



**AIR & WASTE MANAGEMENT
ASSOCIATION**
SINCE 1907

Winter, 2000

**News from the Indiana Chapter of the
Air & Waste Management
Association**

Inside this issue

1 CAA Section 129 - A
"Cross Media" Rule for
the New Millennium

Winter Technical Mtg.

2 Purdue Student Chapter
Addressed by Speakers
from Cummins

3 December 5 Technical
Meeting Registration
Form

4 Specialty Conferences

EAB Weighs in on
"Routine" Maintenance,
Repair & Replacement
under PSD Program

6 Calendar of Activities

People News

**Thanks to our
Indiana NEWS sponsor:**

The Environmental Law Department of:

BARNES & THORNBURG
WHEN IT COUNTS ♦ btlaw.com

Indiana NEWS

CAA Section 129 -- A "Cross Media" Rule for the New Millennium

By: Ann McIver, Indianapolis Power &
Light Company

Section 129 of the Clean Air Act Amendments of 1990 mandates the development of regulations for the incineration of solid waste, including "municipal solid waste", "hospital/medical infectious waste" and "commercial and industrial solid waste". Regulations for the first two categories of new and existing units were adopted in 1995 and 1997 respectively.

The most recent category to be addressed is the incineration of commercial and industrial solid waste (CISW). The EPA's Office of Air Quality Planning and Standards, working jointly with the Office of Solid Waste, published proposed rules (64 Fed. Reg. 67,092, November 30, 1999) which would regulate the incineration of CISW in new units (draft 40 CFR 60, Subpart CCCC) and impose a requirement on states to adopt rules to address the incineration of CISW in existing units (draft 40 CFR 60, Subpart DDDD). These proposed rules represent maximum achievable control technology ("MACT") for the source category, as required by the CAA.

Winter Technical Mtg. Senator Beverly Gard and IDEM Assistant Commissioners to Speak

The Indiana Chapter is pleased to announce our Winter technical meeting, scheduled for 4:00 to 6:30 pm, December 5, 2000 at the Ramada Inn - Indianapolis Airport.

Senator Beverly Gard (R-Greenfield) will begin the meeting with legislative environmental initiatives for 2001. Agency priorities for 2001 will be presented by a panel made up of five assistant or deputy assistant IDEM commissioners:

Janet McCabe - Air Management
Felicia Robinson - Enforcement
Matt Rueff - Water Management
Bruce Palin - Land Quality
Jim Mahern - Pollution Prevention

Please join us for hors d'oeuvres and refreshments after the meeting. Look on page 3 for the registration form and plan to join us for this look ahead to 2001!

Anne Heighway, QEP

The latest member of the Indiana Chapter to receive Qualified Environmental Professional (QEP) certification by IPEP is Past Chair Anne R. Heighway, of Indianapolis Power & Light Company. Congratulations, Anne!

Look in the next issue of Indiana NEWS or www.ipep.org for more information on the QEP program.

continued on Page 5

2000-2002 Indiana Chapter Executive Board

Chair James Owens
Eli Lilly & Company
(317) 276-1821
owens_james_alan@lilly.com

Vice-Chair Dr. Valerian Simianu
SECOR International, Inc.
(317) 876-8375 Ext.225
vsimianu@secor.com

Secretary Ed Stresino
IDEM Retired
(317) 291-2755
stresinoedgar@webtv.net

Treasurer Wade Kohlmann
Citizens Gas & Coke Utility
(317) 927-4541
admrwk@cgc.com

Past Chair Anne Heighway
Indianapolis Power & Light
(317) 261-5075
aheighway@ipalco.com

Cen. Indiana Director Richard Kraft
Patriot Engineering
(317) 576-8058
rkraft@patrioteng.com

