
TITLE 326 AIR POLLUTION CONTROL DIVISION**Notice of First Public Comment Period**

LSA Document #24-318

EMERGENCY AFFIRMATIVE DEFENSE PROVISIONS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 1-6-1](#), [326 IAC 2-7-1](#), and [326 IAC 2-7-5](#), and the repeal of [326 IAC 2-7-16](#) and [326 IAC 2-8-12](#), concerning removal of Title V and Federally Enforceable State Operating Permit (FESOP) emergency affirmative defense provisions to be consistent with federal regulations. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTSRegulatory Analysis: [20240904-IR-326240318RAA](#)Notice of Public Hearing: [20240904-IR-326240318PHA](#)**CITATIONS AFFECTED:** [326 IAC 1-6-1](#); [326 IAC 2-7-1](#); [326 IAC 2-7-5](#); [326 IAC 2-7-16](#); [326 IAC 2-8-12](#)**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3](#)**OVERVIEW****Basic Purpose and Background**

On July 24, 2023, the United States Environmental Protection Agency (U.S. EPA) removed the emergency affirmative defense provisions in 40 CFR 70.6(g) and 40 CFR 71.6(g) as a result of decisions from the U.S. Court of Appeals for the D.C. Circuit, primarily *NRDC vs. U.S. EPA*, 749 F.3d 1055 (D.C. Cir. 2014). These provisions established an affirmative defense for sources to assert in enforcement cases brought for noncompliance with technology-based emission limitations in operating permits if the exceedances occurred due to qualifying emergency circumstances. These provisions have never been required elements of state operating permit programs and were removed from federal regulations because they are inconsistent with the Clean Air Act and U.S. EPA's interpretation of the Act's enforcement structure (88 FR 47029).

Consequently, U.S. EPA requires each state with a part 70 program to submit a program revision, or request a submission extension, by August 21, 2024, to remove similar affirmative defense provisions from EPA-approved Title V programs. IDEM timely submitted a request for an extension to submit its program revision, which is now due on August 21, 2025. Although states may not retain Title V provisions establishing an affirmative defense to noncompliance with federal requirements, U.S. EPA is allowing states to choose whether to retain certain aspects of their existing program regulations, such as the definition of emergency, associated reporting and recordkeeping requirements, and prompt reporting to support functions unrelated to an affirmative defense.

This rulemaking proposes to revise rule language at [326 IAC 2-7](#) and [326 IAC 2-8](#) to remove the emergency affirmative defense provisions consistent with U.S. EPA's removal of these provisions in 40 CFR 70.6(g) and 40 CFR 71.6(g). The proposed amendments will remove the emergency affirmative defense from Indiana's EPA-approved Title V program as well as its FESOP program, which is also federally approved and part of Indiana's State Implementation Plan. Specifically, this rulemaking proposes to repeal sections [326 IAC 2-7-16](#) and [326 IAC 2-8-12](#), the emergency provision sections for Title V and FESOP sources. Repealing these sections renders other rule language obsolete, including the definitions of "emergency", "health-based emission limit", and "technology-based emission limit" at [326 IAC 2-7-1](#) and the requirement to specify permit conditions to which the emergency provision applies at [326 IAC 2-7-5](#). Accordingly, this rulemaking proposes to remove these provisions and clarifies that proper reporting under [326 IAC 1-6-2](#) satisfies the Title V deviation report requirement.

To ensure regulatory continuity with the reporting and recordkeeping requirements being removed by the repeal of the emergency provisions, this rule also amends the malfunction rule at [326 IAC 1-6-1](#). The proposed amendments revert to the applicability and notification requirements that were in place prior to the promulgation of the Title V and FESOP emergency provisions. Prior to the creation of Indiana's Title V and FESOP programs, [326 IAC 1-6](#) applied to all permitted sources. The malfunction rule also once contained affirmative defense provisions, but they were required to be removed from [326 IAC 1-6](#) in 2016. See LSA# 15-326. This rulemaking brings Title V and FESOP sources back under [326 IAC 1-6](#), which imposes reporting and recordkeeping requirements that are functionally equivalent to those found in the emergency provisions being repealed by this rulemaking. Because the malfunction rule's requirements are functionally equivalent to those in the to-be-repealed emergency provisions, sources should experience relatively no regulatory burden by becoming subject to [326 IAC 1-6](#) once again.

IDEM seeks comment on the affected citations listed, including suggestions for specific language, any other

provisions of Title 326 that may be affected by this rulemaking, and alternative ways to achieve the purpose of the rulemaking.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on CTAP and other resources available can be found at www.in.gov/idem/ctap.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Julie Rhodes
IDEM Small Business Regulatory Coordinator/CTAP Small Business Liaison
IGCN 1316
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 233-4477 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Drake Abramson
IDEM Small Business Assistance Program Ombudsman/Business, Agricultural, and Legislative Liaison
IGCN 1301
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8921 or (800) 451-6027
dabramso@idem.in.gov

REQUEST FOR PUBLIC COMMENT

IDEM is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #24-318 Emergency Affirmative Defense Provisions
Keelyn Walsh
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

(2) By email to kwalsh@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the email. **PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(3) Attend scheduled public hearing.

Contact Karla Kindrick at kkindric@idem.in.gov or (317) 232-8922 if another method of submitting comments within the comment period is desired. Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than October 4, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the office of the Rules Development Branch, Office of Legal Counsel, Indiana Department of Environmental Management, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the IDEM Rules Development Branch office.

If IDEM does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. [326 IAC 1-6-1](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 1-6-1](#) Applicability

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. This rule applies to the owner or operator of any source required to obtain a permit under [326 IAC 2-5.1](#), or [326 IAC 2-6.1](#), [326 IAC 2-7](#), or [326 IAC 2-8](#).

(Air Pollution Control Division; [326 IAC 1-6-1](#); filed Mar 10, 1988, 1:20 p.m.: 11 IR 2380; filed May 25, 1994, 11:00 a.m.: 17 IR 2238; filed Nov 25, 1998, 12:13 p.m.: 22 IR 980; filed Dec 30, 2016, 9:45 a.m.: [20170125-IR-326150326FRA](#))

SECTION 2. [326 IAC 2-7-1](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 2-7-1](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#)

Sec. 1. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#), [326 IAC 1-2](#), and [326 IAC 2-1.1](#), the following definitions apply throughout this rule unless expressly stated otherwise or unless the context clearly implies otherwise:

- (1) "Acid rain program" means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with Title IV of the CAA, 40 CFR 72*, and 40 CFR 75* through 40 CFR 78*, 58 FR 3590*, and regulations implementing Sections 407 and 410 of the CAA.
- (2) "Actual emissions" means the actual rate of emissions in tons per year of any regulated pollutant emitted from a Part 70 source over the preceding calendar year or any other period determined by the commissioner to be representative of normal source operation.
- (3) "Affected source" shall have the meaning given to it in the regulations promulgated under Title IV of the CAA.
- (4) "Affected states" means all states:
 - (A) whose air quality may be affected and are contiguous to the state of Indiana; or
 - (B) that are within fifty (50) miles of the permitted source.
- (5) "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the CAA.
- (6) "Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source (including requirements that have been promulgated or approved by the U.S. EPA through rulemaking at the time of permit issuance but have future effective compliance dates):
 - (A) Any standard or other requirement provided for in the applicable implementation plan approved or

