

Keelyn Walsh
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 N. Senate Ave.
Indianapolis, IN 46204-2251

Oct. 6, 2017

Dear Ms. Walsh:

The Hoosier State Press Association urges the Indiana Department of Environmental Management to reject a proposed rule change that would eliminate the publication requirement in Indiana newspapers for notices of New Source Review and Title V permit programs.

The IDEM proposal is based on a change by the U.S. Environmental Protection Agency public notice rule provisions. Unfortunately, the EPA change is based on a flawed premise: “The EPA anticipates that e-notice ... will enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently ...”

Yes, e-mail notice is easier for the IDEM staff, but that is not the goal of public notice. The goal is to inform the public of these actions and newspapers remain the most effective means to accomplish that goal.

There are nearly 4.7 million adult Hoosiers who deserve to know what actions IDEM takes that impact air quality in their communities. It’s obviously impractical to mail everyone notice, so democratic governments have been tasked with choosing the most effective means to reach a maximum number of people. Newspapers have been found for hundreds of years to be that best way to reach the public for government units.

A survey this summer conducted by American Opinion Research found that 2.9 million Hoosiers read a newspaper at least once a week and the number increases to 3.6 million when you include those who read their newspaper electronically. That doesn’t mean every story, ad or notice in each issue of a newspaper is read, but it puts that information into the hands of someone who has paid to have that newspaper delivered to their doorstep or laptop computer.

Compare that reach to the number of visitors to the IDEM webpages where the notices of hearings are posted. The last time HSPA checked with IDEM, the average number of unique visitors to those pages per week was 105 individuals. It was a lower number than the number of hearings being noticed by IDEM at that time – 113.

It’s safe to assume many of those unique visitors are representatives of businesses seeking permit approval, which would reduce the number of members of the general public who actually see these e-notices to an even smaller average.

E-notices are effective if the goal is to hide information in plain sight. Yes, the public has the ability to regularly go to the IDEM website and look for permits that might impact their specific community, but it apparently isn’t happening now and won’t be happening in the future.

Logic should tell you that people are too busy to spend time every week checking various government websites to see if there's something that would concern them.

They are accustomed though to reading their daily or weekly newspaper to discover information that affects their lives.

IDEM argues that changes in the newspaper industry make public notice advertising less effective. It's true that print readership has declined, but that's because more individuals are reading the electronic version of the newspapers. There's a lot more zeros behind 2.9 million Hoosiers reading printed newspapers than the number of unique visitors to IDEM's pertinent webpages.

IDEM complains about a service issue provided by a newly purchased newspaper. Yes, when humans are involved, you can have a hiccup with customer service, but you don't stop buying food at grocery stores because you had a bad experience at one meat counter. If service is a problem for IDEM, HSPA stands ready to help tackle those issues as it has in the past with the state Attorney General's office and the Indiana Alcohol & Tobacco Commission.

The third argument is that IDEM will save \$17,000 by eliminating the public notice advertisements. That's not even a drop in the bucket for IDEM's yearly budget for its Air Permit Program – a total of \$12,852,822. The cost to effectively inform Hoosiers of program hearings is 0.13 percent of the Air Permit budget, yet IDEM doesn't even want to spend that meager amount to inform the public.

The American Opinion Survey though shows Hoosiers want public notices in newspapers and are fine with their taxpayer dollars being used to make it happen. The survey found that 63 percent of adult Hoosiers supported the publication of public notices even when told it could cost government units several thousand dollars.

And when asked if they would read these notices more often or less often if moved to government websites, the survey showed there would be a 60% drop in the readership of public notices.

A cynic might argue that government bureaucrats would prefer Hoosiers, who aren't part of the inside game, not show up at hearings and question decisions being made. Hiding information on a website that citizens aren't going to see would surely accomplish that self-centered goal.

On the other hand, publication in affected communities' newspapers of these air quality decisions does give Hoosiers an opportunity to voice their opinion. It also increases the chances a reporter will write a story, which also increases the opportunity for the public to learn about the process and its impact on the air they breathe or the ability of businesses to continue operations and provide jobs in that community.

These decisions are too important to hide on a seldom-seen webpage. Government transparency is the bulwark of a democratic government. The public needs to know what its government officials are doing to judge whether they are being represented well by those elected and by the public employees who carry out the duties of state and local government units.

In Indiana, transparency rests on a three-legged stool with the three legs comprised of the Open Door Law (I.C. 5-14-1.5), Access to Public Records Act (I.C. 5-14-3) and Public Notice Advertising law (I.C. 5-3-1). Without proper notice of these hearings through public notice

advertising, the Open Door Law and Access to Public Records Act become useless because the public doesn't learn about the IDEM action until it's too late to act.

If you have any questions concerning these comments, please reach out to me either by phone or email.

Respectfully submitted,

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