

ARTICLE 4. BURNING REGULATIONS

NOTE: IC 13-1 and IC 13-7 were repealed by P.L.1-1996, SECTION 99, effective July 1, 1996.

Rule 1. Open Burning

326 IAC 4-1-0.5 Definitions

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9; IC 36-9-27-2

Sec. 0.5. Unless otherwise stated, the following definitions apply to this rule:

(1) "Adequate fire fighting equipment" means equipment sufficient and appropriate under the circumstances to extinguish the fire.

(2) "Clean petroleum products" means an uncontaminated, refined petroleum product, such as kerosene or diesel fuel, not previously used in any application.

(3) "Clean wood products" means wood products, including vegetation, that are not coated with stain, paint, glue, or other coating material.

(4) "Drainage ditch" shall have the meaning of regulated drain or open drain under IC 36-9-27-2.

(5) "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following:

(A) A tornado.

(B) High winds.

(C) An earthquake.

(D) An explosion.

(E) A hail storm, a rain storm, or an ice storm.

(6) "Open burn" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber.

(7) "Open burning approval" means an authorization allowing an activity that otherwise is not exempt or allowed by law.

(Air Pollution Control Division; 326 IAC 4-1-0.5; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3340; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

326 IAC 4-1-1 Scope

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9-3

Sec. 1. The requirements of this rule establish standards for open burning that would result in emissions of regulated pollutants. This rule applies to all open burning except for the following:

(1) Open burning by and at a source that has obtained a registration or permit under 326 IAC 2-5.1, 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8 that specifically regulates the open burning to be performed by and at the source. This rule does apply to open burning not addressed in such a registration or permit, or if the registration or permit requires compliance with this rule.

(2) Except as provided in IC 13-17-9-3, where open burning allowed under this rule is prohibited by other state or local laws, regulations, or ordinances.

(Air Pollution Control Division; 326 IAC 4-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2419; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3340; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1067; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

326 IAC 4-1-2 Prohibition against open burning

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9

Sec. 2. Open burning is prohibited except as allowed in this rule. The department encourages alternatives to open burning, such as sale or reuse. (Air Pollution Control Division; 326 IAC 4-1-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2419; filed Jan 6, 1989,

3:30 p.m.: 12 IR 1126; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3341; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

326 IAC 4-1-3 Exemptions

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9

Sec. 3. (a) IC 13-17-9 exempts certain types of open burning for maintenance purposes listed as follows:

(1) A person may open burn the following:

(A) Vegetation from any of the following:

- (i) A farm.
- (ii) An orchard.
- (iii) A nursery.
- (iv) A tree farm.
- (v) A cemetery.
- (vi) A drainage ditch.
- (vii) Agricultural land, if the open burn occurs in an unincorporated area.

(B) Wood products derived from the following:

- (i) Pruning or clearing a roadside by a county highway department.
- (ii) The initial clearing of a public utility right-of-way so long as the open burn occurs in an unincorporated area.

(C) Undesirable:

- (i) wood structures on real property; or
- (ii) wood remnants of the demolition of a predominantly wooden structure originally located on real property; located in an unincorporated area.

(D) Clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad rights-of-way, but not including railroad ties.

(2) All open burning that is allowed under this subsection must comply with the following conditions:

- (A) A person who open burns shall extinguish the fire if the fire creates a nuisance or fire hazard.
- (B) Burning may not be conducted during unfavorable meteorological conditions such as any of the following:
 - (i) High winds.
 - (ii) Temperature inversions.
 - (iii) Air stagnation.
- (C) All fires must be attended at all times during burning until completely extinguished.
- (D) All asbestos-containing materials must be removed before the burning of a structure.
- (E) Asbestos containing materials may not be burned.

(b) The types of fires identified in subsection (c) are allowed under this rule. Unless specified otherwise, the following conditions apply to any fire allowed by this subsection:

(1) Fires must be attended at all times and until completely extinguished.

(2) A fire shall be extinguished if at any time it creates a:

- (A) pollution problem;
- (B) threat to public health;
- (C) nuisance; or
- (D) fire hazard.

(3) No burning shall be conducted during unfavorable meteorological conditions such as any of the following:

- (A) High winds.
- (B) Temperature inversions.
- (C) Air stagnation.
- (D) When a pollution alert or air quality action day has been declared.