- promulgated by the U.S. EPA through rulemaking under Title I of the CAA that implements the relevant requirements of the CAA, including any revisions to that plan promulgated in 40 CFR 52*.
- (B) Any term or condition of any preconstruction permits issued under regulations approved or promulgated through rulemaking under Title I, including Part C or D of the CAA.
- (C) Any standard or other requirement under Section 111 of the CAA, including Section 111(d) of the CAA.
- (D) Any standard or other requirement under Section 112 of the CAA, including any requirement concerning accident prevention under Section 112(r)(7) of the CAA.
- (E) Any standard or other requirement of the acid rain program under Title IV of the CAA or the regulations promulgated thereunder.
- (F) Any requirements established under Section 504(b) or 114(a)(3) of the CAA.
- (G) Any standard or other requirement under Section 126(a)(1) and 126(c) of the CAA.
- (H) Any standard or other requirement governing solid waste incineration under Section 129 of the CAA.
- (I) Any standard or other requirement for consumer and commercial products under Section 183(e) of the CAA.
- (J) Any standard or other requirement for tank vessels under Section 183(f) of the CAA.
- (K) Any standard or other requirement of the Code of Federal Regulations promulgated to protect stratospheric ozone under Title VI of the CAA, unless the U.S. EPA has determined that the requirements need not be contained in a Part 70 permit.
- (L) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the CAA, but only as it would apply to temporary sources permitted under Section 504(e) of the CAA.
- (7) "Area source" means any stationary source of HAPs that is not a major source. The term does not include motor vehicles or nonroad vehicles subject to regulation under Title II of the CAA.
- (8) "Clean Air Act" or "CAA" means the Clean Air Act, as amended (including the Clean Air Act Amendments of 1990 (P.L.101-549)), 42 U.S.C. 7401, et seq.
- (9) "Code of Federal Regulations" or "CFR", unless otherwise provided, has the same meaning as set forth in [326 IAC 1-1-3](#).
- (10) "Designated representative" shall have the meaning given to it in Section 402(26) of the CAA and the regulations promulgated thereunder.
- (11) "Draft Part 70 permit" means the version of a Part 70 permit for which the commissioner offers public participation and notice to affected states under section 17 of this rule.
- ~~(12) "Emergency" means any situation, including acts of God, arising from sudden and reasonably unforeseeable events beyond the reasonable control of the source that:~~
- ~~(A) requires immediate corrective action to restore normal operation; and~~
 - ~~(B) causes the source to exceed an emission limit under a Part 70 permit due to unavoidable increases in emissions attributable to the emergency.~~
- ~~The term shall not include noncompliance to the extent caused by improperly designed equipment, failure to implement an adequate preventive maintenance plan, careless or improper operation, or operator error.~~
- ~~(13) (12) "Emission limitation or standard" means any of the following as defined under the CAA:~~
- ~~(A) A federally enforceable emission limitation or standard.~~
 - ~~(B) A standard of performance.~~
 - ~~(C) A means of emission limitation.~~
- An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate, or concentration of emissions (for example, pounds of sulfur dioxide (SO₂) per hour, pounds of sulfur dioxide (SO₂) per mmBtu, or kilograms of VOC per liter of applied coating solids) or as the relationship of uncontrolled to controlled emissions (for example, percent capture and destruction efficiency of VOC or percent reduction of SO₂). An emission limitation or standard may also be expressed either as a work practice process or other form of design, equipment operation, or operation and maintenance requirement.
- ~~(14) (13) "Emissions allowable under the Part 70 permit" means a federally enforceable Part 70 permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.~~
- ~~(15) (14) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the CAA. The term is not meant to alter or affect the definition of unit for purposes of Title IV of the CAA.~~
- ~~(16) (15) "Federally enforceable state operating permit" or "FESOP" means a permit issued under [326 IAC 2-8](#).~~
- ~~(17) (16) "Final Part 70 permit" means the version of a Part 70 permit issued by the commissioner that has completed all review procedures required by sections 17 and 18 of this rule.~~
- ~~(18) (17) "Fugitive emissions" means emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.~~
- ~~(19) (18) "General Part 70 permit" means a Part 70 permit that is applicable to a class or category of sources~~

or modifications thereto, whether or not under common ownership or control, that are subject to similar applicable requirements.

~~(20) "Health-based emission limit" means any enforceable condition the sole purpose of which is to protect public health or welfare without regard to technical achievability, including, but not limited to, any requirement in a permit based on:~~

~~(A) an emission standard for HAPs promulgated under 40 CFR 61*, including [326 IAC 14](#);~~

~~(B) conditions to prevent significant deterioration of air quality established under 40 CFR 52.21*, including [326 IAC 2-2-5](#) and [326 IAC 2-2-6](#) but excluding conditions based on BACT;~~

~~(C) limits relied upon in a formal attainment demonstration supporting a SIP approved by the U.S. EPA under Section 110(a)(2)(K) of the CAA, with the exception of limits based on RACT for sources of VOCs in areas designated attainment for ozone in accordance with the CAA; or~~

~~(D) conditions established as residual risk standards under 42 U.S.C. 7412(f).~~

~~(24) (19) "Insignificant activity" has any of the meanings, subject to clauses (A) through (D), specified in clauses (E) through (J) as follows:~~

~~(A) Detailed information concerning emissions from activities or equipment listed in clauses (E) through (J) is not required in a permit application submitted under this rule or [326 IAC 2-8](#); however, additional emissions information must be provided upon request by the department.~~

~~(B) Notwithstanding any other requirements in this rule, the applicant shall include all emissions sources and quantify emissions if needed to determine:~~

~~(i) major source status;~~

~~(ii) compliance with any applicable requirement; or~~

~~(iii) the applicability of any applicable requirement.~~

~~Identification of an activity or equipment as insignificant under this section does not preclude the inclusion of the activity or equipment in a compliance plan or protocol as appropriate.~~

~~(C) Notwithstanding any other provision of this rule or [326 IAC 2-6](#), emissions from activities defined as insignificant in this subdivision or trivial in subdivision ~~(42)~~ **(39)** need not be included in a source's annual emission statement required by [326 IAC 2-6](#).~~

~~(D) A change in a source's insignificant or trivial activities or the addition of an insignificant activity or trivial activity shall not constitute a modification for purposes of sections 10.5 and 12 of this rule, if the new activity or modified activity:~~

~~(i) meets the definition of insignificant activity of this subdivision or trivial activity of subdivision ~~(42)~~ **(39)**;~~

~~(ii) has all applicable requirements and associated monitoring in the current permit; and~~

~~(iii) is not a modification under any provision of Title I of the CAA.~~

~~The department may request that the source update its list of insignificant activities as part of its annual compliance certification.~~

~~(E) An emission unit or activity whose potential uncontrolled emissions meet the exemption levels specified in [326 IAC 2-1.1-3](#)(e)(1) or the exemption levels specified in the following, whichever is lower:~~

~~(i) For lead or lead compounds measured as elemental lead, the exemption level is six-tenths (0.6) ton per year or three and twenty-nine hundredths (3.29) pounds per day.~~

~~(ii) For carbon monoxide (CO), the exemption limit is twenty-five (25) pounds per day.~~

~~(iii) For sulfur dioxide, the exemption level is five (5) pounds per hour or twenty-five (25) pounds per day.~~

~~(iv) For VOC, the exemption limit is three (3) pounds per hour or fifteen (15) pounds per day.~~

~~(v) For nitrogen oxides (NO_x), the exemption limit is five (5) pounds per hour or twenty-five (25) pounds per day.~~

~~(vi) For PM₁₀ or direct PM_{2.5}, the exemption level is either five (5) pounds per hour or twenty-five (25) pounds per day.~~

~~(F) For units with potential uncontrolled emissions of HAPs, that are not listed as insignificant in clauses (G) through (J) or defined as trivial in subdivision (42), an insignificant activity is any of the following:~~

~~(i) Any unit, not regulated by a NESHAP, emitting greater than one (1) pound per day but less than five (5) pounds per day or one (1) ton per year of a single HAP.~~

~~(ii) Any unit, not regulated by a NESHAP, emitting greater than one (1) pound per day but less than twelve and five-tenths (12.5) pounds per day or two and five-tenths (2.5) tons per year of any combination of HAPs.~~

~~The source shall provide a description of the insignificant activity, including identification of the HAPs emitted and any applicable requirements. A source may rely on MSDS sheets, product labels, other manufacturer's information, or other technical and scientific judgement for identification of HAPs. Insignificant activities that are part of a multistep process line shall be reported as such on the operating permit application, and the source shall include a description of the function and components of the process line on the operating permit application. Insignificant activities that perform equivalent functions shall be grouped, and the function and number of those units shall be included on the operating permit application.~~

~~(G) Emissions from a laboratory as defined in this clause. As used in this clause, "laboratory" means a place~~

or activity devoted to experimental study or teaching, or to the testing and analysis of drugs, chemicals, chemical compounds or other substances, or similar activities, provided that the activities described in this clause are conducted on a laboratory scale. Activities are conducted on a laboratory scale if the containers used for reactions, transfers, and other handling of substances are designed to be easily and safely manipulated by one (1) person. If a facility manufactures or produces products for profit in any quantity, it shall not be considered to be a laboratory under this clause. Support activities necessary to the operation of the laboratory are considered to be part of the laboratory. Support activities do not include the provision of power to the laboratory from sources that provide power to multiple projects or from sources that would otherwise require permitting, such as boilers that provide power to an entire facility.

