

# Should IDEM be Restricted to be No More Stringent Than EPA?

Presentation to Environmental Quality  
Service Council

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# Need to Define Any Restriction

- Would it prohibit IDEM from doing anything except what EPA requires?
  - If so, IDEM could not address:
    - Waste tires
    - Most solid waste (as opposed to hazardous waste) issues
    - Brownfields, VRP, Cleanup of contaminated sites, etc.
    - Confined Feeding Operations
  - How would IDEM address issues where something needs to be done, but there are choices? Meeting air and water quality standards

# Benefits of NMST

- Should allow a streamlined rulemaking process—there would be little or no IDEM discretion, therefore no need for a lengthy public process
- IDEM would not need to respond to any citizen concerns that do not relate to EPA requirements

# Possible Issues With NMST

- Many Federal Requirements include multiple options and a State must select the regulatory option that best fits it
    - Clean Air Interstate Rule
    - Boiler MACT
    - New UST rules in well head protection areas
- Would IDEM or the legislature choose the Indiana regulatory options?

# Possible Issues With NMST

- The process of considering all regulatory options leads to greater understanding of the costs and benefits of selected and rejected options—e.g. CAMR.
- It takes EPA a long time to address issues that may start out as issues in only a few states. In the interim, IDEM may not even be able to develop Indiana specific information about the issue.

# Possible Issues With NMST

- States that have NMST requirements often spend a lot of energy lobbying EPA to develop national programs to address their local issues because they are prohibited from addressing the issues themselves
- NMST is used by some in the regulated community to state that IDEM should not even request information that is not required to be provided to EPA, this makes it hard to address Indiana environmental problems

# Possible Issues With NMST

- NMST sends the signal that Indiana does not care about the environment—environmental quality and economic development are highly correlated—NMST may make it more difficult to land state of the art plants like Honda and Dreyfus
- If Indiana uses up the environment's assimilative capacity with mediocre environmental protection, our air and water will not support new development

# Possible Issues With NMST

- NMST sends the signals that professionals who are interested in improving the environment will not be able to fully use their skills at IDEM—this will further hamper recruitment of high quality staff
- IDEM would not be able to respond to any citizen concerns that do not relate to minimum EPA requirements

# Current “Beyond Federal” Issues

- Outdoor Wood Fueled Boilers
- Confined Feeding Operation Construction Standards—also nutrient application regulations (IDEM or OSIC)
- End of life motor vehicle mercury switch removal
- Environmental Stewardship Program
- E-scrap management

# Commissioner Recommendation

- Provide oversight to ensure that IDEM follows the legal requirements when going beyond federal requirements or imposing requirements not otherwise imposed by EPA
  - IDEM must identify all such requirements
  - IDEM must estimate the costs of the additional requirements
  - IDEM needs to make the case for adoption of the beyond NMST requirements

# Commissioner Recommendation

- IDEM reports to the Governor and depends upon the Legislature for legal authority and state funding
- If a Governor and Legislature are elected who believe in “more stringent than,” IDEM should be free to respond to their wishes
- I think that the current system where I need to make a compelling case to the Governor to justify each regulatory action is appropriate for this administration

Questions or Comments?