(4) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

BURNING REGULATIONS

- (5) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.
- (6) Burning shall be conducted during daylight hours only, and all fires shall be extinguished before sunset.
- (c) The following types of fires are allowed:
 - (1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the conditions in subsection (b)(1) through (b)(5) and the following conditions:
 - (A) Only the following may be burned:
 - (i) Clean wood products.
 - (ii) Paper.
 - (iii) Charcoal.
 - (iv) Clean petroleum products.
 - (B) Any person conducting recreational or ceremonial fires shall notify the local fire department and health department at least twenty-four (24) hours prior to any burning if the size of the pile being burned is more than one hundred twenty-five (125) cubic feet and include the date, time, and location of the burning.
 - (C) Fires shall:
 - (i) not be ignited more than two (2) hours before the recreational activity is to take place; and
 - (ii) be extinguished upon conclusion of the activity.
 - (D) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet and only one (1) pile may be burned at a time.
 - (E) The fires shall not be used for disposal purposes.
 - (F) Fires shall not be located within five hundred (500) feet of any fuel storage area or pipeline.
 - (2) Private residential burning, where the building contains four (4) or fewer dwelling units. Burning is prohibited in apartment and condominium complexes and mobile home parks. Beginning June 23, 1995, residential open burning is prohibited in the counties listed in section 4.1(c) of this rule. Burning shall be subject to the conditions in subsection (b) and the following conditions:
 - (A) Burning shall be in a noncombustible container that:
 - (i) is sufficiently vented to induce adequate primary combustion; and
 - (ii) has enclosed sides and a bottom.
 - (B) Only clean wood products and paper may be burned.
 - (3) Waste oil burning where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit as prescribed in 312 IAC 16-5-11 in the natural resources commission rules. Burning shall be subject to the conditions in subsection (b) and the following conditions:
 - (A) Each oil pit may be burned once every two (2) months.
 - (B) The fire must be extinguished within thirty (30) minutes of ignition.
 - (4) Department of natural resources (DNR) burning, to facilitate prescribed burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, natural area management, and firefighting or prevention; burning by municipalities, county governments, to facilitate prescribed burning for wildlife habitat maintenance, forestry purposes, natural area management, and firefighting or prevention; United States Department of the Interior burning, to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore, for example; and United States Department of Agriculture, Forest Service burning, to facilitate wildlife habitat maintenance, forestry purposes, natural area management, ecosystem management, and firefighting or prevention. Burning shall be subject to conditions in subsection (b)(1) through (b)(5) and the following conditions:
 - (A) The fire shall be extinguished if it creates a:
 - (i) nuisance;
 - (ii) fire hazard; or
 - (iii) pollution problem.
 - (B) No burning shall be conducted during unfavorable meteorological conditions, such as any of the following:
 - (i) High winds.
 - (ii) Temperature inversions.
 - (iii) Air stagnation.

BURNING REGULATIONS

- (iv) When a pollution alert or ozone action day has been declared.
 - (C) Only vegetation and clean petroleum products may be burned.
- Burning by the U.S. Forest Service for firefighting or prevention is not subject to the conditions in subsection (b) or this subdivision.
- (5) Burning of marijuana by federal, state, and local law enforcement offices. Burning shall be subject to the conditions in subsection (b) and only clean petroleum products shall be used for ignition purposes.
 - (6) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the conditions in subsection (b)(1) through (b)(5) and the following conditions:
 - (A) Burning shall only occur between October 1 and May 15.
 - (B) Burning shall not be conducted for the purpose of disposal.
 - (7) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions in subsection (b).
 - (8) Burning of clean petroleum products, natural gas, methane, or propane for fire extinguisher training, including mobile or stationary training units, subject to the conditions in subsection (b) and the following conditions:
 - (A) The local fire department and health department must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.
 - (B) Except as provided in clause (C), daily fuel volume amounts burned are limited to one (1) of the following:
 - (i) Fourteen (14) gallons of clean petroleum products.
 - (ii) Two hundred twelve (212) gallons of propane.
 - (iii) Twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane.
 - (C) A combination of the fuels listed in clause (B) may be burned each day. The amount of each fuel that can be burned each day shall be determined as follows:
 - (i) The volume of each fuel to be burned each day shall be calculated as a percentage of the maximum volume allowed in clause (B) for that fuel.
 - (ii) The sum of the percentages for each fuel burned each day shall not exceed one hundred percent (100%).
 - (D) All burning of clean petroleum products shall take place in a noncombustible container or enclosure that has enclosed sides and a bottom.
 - (E) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination or uncontrolled spread of the fire.
 - (F) Only one (1) fire may be allowed to burn at a time.
 - (9) Burning of two (2) single family, nondemolished structures per calendar year by municipal fire departments for purposes of live fire training, subject to the conditions in subsection (b) and the following conditions:
 - (A) Written notification must be submitted to the Indiana department of environmental management, office of air quality, at least thirty (30) days prior to the burning with the date, time, and location of the burning included. A copy of the notification shall be made available at the burning site to state and local officials upon request.
 - (B) The fire department conducting the fire training must provide written notification to each interested party or person owning or renting property within five hundred (500) feet of the structure to be burned at least fifteen (15) days prior to the training activity or publish a notice of intent to burn in the local newspaper at least fifteen (15) days prior to the training activity.
 - (C) The fire department must notify the county health department and county sheriff's department at least twenty-four (24) hours prior to the burning and include the date, time, and location of the burning.
 - (D) All asbestos-containing materials, asphalt roofing including backer paper, and vinyl siding including Styrofoam backer insulation must be removed before the intentional burning of any structure. These materials may not be burned and must be handled or disposed of in accordance with the applicable rules of the solid waste management board at 329 IAC 10 and 329 IAC 11.
 - (E) Mercury containing equipment and fluorescent bulbs must be removed from the house and properly recycled or disposed of in accordance with the applicable rules of the solid waste management board at 329 IAC 10.
 - (F) No burning shall take place within one hundred (100) feet of a structure or power line or three hundred (300) feet