(H) Emissions from research and development activities as defined in this clause. As used in this clause, "research and development activities" means activities conducted under close supervision of technically trained personnel that are not engaged in the manufacture of products for sale, exchange for commercial profit, or distribution, except in a de minimis manner and the primary purpose of which is to:

- (i) test more efficient production processes;
- (ii) test methods for preventing or reducing adverse environmental impacts; or
- (iii) conduct research and development into new processes and products.

Support activities necessary to the research and development activities are considered to be part of the research and development activities. Support activities do not include the provision of power to the research and development activities from sources that provide power to multiple projects or from sources that would otherwise require permitting, such as boilers that provide power to a source or solid waste disposal units, such as incinerators.

(I) Emissions from educational and teaching activities as defined in this clause. As used in this clause, "educational and teaching activities" means activities conducted at public and nonpublic schools and postsecondary educational institutions for educational, vocational, agricultural, occupational, employment, or technical training purposes provided the activities do not include the production of an intermediate or final product for sale or exchange for commercial profit or distribution. Support activities necessary to the educational and teaching activities are considered to be part of the educational and teaching activities. Support activities do not include the provision of power to the educational and teaching activities from sources that provide power to multiple projects or from sources that would otherwise require permitting, such as boilers that provide power to a source or solid waste disposal units, such as incinerators.

(J) Any of the following listed activities:

(i) Combustion related activities, as follows:

(AA) Space heaters, process heaters, heat treat furnaces, or boilers using the following fuels:

- (aa) Natural gas-fired combustion sources with heat input equal to or less than ten million (10,000,000) British thermal units per hour.
- (bb) Propane or liquefied petroleum gas or butane-fired combustion sources with heat input equal to or less than six million (6,000,000) British thermal units per hour.
- (cc) Fuel oil-fired combustion sources with heat input equal to or less than two million (2,000,000) British thermal units per hour and firing fuel containing equal to or less than five-tenths percent (0.5%) sulfur by weight.

(dd) Wood-fired combustion sources with heat input equal to or less than one million (1,000,000) British thermal units per hour and not burning treated wood or chemically contaminated wood.

(BB) Equipment powered by diesel fuel fired or natural gas fired internal combustion engines of capacity equal to or less than five hundred thousand (500,000) British thermal units per hour except where total capacity of equipment operated by one (1) stationary source as defined in this section exceeds two million (2,000,000) British thermal units per hour.

(CC) Combustion source flame safety purging on start-up.

(ii) Fuel dispensing activities, as follows:

(AA) A gasoline fuel transfer dispensing operation handling less than or equal to one thousand three hundred (1,300) gallons per day and filling storage tanks having a capacity equal to or less than ten thousand five hundred (10,500) gallons. Such storage tanks may be in a fixed location or on mobile equipment.

(BB) A petroleum fuel other than gasoline dispensing facility, having a storage tank capacity less than or equal to ten thousand five hundred (10,500) gallons, and dispensing three thousand five hundred (3,500) gallons per day or less.

(iii) The following VOC and HAP storage containers:

(AA) Storage tanks with capacity less than or equal to one thousand (1,000) gallons and annual throughputs equal to or less than twelve thousand (12,000) gallons.

(BB) Vessels storing the following:

- (aa) Lubricating oils.
- (bb) Hydraulic oils.

- (cc) Machining oils.
 - (dd) Machining fluids.
 - (iv) Refractory storage not requiring air pollution control equipment.
 - (v) Equipment used exclusively for the following:
 - (AA) Packaging the following:
 - (aa) Lubricants.
 - (bb) Greases.
 - (BB) Filling drums, pails, or other packaging containers with the following:
 - (aa) Lubricating oils.
 - (bb) Waxes.
 - (cc) Greases.
 - (vi) Production related activities, including the following:
 - (AA) Application of:
 - (aa) oils;
 - (bb) greases;
 - (cc) lubricants; and
 - (dd) nonvolatile material;as temporary protective coatings.
 - (BB) Machining where an aqueous cutting coolant continuously floods the machining interface.
 - (CC) Degreasing operations that do not exceed one hundred forty-five (145) gallons per twelve (12) months, except if subject to [326 IAC 20-6](#).
 - (DD) Cleaners and solvents characterized as having a vapor pressure equal to or less than:
 - (aa) two (2.0) kilo Pascals (fifteen (15) millimeters of mercury or three-tenths (0.3) pound per square inch) measured at thirty-eight (38) degrees Centigrade (one hundred (100) degrees Fahrenheit); or
 - (bb) seven-tenths (0.7) kilo Pascal (five (5) millimeters of mercury or one-tenth (0.1) pound per square inch) measured at twenty (20) degrees Centigrade (sixty-eight (68) degrees Fahrenheit);the use of which, for all cleaners and solvents combined, does not exceed one hundred forty-five (145) gallons per twelve (12) months.
 - (EE) The following equipment related to manufacturing activities not resulting in the emission of HAPs:
 - (aa) Brazing.
 - (bb) Cutting torches.
 - (cc) Soldering.
 - (dd) Welding.
 - (FF) Closed loop heating and cooling systems.
 - (GG) Infrared cure equipment.
 - (HH) Exposure chambers (towers or columns), for curing of ultraviolet inks and ultraviolet coatings where heat is the intended discharge.
 - (II) Any of the following structural steel and bridge fabrication activities:
 - (aa) Cutting two hundred thousand (200,000) linear feet or less of one (1) inch plate or equivalent per year.
 - (bb) Using eighty (80) tons or less of welding consumables per year.
 - (vii) Activities associated with the following recovery systems:
 - (AA) Rolling oil recovery systems.
 - (BB) Ground water oil recovery wells.
 - (viii) Solvent recycling systems with batch capacity less than or equal to one hundred (100) gallons.
 - (ix) Water based activities, including the following:
 - (AA) Activities associated with the treatment of wastewater streams with an oil and grease content less than or equal to one percent (1%) by volume.
 - (BB) Water run-off ponds for petroleum coke-cutting and coke storage piles.
 - (CC) Activities associated with the transportation and treatment of sanitary sewage, provided discharge to the treatment plant is under the control of the owner or operator, that is, an on-site sewage treatment facility. This does not include sanitary sludge incineration.
 - (DD) Any operation using aqueous solutions containing less than or equal to one percent (1%) by weight of VOCs excluding HAPs.
 - (EE) Water based adhesives that are less than or equal to five percent (5%) by volume of VOCs excluding HAPs.
 - (FF) Noncontact cooling tower systems with either of the following:
 - (aa) Natural draft cooling towers not regulated under a NESHAP.
 - (bb) Forced and induced draft cooling tower systems not regulated under a NESHAP.
 - (GG) Quenching operations used with heat treating processes.
- Oil, grease, or VOC content shall be determined by a test method acceptable to the department and the

U.S. EPA.

(x) Repair activities, including the following:

(AA) Replacement or repair of electrostatic precipitators, bags in baghouses, and filters in other air filtration equipment.

(BB) Heat exchanger cleaning and repair.

(CC) Process vessel degassing and cleaning to prepare for internal repairs.

