule was published on February 14, 2022, which is after the July 1, 2021, edition of the CFR that the rule language references. U.S. EPA suggests the following rule language revision to Section 1(a):

“Except as provided in subsection (b) of this rule, the owner or operator of an existing municipal solid waste landfill (MSWLF) that commenced construction on or before July 17, 2014, and has not been modified or reconstructed since July 17, 2014, must comply with this rule, the May 21, 2021, version of 40 CFR 62, Subpart OOO (86 FR 27756), and the February 14, 2022, amendments to 40 CFR Part 62, Subpart OOO (87 FR 8203).”

Response: IDEM appreciates U.S. EPA's submitted comment. However, citing the July 1, 2021, edition of the CFR for purposes of incorporation by reference is consistent with existing rule drafting standards established by Indiana's Legislative Services Agency, as well as existing citations for incorporation by reference throughout the rest of the Articles in Title 326. IDEM has not historically received comments from sources or the public stating that this style of citation in the rule language is confusing or misleading and should be changed. Therefore, the citations in this rule language have not been changed.