BURNING REGULATIONS

of a frequently traveled road, fuel storage area, or pipeline.

(G) All burning must comply with other federal, state, or local laws, regulations, or ordinances, including 40 CFR 61, Subpart M* (National Emissions Standards for Asbestos).

- (10) Ceremonial burning of United States flags, subject to the conditions in subsection (b) and the following conditions:
- (A) Any person conducting ceremonial burning of United States flags shall notify the local fire department and health department at least twenty-four (24) hours prior to any burning if the size of the pile being burned is more than one hundred twenty-five (125) cubic feet and include the date, time, and location of the burning.
 - (B) Fires shall:
 - (i) not be ignited more than two (2) hours before the activity is to take place; and
 - (ii) be extinguished upon conclusion of the activity.
 - (C) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet, and only one (1) pile may be burned at a time.
 - (D) Fires shall not be located within five hundred (500) feet of any fuel storage area or pipeline.

*This document is 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 46204. (*Air Pollution Control Division; 326 IAC 4-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2419; filed May 24, 1995, 10:00 a.m.: 18 IR 2408; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3341; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Mar 21, 2007, 2:48 p.m.: 20070418-IR-326050268FRA; filed Sep 28, 2011, 10:58 a.m.: 20111026-IR-326090362FRA*)

326 IAC 4-1-4 Emergency burning

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9

Sec. 4. Emergency burning with prior oral approval of the commissioner or the commissioner's designated agent may be authorized for the following:

- (1) spilled or escaping liquid or gaseous petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire or health hazard or air or water pollution problem; or
- (2) clean wood waste, vegetation, or deceased animals resulting from a natural disaster where failure to burn would result in an imminent health, safety, or environmental hazard.

The commissioner or the commissioner's designated agent shall issue a written approval within seven (7) days of the oral approval. The written approval shall contain any conditions on emergency burning that the commissioner established in the oral approval. (*Air Pollution Control Division; 326 IAC 4-1-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2420; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3343; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Sep 28, 2011, 10:58 a.m.: 20111026-IR-326090362FRA*)

326 IAC 4-1-4.1 Open burning approval; criteria and conditions

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 4-21.5; IC 13-12; IC 13-17-9

Sec. 4.1. (a) Burning not exempted by section 3 or 4 of this rule may be authorized by the issuance of an approval by the commissioner or the commissioner's designated agent after consideration of an approval application. Such burning may be authorized for, but not limited to, the following:

- (1) Burning for the purpose of fire training.
- (2) Burning of natural growth derived from a clearing operation, such as removal of natural growth for change in use of the land.
- (3) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is hazardous.
- (4) Burning of clean wood products.
- (5) Burning of natural growth for the purpose of land management.

BURNING REGULATIONS

(b) The following criteria may be considered for approval under this section:

- (1) The applicant has demonstrated that alternative methods for disposal are impractical or prohibitively expensive.
- (2) There are not more than five (5) residences or structures within five hundred (500) feet of the proposed burning site.
- (3) There have been no open burning violations at the site of the proposed burning or by the applicant.
- (4) If the application involves a structure for fire training, the structure has not been demolished prior to training activities.
- (5) The burning site is located in a county not designated as a nonattainment area for PM₁₀, PM_{2.5}, or ozone and is not located in Clark County or Floyd County. The commissioner or the commissioner's agent may allow open burning in these areas, subject to conditions necessary to protect air quality.