(xi) Trimmers that:

(AA) do not produce fugitive emissions; and

(BB) are equipped with a dust collection or trim material recovery device, such as a bag filter or cyclone.

(xii) Stockpiled soils from soil remediation activities that are covered and waiting transport for disposal.

(xiii) Paved and unpaved roads and parking lots with public access.

(xiv) Conveyors as follows:

(AA) Covered conveyors for solid raw material, including the following:

(aa) Coal or coke conveying of less than or equal to three hundred sixty (360) tons per day.

(bb) Limestone conveying of less than or equal to seven thousand two hundred (7,200) tons per day for sources other than mineral processing plants constructed after August 31, 1983.

(BB) Uncovered coal or coke conveying of less than or equal to one hundred twenty (120) tons per day.

(CC) Underground conveyors.

(DD) Enclosed systems for conveying plastic raw material and plastic finished goods.

(xv) Coal bunker and coal scale exhausts and associated dust collector vents.

(xvi) Asbestos abatement projects regulated by [326 IAC 14-10](#).

(xvii) Routine maintenance and repair of buildings, structures, or vehicles at the source where air emissions from those activities would not be associated with any production process, including the following:

(AA) Purging of gas lines.

(BB) Purging of vessels.

(xviii) Flue gas conditioning systems and associated chemicals, such as the following:

(AA) Sodium sulfate.

(BB) Ammonia.

(CC) Sulfur trioxide.

(xix) Equipment used to collect any material that might be released during a malfunction, process upset, or spill cleanup, including the following:

(AA) Catch tanks.

(BB) Temporary liquid separators.

(CC) Tanks.

(DD) Fluid handling equipment.

(xx) Blowdown for the following:

(AA) Sight glass.

(BB) Boiler.

(CC) Cooling tower.

(DD) Compressors.

(EE) Pumps.

(xxi) Furnaces used for melting metals other than beryllium with a brim full capacity equal to or less than four hundred fifty (450) cubic inches by volume.

(xxii) Activities associated with emergencies, including the following:

(AA) On-site fire training approved by the department.

(BB) Emergency generators as follows:

(aa) Gasoline generators not exceeding one hundred ten (110) horsepower.

(bb) Diesel generators not exceeding one thousand six hundred (1,600) horsepower.

(cc) Natural gas turbines or reciprocating engines not exceeding sixteen thousand (16,000) horsepower.

(CC) Stationary fire pump engines.

(xxiii) Grinding and machining operations controlled with fabric filters, scrubbers, mist collectors, wet collectors, and electrostatic precipitators with a design grain loading of less than or equal to three one-hundredths (0.03) grains per actual cubic foot and a gas flow rate less than or equal to four thousand (4,000) actual cubic feet per minute, including the following:

(AA) Deburring.

(BB) Buffing.

(CC) Polishing.

(DD) Abrasive blasting.

(EE) Pneumatic conveying.

(FF) Woodworking operations.

- (xxiv) Purge double block and bleed valves.
 - (xxv) Filter or coalescer media changeout.
 - (xxvi) Vents from ash transport systems not operated at positive pressure.
 - (xxvii) Mold release agents using low volatile products (vapor pressure less than or equal to two (2) kilo Pascals measured at thirty-eight (38) degrees Centigrade).
 - (xxviii) Farm operations, except concentrated animal feeding operations as defined in 40 CFR 122.23.
 - (xxix) Woodworking equipment controlled by a baghouse provided that the following criteria are met:
 - (AA) The baghouse does not exhaust to the atmosphere greater than one hundred twenty-five thousand (125,000) cubic feet per minute.
 - (BB) The baghouse does not emit PM_{10} in excess of three-thousandths (0.003) grain per dry standard cubic feet of outlet air.
 - (CC) Opacity from the baghouse does not exceed ten percent (10%).
 - (DD) The baghouse is in operation at all times that the woodworking equipment is in use.
 - (EE) Visible emissions from the baghouse are observed daily using procedures in accordance with 40 CFR 60, Appendix A, Method 22* and normal or abnormal emissions are recorded. In the event abnormal emissions are observed for greater than six (6) minutes in duration, the following shall occur:
 - (aa) The baghouse shall be inspected.
 - (bb) Corrective actions, such as replacing or reseating bags, are initiated, when necessary.
 - (FF) The baghouse is inspected quarterly when vented to the atmosphere.
 - (GG) The owner or operator keeps the following records:
 - (aa) Records documenting the date when the baghouse redirected indoors or to the atmosphere.
 - (bb) Quarterly inspection reports, when vented to the atmosphere.
 - (cc) Visible observation reports.
 - (dd) Records of corrective actions.
 - (xxx) Woodworking equipment controlled by a baghouse provided that the following criteria are met:
 - (AA) The baghouse does not exhaust to the atmosphere greater than forty thousand (40,000) cubic feet per minute.
 - (BB) The baghouse does not emit PM_{10} in excess of one-hundredth (0.01) grain per dry standard cubic feet of outlet air.
 - (CC) Opacity from the baghouse does not exceed ten percent (10%).
 - (DD) The baghouse is in operation at all times that the woodworking equipment is in use.
 - (EE) Visible emissions from the baghouse are observed daily using procedures in accordance with 40 CFR 60, Appendix A, Method 22* and normal or abnormal emissions are recorded. In the event abnormal emissions are observed for greater than six (6) minutes in duration, the following shall occur:
 - (aa) The baghouse shall be inspected.
 - (bb) Corrective actions, such as replacing or reseating bags, are initiated, when necessary.
 - (FF) The baghouse is inspected quarterly when vented to the atmosphere.
 - (GG) The owner or operator keeps the following records:
 - (aa) Records documenting the date when the baghouse redirected indoors or to the atmosphere.
 - (bb) Quarterly inspection reports, when vented to the atmosphere.
 - (cc) Visible observation reports.
 - (dd) Records of corrective actions.
- ~~(22)~~ **(20)** "Major source" means any stationary source or any group of stationary sources as described in this subdivision. For purposes of clauses (B) and (C), the term shall include any group of stationary sources that are located on one (1) or more contiguous or adjacent properties and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping. In addition, for the purposes of defining major source in clause (B) or (C), a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at the source or group of stationary sources on contiguous or adjacent properties belong to the same major group (that is, all have the same two (2) digit code) as described in the Standard Industrial Classification Manual, 1987*. For purposes of clauses (B) and (C), any stationary source (or group of stationary sources) that supports another source, where both are under common control of the same person (or persons under common control) and are located on contiguous or adjacent properties, shall be considered a support facility and part of the same source regardless of the two (2) digit SIC code for that support facility. A stationary source (or group of stationary sources) is considered a support facility to a source if at least fifty percent (50%) of the output of the support facility is dedicated to the source. The term includes the following:
- (A) A major source under Section 112 of the CAA, which is defined as follows:
 - (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate:
 - (AA) ten (10) tons per year (tpy) or more of any HAP that has been listed in Section 112(b) of the CAA;

(BB) twenty-five (25) tpy or more of any combination of such HAPs; or
(CC) such lesser quantity as the U.S. EPA may establish by rule.

(ii) Notwithstanding item (i):

(AA) emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources; and

(BB) research and development activities may be considered separately for purposes of determining whether a major source is present and need not be aggregated with collocated stationary sources unless the research and development activities contribute to the product produced or service rendered by the collocated sources in a more than de minimis manner.

(iii) For radionuclides, major source shall have the meaning specified by the U.S. EPA by rule.

(B) A major stationary source of air pollutants, as defined in Section 302 of the CAA, that directly emits or has the potential to emit, one hundred (100) tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by the U.S. EPA by rule). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the CAA unless the source belongs to one (1) of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers).

(ii) Kraft pulp mills.

(iii) Portland cement plants.

(iv) Primary zinc smelters.

(v) Iron and steel mills.

(vi) Primary aluminum ore reduction plants.

(vii) Primary copper smelters.