N. Indiana Director Dr. Thad Godish
Ball State
(765) 285-5782
tgodish@gw.bsu.edu

S. Indiana Director Dan Todd
Air Quality Services, LLC
(812) 452-4785
aqsdlt@msn.com

Dir. at Large Kristen Gobbi-Belcredi
Keramida Environmental
(317) 685-6603
gobbibel@aol.com

Dir. at Large Stephen B. Dixon
Delphi Delco Electronics
(765) 451-4867
stephen.b.dixon@delphiauto.com

Special Director David Jordan
ERM
(317) 706-2000
david_jordan@erm.com

Membership Chair Stan Paulsel
IDEM - OAM
(317) 308-3254
spaulsel@dem.state.in.us

Programs Chair Ann W. McIver
Indianapolis Power & Light
(317) 261-5998
amciver@ipalco.com

Purdue Student Chapter Discusses Advances in Diesel Pollution Reduction with Cummins Speakers

Speakers Mr. Steve Butler and Ms. Michelle Dunlap from Cummins presented a perspective on the role of diesel engine and its role in a cleaner environment. Mr. Butler spoke of improvements made in reducing pollutants from diesel engines, including history, regulations, and the global picture of the emission regulations for heavy-duty diesel engines. Prior to the talk, Indiana Chapter Vice-Chair Dr. Valerian Simianu spoke to the students

about the AWMA's support for their activity, the desire to strengthen our ties, the 2004 AWMA Conference in Indianapolis, and other activities at Indiana Chapter.



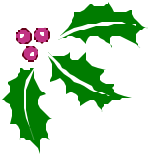
Visit the Indiana Chapter on the Web! www.inawma.com

Thanks to the sponsorship of Delphi Automotive, the Indiana Chapter website is on-line! If you have information you would like to add to our website or have

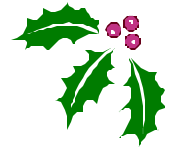
Our *thanks* to the Chapter Corporate Sponsors!!

**Indianapolis Power & Light Company
Nucor Steel Corporation
Eli Lilly & Company
Keramida Environmental, Inc.
Cinergy
Carl Koontz and Associates
Airtech Environmental Services
Air Quality Services
Citizens Gas & Coke Utility
SECOR International, Inc.
Barnes & Thornburg**

Contact a Chapter officer for information on adding your name to our list of sponsors!



You're Invited to our Winter Technical Meeting!



December 5, 2000

4:00 pm - 6:30 pm

The Indiana Chapter of the Air & Waste Management Association is pleased to announce our Winter Technical Meeting!

Where: Ramada Inn, Indianapolis Airport

When: December 5, 2000

4:00 pm - 6:30 pm

Guest Speakers:

Legislative Initiatives and Priorities for 2001 (begins at 4:30 pm)

Senator Beverly Gard (R - Greenfield)

Agency Priorities for 2001 (begins at 5:00 pm)

Ms. Janet McCabe, Assistant Commissioner, Office of Air Management

Ms. Felicia Robinson, Assistant Commissioner, Office of Enforcement

Mr. Matt Rueff, Assistant Commissioner, Office of Water Management

Mr. Bruce Palin, Deputy Assistant Commissioner, Office of Land Quality

Mr. Jim Mahern, Assistant Commissioner, Office of Pollution Prevention and Technical Assistance

Following the agency panel discussion, hors d'oeuvres will be served. Please join us in a discussion of Indiana environmental initiatives and priorities for 2001.

Cost: \$20.00 for Chapter members \$25.00 for Chapter non-members

\$15.00 for full-time students

SPECIAL OPTION: Reserve a table of 8 for \$150

NAME: _____

COMPANY: _____

Address: _____

City, State, ZIP: _____

Phone: _____

E-mail address: _____

Make checks payable to the Indiana Chapter, A&WMA.

RETURN REGISTRATION FORMS AND PAYMENTS TO:

Anne Heighway

Indianapolis Power & Light Company

1230 West Morris St.

Indianapolis, Indiana 46221

Phone: (317) 261-5075

Specialty Conferences

25TH ANNUAL EPA-A&WMA INFORMATION EXCHANGE

December 5-6, 2000
Research Triangle Park, NC

A&WMA WINTER CONFERENCE

February 12 - 13, 2001
Dallas, TX

ENVIRO-MET 2001

April 2-3, 2001
Pittsburgh, PA

GUIDELINE ON AIR QUALITY

MODELS:

A NEW BEGINNING

April 4-6, 2001
Newport, RI

MANAGING TITLE V

tentative timeframe:
April 2001

HAZARDOUS WASTE COMBUSTOR SPECIALTY CONFERENCE

March 28-30, 2001
Kansas City, MO

REGIONAL HAZE & GLOBAL RADIATION

BALANCE CONFERENCE

October 2-5, 2001
Bend, OR

ACE 2001

June 24-28, 2001
Orlando, Florida

For further information on the Specialty Conferences or Workshops, visit the A&WMA's homepage at

EAB Weighs in on "Routine" Maintenance, Repair and Replacement Under PSD Program

By Tony Sullivan and Jim Hauck, Barnes & Thornburg

On September 15, 2000 the Environmental Protection Agency's Environmental Appeals Board ("EAB") issued its final order regarding EPA's Compliance Order issued to the Tennessee Valley Authority on November 3, 1999. EPA alleged that TVA violated the Clean Air Act when it made "modifications" (i.e., changes that resulted in emissions increases) to fourteen coal-fired electric generating units at nine of TVA's plants without first obtaining the appropriate preconstruction air permits. In the order, the EAB determined that EPA had proven that each of the fourteen projects undertaken by TVA constituted a "physical change" that was not exempted from PSD as routine maintenance, repair and replacement. However, the Board found that EPA had not proven that emissions increases resulted from some of the physical changes, and therefore those particular changes were not Clean Air Act violations.

The EAB decision upheld EPA's four factor test for the routine determination (nature and extent, purpose, frequency, and cost), stating that to adopt TVA's interpretation of the "routine maintenance" exception would be to eviscerate the notion that "grandfathering" was envisioned as temporary, and that major overhauls which extend the productive life of a facility should be subject to the

requirement to modernize pollution controls.

However, the Board determined that on a number of its claims, EPA failed to demonstrate that there was an increase in emissions as a result of the physical change. The Board rejected EPA's argument that the baseline should be the annual average emissions in the two years immediately preceding the physical change and rather should consist of the two year period within the five year period preceding the change in which the emissions were highest. The Board also concluded that in determining whether there was an increase in emissions, the actual pre-modification emissions must be compared to the "projected actual emissions" not the "potential emissions."

In May, TVA asked the Eleventh Circuit Court of Appeals to stay the EPA compliance order. On August 17, the Eleventh Circuit granted a temporary stay to TVA on compliance with EPA's order. It is uncertain what the effect of the order will be until the Eleventh Circuit issues its decision in the case.

Tony Sullivan and Jim Hauck are attorneys with the Environmental Law department of Barnes & Thornburg. They can be reached at (Tony) 317/231-7472 or tsullivan@btlaw.com and (Jim) 317/231-7509 or jhauck@btlaw.com.

CAA Section 129

(continued from page 1)

What's in the proposed rule?

The proposed rules define applicability criteria, i.e. "what is an affected unit?" and "what is solid waste?"

Under the provisions of this rule, a CISW incineration unit is any "enclosed device using controlled flame combustion that burns solid waste." This definition includes boilers, industrial furnaces, traditional incinerators and air-curtain incinerators. These units may be field-erected, modular or custom built.

The definition of solid waste found in the rule comes from the language of the §129: "Solid Waste means, for the purpose of this subpart only, any solid, liquid, semisolid or contained gaseous material, which is combusted, including but not limited to materials listed in paragraph (1) of this definition. Solid waste excludes fuels defined in paragraph (2) of this definition and materials specifically listed in paragraph (3) of this definition."