(viii) Municipal incinerators, or combinations of municipal incinerators, capable of charging more than fifty (50) tons of refuse per day.

(ix) Hydrofluoric, sulfuric, or nitric acid plants.

(x) Petroleum refineries.

(xi) Lime plants.

(xii) Phosphate rock processing plants.

(xiii) Coke oven batteries.

(xiv) Sulfur recovery plants.

(xv) Carbon black plants (furnace process).

(xvi) Primary lead smelters.

(xvii) Fuel conversion plants.

(xviii) Sintering plants.

(xix) Secondary metal production plants.

(xx) Chemical process plants, excluding ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 for Ethyl Alcohol Manufacturing or 312140 for Distilleries, as revised in 2007.**

(xxi) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million (250,000,000) British thermal units per hour heat input.

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels.

(xxiii) Taconite ore processing plants.

(xxiv) Glass fiber processing plants.

(xxv) Charcoal production plants.

(xxvi) Fossil fuel fired steam electric plants of more than two hundred fifty million (250,000,000) British thermal units per hour heat input.

(xxvii) Any other stationary source category regulated under Section 111 or 112 of the CAA and for which the U.S. EPA has made an affirmative determination under Section 302(j) of the CAA.

(C) A major stationary source as defined in Part D of Title I of the CAA, including the following:

(i) For ozone nonattainment areas, sources with the potential to emit:

(AA) one hundred (100) tpy or more of VOC or nitrogen oxides in areas classified as marginal or moderate;

(BB) fifty (50) tpy or more of VOC or oxides of nitrogen in areas classified as serious;

(CC) twenty-five (25) tpy or more of VOC or nitrogen oxides in areas classified as severe; or

(DD) ten (10) tpy or more of VOC or nitrogen oxides in areas classified as extreme;

except that the references in this item to one hundred (100), fifty (50), twenty-five (25), and ten (10) tpy of nitrogen oxides shall not apply with respect to any source for which the U.S. EPA has made a finding,

under Section 182(f)(1) or 182(f)(2) of the CAA, that requirements under Section 182(f) of the CAA do not apply.

(ii) For ozone transport regions established under Section 184 of the CAA, sources with the potential to emit fifty (50) or more tpy of VOC.

(iii) For carbon monoxide nonattainment areas:

(AA) that are classified as serious; and

(BB) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the U.S. EPA;

sources with the potential to emit fifty (50) tpy or more of carbon monoxide.

(iv) For PM₁₀ nonattainment areas classified as serious, sources with the potential to emit seventy (70) tpy or more of PM₁₀.

~~(23)~~ **(21)** "Part 70 permit" or "permit" means any Part 70 permit or group of Part 70 permits authorizing the operation of a Part 70 source that is issued, renewed, amended, or revised under this rule.

~~(24)~~ **(22)** "Part 70 permit modification" means a revision to a Part 70 permit that meets the requirements of section 12 of this rule.

~~(25)~~ **(23)** "Part 70 permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a Part 70 permit program, as set forth in section 19 of this rule (whether the costs are incurred by the commissioner or other state or local agencies that do not issue Part 70 permits directly, but that support Part 70 permit issuance or administration).

~~(26)~~ **(24)** "Part 70 permit revision" means any Part 70 permit modification or administrative Part 70 permit amendment.

~~(27)~~ **(25)** "Part 70 program" means the operating permit program established by this rule and approved by the U.S. EPA under 40 CFR 70*.

~~(28)~~ **(26)** "Part 70 source" means any source subject to the permitting requirements as provided in section 2 of this rule.

~~(29)~~ **(27)** "Part 70 source modification" means a modification to a Part 70 source that meets the requirements of section 10.5 of this rule.

~~(30)~~ **(28)** "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation is enforceable by the U.S. EPA. This term does not alter or affect the use of this term for any other purpose under the CAA, (or the term "capacity factor" as used in Title IV of the CAA) (or the regulations promulgated thereunder).

~~(31)~~ **(29)** "Proposed Part 70 permit" means the version of a Part 70 permit that the commissioner proposes to issue and forwards to the U.S. EPA for review in compliance with section 18 of this rule.

~~(32)~~ **(30)** "Regulated air pollutant" means any of the following:

(A) Nitrogen oxides or any VOC.

(B) Any pollutant for which a national ambient air quality standard has been promulgated.

(C) Any pollutant that is subject to any standard promulgated under Section 111 of the CAA.

(D) Any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the CAA.

(E) Any pollutant subject to a standard promulgated under Section 112 of the CAA or other requirements established under Section 112 of the CAA, including Section 112(g), 112(j), and 112(r) of the CAA, including the following:

(i) Any pollutant subject to requirements under Section 112(j) of the CAA. If the U.S. EPA fails to promulgate a standard by the date established under Section 112(e) of the CAA, any pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established under Section 112(e) of the CAA.

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the CAA have been met, but only with respect to the individual source subject to Section 112(g)(2) of the CAA.

The term does not include particulate matter greater than ten (10) micrometers (µm).

~~(33)~~ **(31)** "Regulated pollutant that is used only for purposes of section 19 of this rule" means any regulated air pollutant, except the following:

(A) Carbon monoxide.

(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or Class II substance subject to a standard promulgated under or established by Title VI of the CAA.

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the CAA.

(D) Any pollutant emitted by an insignificant or trivial activity as defined in this rule.

~~(34)~~ **(32)** "Renewal" means the process by which a Part 70 permit is reissued at the end of its term.

~~(35)~~ **(33)** "Responsible official" means the following:

(A) For a corporation:

- (i) a president;
- (ii) a secretary;
- (iii) a treasurer;
- (iv) a vice president of the corporation in charge of a principal business function;
- (v) any other person who performs similar policy or decision making functions for the corporation; or
- (vi) a duly authorized representative of any person listed in this clause if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a Part 70 permit and either the:

(AA) facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second quarter 1980 dollars); or

(BB) delegation of authority to the representative is approved in advance by the commissioner.

(B) For a partnership or sole proprietorship, a general partner or the proprietor, respectively.

(C) For a municipality, state, federal, or other public agency, either a principal executive officer or ranking elected official. As used in this clause, "principal executive officer of a federal agency" includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency, for example, a regional administrator of the U.S. EPA.

(D) For affected sources:

(i) the designated representative for actions, standards, requirements, or prohibitions under Title IV of the CAA or the regulations promulgated thereunder; and

(ii) the designated representative for any other purposes under a Part 70 permit.

~~(36)~~ **(34)** "Risk management plan" means a plan specified by Section 112(r) of the CAA.

~~(37)~~ **(35)** "Section 502(b)(10) changes" means changes that contravene an express Part 70 permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable Part 70 permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

~~(38)~~ **(36)** "State" means any nonfederal permitting authority, including any local agency, interstate association, or statewide program. The term shall have its conventional meaning where the meaning is clear from the context. For purposes of the acid rain program, the term shall be limited to authorities within the forty-eight (48) contiguous states and the District of Columbia as provided in Section 402(14) of the CAA.

~~(39)~~ **(37)** "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the CAA.

~~(40)~~ **(38)** "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally applicable regulation codified by the U.S. EPA in 40 CFR, Chapter I, Subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that the control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from that regulated activity, except as follows:

(A) Greenhouse gases (GHGs), the air pollutant defined in 40 CFR 86.1818-12(a)*, as the aggregate group of six (6) greenhouse gases shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit one hundred thousand (100,000) tpy CO₂ equivalent emissions (CO₂e) or more. Pollutant GHGs includes the following:

- (i) Carbon dioxide.
- (ii) Nitrous oxide.
- (iii) Methane.
- (iv) Hydrofluorocarbons.
- (v) Perfluorocarbons.
- (vi) Sulfur hexafluoride.

(B) "Tons per year (tpy) CO₂ equivalent emissions (CO₂e)" shall represent an amount of GHGs emitted and shall be calculated as follows:

(i) Multiply the mass amount of emissions in tpy for each of the six (6) greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in 40 CFR 98, Subpart A, Table A-1 (Global Warming Potentials)*, as amended by 78 FR 71948 (November 29, 2013).