Expanding on this, paragraph (1) includes as solid waste "municipal solid waste", "hospital and medical infectious waste" and RCRA hazardous wastes as defined at 40 CFR 261. Paragraph (2) defines a material as a fuel if it has a gross calorific value greater than 5,000 Btu/pound. Paragraph (3) identifies materials (such as pulping liquors)

that are excluded from the regulations when they are combusted to recover chemical constituents.

The proposed rules contain requirements for affected sources to:

- maintain a waste management plan that identifies how certain components will be separated from the waste stream to minimize the amount of air toxics from incineration;
- have a certified operator either at the facility or available within one hour. Operator training requirements are further outlined in the rule language;
- conduct initial stack tests for all of the regulated pollutants -- cadmium, carbon monoxide, dioxins/furans, hydrogen chloride, lead, mercury, opacity, oxides of nitrogen, particulate matter and sulfur dioxide -- except NOx and CO;
- conduct annual stack tests for particulate, hydrogen chloride and opacity;
- monitor relevant operating parameters of the control device(s) used for compliance with the subpart.

What's not in the draft rule?

Under this proposed rule, there are no de minimus thresholds for waste incineration. As well, there are gray areas associated with the combustion of waste generated at a conditionally exempt small quantity generator. In the preamble to the proposed rule, the EPA discusses the development of the definition for *solid waste* to be used in these subparts. In this

discussion, the EPA states that this rule is intended to address *nonhazardous solid waste*, yet rule language does not completely close the loop. Units combusting hazardous waste are only exempt from regulation under the CISWI rules if they hold a permit under section 3005 of the Solid Waste Disposal Act -- those units permitted under RCRA to combust hazardous waste.

Comments were submitted by various parties, including the Utility Solid Waste Activity Group (USWAG) on these provisions, and other provisions, of the proposed rules.

What's next?

These rules are scheduled for signature by the EPA Administrator no later than November 15, 2000, with the standards for new sources effective six months after publication in the *Federal Register*.

Delegated states must submit a state plan which implements the requirements of the existing source performance standards to the EPA *within one year after the promulgation of the subpart*. With the previously issued standards, IDEM has used "incorporation by reference" provisions to implement the existing source performance standards, a rulemaking process that can take less than one year.

Ann McIver is in the Environmental Affairs Office of Indianapolis Power & Light Company, 317/261-5998.

Calendar of Events

November 15 "Crash Course" in Stack Testing
8:30 - 4:30 Riverside Cafe & Conference Center
1426 W. 29th Street, Indianapolis

December 5 Winter Technical Meeting
4:00 - 6:30 p.m. Ramada Inn (Indianapolis Airport)

People News

Look in the October 2000 EM for the feature article on Title V authored by **Ann W. McIver** of Indianapolis Power & Light Co. Copies can be obtained directly from Ann at amciver@ipalco.com

Members **Bernie Paul** of Eli Lilly, **Andy Gremos** of KERAMIDA Environmental and **Mike Casper** of August Mack Environmental address air pollution and brownfields topics at the AWMA East Central Section Annual Conference held October 18th in Dayton, Ohio.

BARNES & THORNBURG
WHEN IT COUNTS ♦ btlaw.com

Environmental Law Department

*11 South Meridian Street
Indianapolis, Indiana 46204-3556
(317) 236-1313
<http://www.btenv.com>*

Indianapolis Fort Wayne
South Bend Elkhart
Chicago Washington, D.C.

A&WMA Logo Items

Caps, pens, mugs, shirts, etc., are available for purchase through the Indiana Chapter. Contact Anne Heighway or Ann McIver for information.

Indiana Chapter, AWMA
c/o Jim Hauck
Barnes & Thornburg
11 S. Meridian Street
Indianapolis, Indiana 46204

ADDRESS CORRECTION REQUESTED