(ii) Sum the resultant value from item (i) for each gas to compute a tpy CO₂e.

(iii) Prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms (including products, byproducts, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material).

~~(41)~~ "Technology based emission limit" means any enforceable condition that is derived solely or in part from

~~the capabilities of man-made equipment or processes, including, but not limited to, any requirement in a permit based on:~~

- ~~(A) RACT;~~
- ~~(B) BACT;~~
- ~~(C) maximum achievable control technology (MACT);~~
- ~~(D) lowest achievable emissions reduction (LAER);~~
- ~~(E) generally available control technology (GACT);~~
- ~~(F) best available retrofit technology (BART);~~
- ~~(G) any manufacturers' specifications; or~~
- ~~(H) the sources' physical potential to emit;~~

~~unless the applicable requirement was relied upon in a formal attainment demonstration supporting a SIP approved by the U.S. EPA under Section 110(a)(2)(K) of the CAA.~~

~~(42) (39) "Trivial activity" has any of the following meanings, subject to clauses (A) and (B), specified in clauses (C) through (S), as follows:~~

- ~~(A) A change in a source's trivial activities or the addition of a trivial activity shall not constitute a modification for purposes of section 12 of this rule, if the new activity or modified activity:
 - ~~(i) meets the definition of trivial activity of this subdivision;~~
 - ~~(ii) has all applicable requirements and associated monitoring in the current permit; and~~
 - ~~(iii) is not a modification under any provision of Title I of the CAA.~~~~
- ~~(B) Trivial activities do not need to be included in a permit application required under this rule or [326 IAC 2-8](#), provided that the applicant documents applicable requirements and compliance status as required by section 4 of this rule. Upon request, the applicant shall submit any information necessary to fulfill the requirements of this rule or [326 IAC 2-8](#).~~
- ~~(C) Any activity or emission unit:
 - ~~(i) not regulated by a NESHAP, with potential uncontrolled emissions that are equal to or less than one (1) pound per day on an emission unit basis for any single HAP or combination of HAPs; and~~
 - ~~(ii) for which the potential uncontrolled emissions meet the exemption levels specified in the following:
 - ~~(AA) For lead or lead compounds measured as elemental lead, potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~
 - ~~(BB) For carbon monoxide (CO), potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~
 - ~~(CC) For sulfur dioxide, potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~
 - ~~(DD) For VOC, potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~
 - ~~(EE) For nitrogen oxides (NO_x), potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~
 - ~~(FF) For PM₁₀ or direct PM_{2.5}, potential uncontrolled emissions that are equal to or less than one (1) pound per day.~~~~~~
- ~~(D) Water related activities, including the following:
 - ~~(i) Production of hot water for on-site personal use not related to any industrial or production process.~~
 - ~~(ii) Water treatment activities used to provide potable and process water for the plant, excluding any activities associated with wastewater treatment.~~
 - ~~(iii) Steam traps, vents, leaks, and safety relief valves.~~
 - ~~(iv) Cooling ponds.~~
 - ~~(v) Laundry operations using only water solutions of bleach or detergents.~~
 - ~~(vi) Demineralized water tanks and demineralizer vents.~~
 - ~~(vii) Boiler water treatment operations, not including cooling towers.~~
 - ~~(viii) Oxygen scavenging (deaeration) of water.~~
 - ~~(ix) Steam cleaning operations and steam sterilizers.~~
 - ~~(x) Pressure washing of equipment.~~
 - ~~(xi) Water jet cutting operations.~~~~
- ~~(E) Combustion activities, including the following:
 - ~~(i) Portable electrical generators that can be moved by hand from one (1) location to another. As used in this item, "moved by hand" means that it can be moved without the assistance of any motorized or nonmotorized vehicle, conveyance, or device.~~
 - ~~(ii) Combustion emissions from propulsion of mobile sources.~~
 - ~~(iii) Fuel use related to food preparation for on-site consumption.~~
 - ~~(iv) Tobacco smoking rooms and areas.~~
 - ~~(v) Blacksmith forges.~~
 - ~~(vi) Indoor and outdoor kerosene heaters.~~~~
- ~~(F) Activities related to ventilation, venting equipment, and refrigeration, including the following:~~

- (i) Ventilation exhaust, central chiller water systems, refrigeration, and air conditioning equipment, not related to any industrial or production process, including natural draft hoods or ventilating systems that do not remove air pollutants.
 - (ii) Stack and vents from plumbing traps used to prevent the discharge of sewer gases, handling domestic sewage only, excluding those at wastewater treatment plants or those handling any industrial waste.
 - (iii) Vents from continuous emissions monitors and other analyzers.
 - (iv) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.
 - (v) Air vents from air compressors.
 - (vi) Vents for air cooling of electric motors provided the air does not commingle with regulated air pollutants.
 - (vii) Vents from equipment used to air blow water from cooled plastics strands or sheets.
- (G) Activities related to routine fabrication, maintenance, and repair of buildings, structures, equipment, or vehicles at the source where air emissions from those activities would not be associated with any commercial production process, including the following:
- (i) Activities associated with the repair and maintenance of paved and unpaved roads, including paving or sealing, or both, of parking lots and roadways.
 - (ii) Painting, including interior and exterior painting of buildings, and solvent use excluding degreasing operations utilizing halogenated organic solvents.
 - (iii) Brazing, soldering, or welding operations and associated equipment.
 - (iv) Portable blast-cleaning equipment with enclosures.
 - (v) Blast-cleaning equipment using water as the suspension agent and associated equipment.
 - (vi) Batteries and battery charging stations except at battery manufacturing plants.
 - (vii) Lubrication, including the following:
 - (AA) Hand-held spray can lubrication.
 - (BB) Dipping metal parts into lubricating oil.
 - (CC) Manual or automated addition of cutting oil in machining operations.
 - (viii) Nonasbestos insulation installation or removal.
 - (ix) Tarring, retarring, and repair of building roofs.
 - (x) Bead blasting of heater tubes.
 - (xi) Instrument air dryer and filter maintenance.
 - (xii) Manual tank gauging.
 - (xiii) Open tumblers associated with deburring operations in maintenance shops.
- (H) Activities performed using hand-held equipment, including the following:
- (i) Application of hot melt adhesives with no VOC in the adhesive formulation.
 - (ii) Buffing.
 - (iii) Carving.
 - (iv) Cutting, excluding cutting torches.
 - (v) Drilling.
 - (vi) Grinding.
 - (vii) Machining wood, metal, or plastic.
 - (viii) Polishing.
 - (ix) Routing.
 - (x) Sanding.
 - (xi) Sawing.
 - (xii) Surface grinding.
 - (xiii) Turning wood, metal, or plastic.
- (I) Housekeeping and janitorial activities and supplies, including the following:
- (i) Vacuum cleaning systems used exclusively for housekeeping or custodial activities, or both.
 - (ii) Steam cleaning activities.
 - (iii) Restrooms and associated cleanup operations and supplies.
 - (iv) Alkaline or phosphate cleaners and associated equipment.
 - (v) Mobile floor sweepers and floor scrubbers.
 - (vi) Pest control fumigation.
- (J) Office related activities, including the following:
- (i) Office supplies and equipment.
 - (ii) Photocopying equipment and associated supplies.
 - (iii) Paper shredding.
 - (iv) Blueprint machines, photographic equipment, and associated supplies.
- (K) Lawn care and landscape maintenance activities and equipment, including the storage, spraying, or application of insecticides, pesticides, and herbicides.
- (L) Storage equipment and activities, including the following:

- (i) Pressurized storage tanks and associated piping for the following:
 - (AA) Acetylene.
 - (BB) Anhydrous ammonia.
 - (CC) Carbon monoxide.
 - (DD) Chlorine.
 - (EE) Inorganic compounds.
 - (FF) Liquid petroleum gas (LPG).
 - (GG) Liquid natural gas (LNG).
 - (HH) Natural gas.
 - (II) Nitrogen dioxide.
 - (JJ) Sulfur dioxide.
- (ii) Storage tanks, vessels, and containers holding or storing liquid substances that do not contain any VOC or HAP.
- (iii) Storage tanks, reservoirs, and pumping and handling equipment of any size containing:
 - (AA) soap;
 - (BB) vegetable oil;
 - (CC) grease;
 - (DD) wax;
 - (EE) animal fat; and
 - (FF) nonvolatile aqueous salt solutions;provided appropriate lids and covers are utilized.
- (iv) Storage of drums containing maintenance raw materials.
- (v) Storage of the following:
 - (AA) Castings.
 - (BB) Lance rods.
 - (CC) Any non-HAP containing material in solid form stored in a sealed or covered container.
- (vi) Portable containers used for the collection, storage, or disposal of materials provided the container capacity is equal to or less than forty-six hundredths (0.46) cubic meters and the container is closed, except when the material is added or removed.
- (M) Emergency and standby equipment, including the following:
 - (i) Emergency (backup) electrical generators at residential locations, such as dormitories, prisons, and hospitals.
 - (ii) Safety and emergency equipment except engine driven fire pumps, including fire suppression systems and emergency road flares.
 - (iii) Process safety relief devices installed solely for the purpose of minimizing injury to persons or damage to equipment that could result from abnormal process operating conditions, including the following:
 - (AA) Explosion relief vents, diaphragms, or panels.
 - (BB) Rupture discs.
 - (CC) Safety relief valves.
 - (iv) Activities and equipment associated with on-site medical care not otherwise specifically regulated.
 - (v) Vacuum-producing devices for the purpose of removing potential accidental releases.
- (N) Sampling and testing equipment and activities, including the following:
 - (i) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
 - (ii) Hydraulic and hydrostatic testing equipment.
 - (iii) Ground water monitoring wells and associated sample collection equipment.
 - (iv) Environmental chambers not using HAP gases.
 - (v) Shock chambers.
 - (vi) Humidity chambers.
 - (vii) Solar simulators.
 - (viii) Sampling activities, including the following:
 - (AA) Sampling of waste.
 - (BB) Glove box sampling, charging, and packaging.
 - (ix) Instrument air dryers and distribution.
- (O) Use of consumer products and equipment where the product or equipment is:
 - (i) used at a source in the same manner as normal consumer use; and
 - (ii) not associated with any production process.
- (P) Equipment and activities related to the handling, treating, and processing of animals, including the following:
 - (i) Equipment used exclusively to slaughter animals, but not including the following:
 - (AA) Rendering cookers.

- (BB) Boilers.
- (CC) Heating plants.
- (DD) Incinerators.
- (EE) Electrical power generating equipment.
- (ii) Veterinary operating rooms.
- (Q) Activities generating limited amounts of fugitive dust, including the following:
 - (i) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes under subdivision ~~(22)(B)~~, **(20)(B)**, and any required fugitive dust control plan or its equivalent is submitted.
 - (ii) Soil boring.
 - (iii) Road salting and sanding.
- (R) Activities associated with production, including the following:
 - (i) Closed, nonvented tumblers used for cleaning or deburring metal products without abrasive blasting.
 - (ii) Electrical resistance welding.
 - (iii) CO₂ lasers, used only on metals and other materials that do not emit HAPs in the process.
 - (iv) Laser trimmers that:
 - (AA) do not produce fugitive emissions; and
 - (BB) are equipped with a dust collection device, such as a bag filter, cyclone, or equivalent device.
 - (v) Application equipment for hot melt adhesives with no VOC in the adhesive formulation.
 - (vi) Drop hammers or hydraulic presses for forging or metalworking.
 - (vii) Air compressors and pneumatically operated equipment, including hand tools.
 - (viii) Compressor or pump lubrication and seal oil systems.
 - (ix) Equipment used to mix and package:
 - (AA) soaps;
 - (BB) vegetable oil;
 - (CC) grease;
 - (DD) animal fat; and
 - (EE) nonvolatile aqueous salt solutions;provided appropriate lids and covers are utilized.
 - (x) Equipment for washing or drying fabricated glass or metal products, if no:
 - (AA) VOCs or HAPs are used in the process; and
 - (BB) gas, oil, or solid fuel is burned.
 - (xi) Handling of solid steel, including coils and slabs, excluding scrap burning, scarfing, and charging into steelmaking furnaces and vessels.
- (S) Miscellaneous equipment, but not emissions associated with the process for which the equipment is used, and activities, including the following:
 - (i) Equipment used for surface coating, painting, dipping, or spraying operation, except those that will emit VOCs or HAPs.
 - (ii) Condensate drains for natural gas and landfill gas.
 - (iii) Electric or steam heated drying ovens and autoclaves, including only the heating emissions and not any associated process emissions.
 - (iv) Salt baths using nonvolatile salts, including caustic solutions that do not result in emissions of any regulated air pollutants.
 - (v) Ozone generators.
 - (vi) Portable dust collectors.
 - (vii) Scrubber systems circulating water based solutions of inorganic salts or bases that are installed to be available for response to emergency situations.
 - (viii) Soil borrow pits.
 - (ix) Manual loading and unloading operations.
 - (x) Purging of refrigeration devices using a combination of nitrogen and CFC-22 (R-22) as pressure test media.
 - (xi) Construction and demolition operations.
 - (xii) Mechanical equipment gear boxes and vents that are isolated from process materials.
 - (xiii) Nonvolatile mold release waxes and agents.
- ~~(43)~~ **(40)** "U.S. EPA" means the administrator of the United States Environmental Protection Agency or the administrator's designee.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North,

Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana IN 46204.

**These documents are incorporated by reference. Copies may be obtained through the U.S. Census Bureau website at: www.census.gov/eos/www/naics or are available for review and copying at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana IN 46204.

(Air Pollution Control Division; [326 IAC 2-7-1](#); filed May 25, 1994, 11:00 a.m.: 17 IR 2249; filed Dec 19, 1995, 3:05 p.m.: 19 IR 1051; errata filed Apr 9, 1996, 2:30 p.m.: 19 IR 2045; filed May 31, 1996, 4:00 p.m.: 19 IR 2856; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2326; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1020; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1573; filed Oct 1, 2010, 3:48 p.m.: [20101027-IR-326070372FRA](#); filed Feb 14, 2011, 11:20 a.m.: [20110316-IR-326100505FRA](#); filed May 25, 2011, 1:07 p.m.: [20110622-IR-326110085FRA](#); filed Jul 21, 2011, 10:45 a.m.: [20110817-IR-326110099FRA](#); filed Feb 6, 2012, 2:54 p.m.: [20120307-IR-326090493FRA](#); filed Jun 11, 2012, 3:15 p.m.: [20120711-IR-326110251FRA](#); errata filed Jan 2, 2013, 2:19 p.m.: [20130123-IR-326130002ACA](#); filed Aug 1, 2014, 11:06 a.m.: [20140827-IR-326140056FRA](#))

SECTION 3. [326 IAC 2-7-5](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 2-7-5](#) Permit content

Authority: [IC 13-14-8](#); [IC 13-15-2](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-16-2-1](#); [IC 13-17](#)

Sec. 5. The following shall be included in each Part 70 permit issued under this rule:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements and any additional requirement that is enforceable by the state at the time of a Part 70 permit issuance. The Part 70 permit shall include the following:

(A) The Part 70 permit shall:

- (i) specify and reference the origin of and authority for each term or condition; and
- (ii) identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(B) Copies of relevant portions of the Part 70 permit application may be incorporated as attachments or exhibits only when referenced by specific permit conditions.

(C) Where an applicable requirement of the CAA is more stringent than an applicable requirement of regulations promulgated under Title IV of the CAA, both provisions shall be:

- (i) incorporated into the Part 70 permit; and
- (ii) described in the permit as enforceable by the commissioner and the U.S. EPA.

(D) If an applicable implementation plan allows a determination of an alternative emission limit for a Part 70 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the commissioner elects to use the process, any Part 70 permit containing an alternative emission limit based on such an equivalency determination shall contain provisions to ensure that the emission limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(E) The Part 70 permit shall specify for each term or condition, including terms and conditions set forth in this title, contained therein whether the term or condition is federally enforceable or state enforceable.

~~(F) The Part 70 permit shall specify the permit conditions for which the emergency provision of section 16 of this rule is available. The permit may specify emergency situations identified by the source in its application and response actions that, if taken by the source during the emergency, shall constitute reasonable steps to minimize emissions and correct the emergency.~~

(2) A fixed permit term of five (5) years in the case of affected sources, and a term not to exceed five (5) years in the case of all other sources.

(3) Monitoring and related record keeping and reporting requirements, which assure that all reasonable information is provided to evaluate continuous compliance with the applicable requirements. At a minimum, the following shall be contained in each Part 70 permit:

(A) With respect to monitoring, each Part 70 permit shall contain the following:

- (i) All monitoring and analysis procedures or test methods required under the applicable requirements, including 40 CFR 64 and any other procedures and methods promulgated under Section 504(b) or 114(a)(3) of the CAA.
- (ii) Where an applicable requirement does not require periodic testing or instrumental or noninstrumental

monitoring (which may consist of record keeping designed to serve as monitoring), such periodic monitoring specifications sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the Part 70 permit as reported under clause (C). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of this item.

(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(B) With respect to record keeping, the Part 70 permit shall incorporate all applicable record keeping requirements, including, where applicable, the following:

(i) Records of required monitoring information that include the following:

(AA) The date, place, as defined in a Part 70 permit, and time of sampling or measurements.

(BB) The dates analyses were performed.

(CC) The company or entity that performed the analyses.

(DD) The analytical techniques or methods used.

(EE) The results of the analyses.

(FF) The operating conditions as existing at the time of sampling or measurement.

(ii) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes the following:

(AA) All calibration and maintenance records.

(BB) All original strip chart recordings for continuous monitoring instrumentation.

(CC) Copies of all reports required by the Part 70 permit.

(DD) For the purposes of complying with this subdivision, the permittee shall:

(aa) retain the records on-site for three (3) years; and

(bb) make them available upon request for the two (2) years following.

(C) With respect to reporting, a Part 70 permit shall incorporate all applicable reporting requirements and require the following:

(i) Submittal of reports of any required monitoring at least every six (6) months. All instances of deviations from Part 70 permit requirements must be clearly identified in the reports. All required reports must be certified by a responsible official consistent with section 4(f) of this rule.

(ii) The reporting of deviations from Part 70 permit requirements, including those attributable to upset conditions as defined in a Part 70 permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. Proper notice submittal under ~~section 16 of this rule~~ [326 IAC 1-6-2](#) satisfies the reporting requirements of this item. Notwithstanding requirements in this section, the reporting of deviations required by an applicable requirement shall follow the schedule stated in the applicable requirement.

(iii) Submittal of an annual emission statement that meets the requirements of [326 IAC 2-6](#), or other equivalent information.

(4) A Part 70 permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the CAA subject to the following limitations:

(A) No Part 70 permit revision shall be required for increases in emissions that are authorized by allowances acquired under the Title IV acid rain program, provided that the increases do not require a Part 70 permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the CAA.

(5) A severability clause to ensure the continued validity of the various Part 70 permit requirements in the event that a portion of the Part 70 permit is determined to be invalid.

(6) Provisions stating the following:

(A) The permittee must comply with all conditions of the Part 70 permit. Any Part 70 permit noncompliance constitutes a violation of the CAA and is grounds for:

(i) enforcement action;

(ii) Part 70 permit termination, revocation and reissuance, or modification; or

(iii) denial of a Part 70 permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of a Part 70 permit.

(C) The Part 70 permit may be modified, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a Part 70 permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any Part 70

permit condition.

(D) The Part 70 permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the commissioner, within a reasonable time, any information that the commissioner may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the Part 70 permit or to determine compliance with the Part 70 permit. Upon request, the permittee shall also furnish to the commissioner copies of records required to be kept by a Part 70 permit or, for information claimed to be confidential, the permittee may furnish the records directly to the U.S. EPA along with a claim of confidentiality.

(7) A provision to ensure that a Part 70 source pays fees to the commissioner consistent with the fee schedule approved under section 19 of this rule, or in accordance with a fee schedule established under [IC 13-16-2-1](#). A fee schedule established under [IC 13-16-2-1](#) shall include the determination that:

(A) a single payment of the entire fee is an undue hardship on the person; and

(B) the department is not required to assess installments separately.

(8) A provision stating that no Part 70 permit revision shall be required under any approved economic incentives, marketable Part 70 permits, emissions trading, and other similar programs or processes for changes that are provided for in a Part 70 permit.

(9) Terms and conditions that allow for changes by the permitted source among reasonably anticipated operating scenarios that are identified by the source in its application as approved by the commissioner. The terms and conditions shall:

(A) require the source, contemporaneously with making a change from one (1) operating scenario to another, to make a record in a log at the permitted facility of the scenario under which it is operating;

(B) require the source to comply with all applicable requirements and the requirements of this rule for each such alternative operating scenario; and

(C) include a summary of the records required under clause (A) to be included in the annual compliance certification submitted under section 6(5) of this rule.

(10) Terms and conditions, if a Part 70 permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading the increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions shall:

(A) include all terms required under subdivision (3) and section 6 of this rule to determine compliance; and

(B) require the permittee to meet all applicable requirements and requirements of this rule.

(11) Each Part 70 permit for a source at which a regulated substance is present in more than a threshold quantity and that is subject to 40 CFR 68* shall:

(A) identify 40 CFR 68* as an applicable requirement;

(B) include conditions that require the source owner or operator to submit:

(i) a compliance schedule for meeting the requirements of 40 CFR 68* by the date provided in 40 CFR 68.10(a)*; or

(ii) as a part of the compliance certification submitted under section 6(5) of this rule, a certification statement that the source is in compliance with all requirements of 40 CFR 68*, including the registration and submission of a risk management plan (RMP); and

(C) require the source to verify to the commissioner that an RMP or a revised plan was prepared and submitted as required by 40 CFR 68*.

(12) A provision that requires the source to do all of the following:

(A) Maintain on-site the preventive maintenance plan required under section 4(c)(8) of this rule.

(B) Implement the preventive maintenance plan.

(C) Forward to the department upon request the preventive maintenance plan.

(13) Except as otherwise provided in section 15 or 20 of this rule, a provision providing the Part 70 permit shield described in section 15 of this rule.

(14) Descriptive information.

(15) Terms and conditions, if requested by the permit applicant, that, notwithstanding the modification approval requirements under section 10.5 of this rule or the permit modification or revision requirements under section 12 of this rule, allow the source to make specifically identified Part 70 permit modifications without review, provided the Part 70 operating permit includes terms and conditions that prescribe emissions limitations and standards applicable to specifically identified modifications or types of modifications that may occur during the term of the permit. The permit conditions shall include the following:

(A) Emission limitations and standards necessary to assure compliance with the permit terms and conditions and all applicable requirements.

(B) Monitoring, testing, reporting, and record keeping requirements that are necessary to assure all reasonable information is provided to evaluate continuous compliance with the permit terms and conditions, the underlying requirements of this title, and the CAA.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana IN 46204.

(Air Pollution Control Division; [326 IAC 2-7-5](#); filed May 25, 1994, 11:00 a.m.: 17 IR 2257; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2341; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1035; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1588; filed Oct 1, 2010, 3:48 p.m.: [20101027-IR-326070372FRA](#); errata filed Jan 2, 2013, 2:19 p.m.: [20130123-IR-326130002ACA](#))

SECTION 4. THE FOLLOWING ARE REPEALED: [326 IAC 2-7-16](#); [326 IAC 2-8-12](#).

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