(c) No approval shall be granted at any time for residential burning in Clark County, Floyd County, Lake County, or Porter County.

(d) Any approval shall be subject to the following conditions unless otherwise stipulated in the open burning approval letter:

- (1) Only clean wood products shall be burned.
- (2) No asbestos-containing material shall be burned.
- (3) No burning shall be conducted during unfavorable meteorological conditions, such as:
 - (A) high winds, temperature inversions, or air stagnation; or
 - (B) when a pollution alert or ozone action day has been declared.
- (4) Burning shall be conducted during daylight hours only, and all fires shall be extinguished prior to sunset.
- (5) If at any time the fire creates:
 - (A) an air pollution problem;
 - (B) a threat to public health;
 - (C) a nuisance; or
 - (D) a fire hazard;

the burning shall be extinguished.

(6) The local fire department and health department must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.

(7) The approval letter shall be made available at the burning site to state and local officials upon request except during emergency burning.

(8) Adequate fire fighting equipment shall be on-site for extinguishing purposes during burning times.

(9) No burning shall take place within:

- (A) one hundred (100) feet of any structure or powerline; or
- (B) three hundred (300) feet of a frequently traveled road, fuel storage area, or pipeline.

(10) Fires must be attended at all times until completely extinguished.

(11) All burning must comply with other federal, state, or local laws, regulations, or ordinances, including 40 CFR 61, Subpart M* (National Emissions Standards for Asbestos).

(12) No waste that is regularly generated as a result of a routine business operation shall be burned.

(13) The material to be burned shall not exceed one thousand (1,000) cubic feet.

(e) An approval letter shall be valid for not longer than one (1) year from the date of issuance. However, an approval letter may be valid for as long as five (5) years if the approval application is accompanied by an open burning plan. The plan shall:

- (1) contain a description of the open burning proposed for the period of time for which an approval letter is sought; and
- (2) be incorporated as a condition of the approval letter under subsection (d) or (f).

Any change in the plan must receive an additional approval letter, unless the change is to reduce open burning or the change is to conduct burning exempted under section 3 of this rule. The plan shall be available for review upon the request by the department.

(f) The commissioner or the commissioner's designated agent may add conditions to an approval letter, as necessary, to prevent a public nuisance or protect the public health or the environment. Such conditions may be based on local air quality conditions, including whether the area is a nonattainment county as defined in 326 IAC 1-4-1 or has been redesignated from nonattainment to attainment status.

(g) A decision on the open burning approval letter is subject to IC 4-21.5 (Administrative Orders and Procedures Act).

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BURNING REGULATIONS

Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Division; 326 IAC 4-1-4.1; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3343; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Nov 15, 2002, 11:17 a.m.: 26 IR 1077; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA*)

326 IAC 4-1-4.2 Open burning; approval revocation

Authority: IC 13-15-2-1; IC 13-17-3-4
Affected: IC 13-12; IC 13-17-9

Sec. 4.2. The commissioner or the commissioner's designated agent may revoke an approval letter if the applicant:

- (1) violates any requirement of section 4.1(d) of this rule;
- (2) violates any condition added to the approval letter under section 4.1(f) of this rule; or
- (3) falsifies information on an application for an approval.

(*Air Pollution Control Division; 326 IAC 4-1-4.2; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3344; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

326 IAC 4-1-4.3 Open burning approval; delegation of authority

Authority: IC 13-15-2-1; IC 13-17-3-4
Affected: IC 4-21.5; IC 13-12; IC 13-17-9

Sec. 4.3. The commissioner may delegate the authority to issue open burning approval letters in accordance with this section to a local health department, fire department, solid waste management district, or other agency upon a demonstration that the agency:

- (1) has the necessary legal authority and resources to implement an approval program that is at least as protective of the public health, welfare, and the environment as the provisions of this rule; and
- (2) commits to implement the program described in subdivision (1) and to follow the public notification procedures of IC 4-21.5 in the issuance of approval letters.

The commissioner may establish conditions for the delegation and may revoke any such delegation if the commissioner determines that any condition has not been satisfied or the circumstances under which the delegation was issued have changed. (*Air Pollution Control Division; 326 IAC 4-1-4.3; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3344; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

326 IAC 4-1-5 Liability for fire

Authority: IC 13-1-1-4; IC 13-7-7
Affected: IC 13-1-1

Sec. 5. Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution may not refute liability for violation of this rule (326 IAC 4-1) on the basis that said fire was set by vandals, accidental, or an act of God. (*Air Pollution Control Division; 326 IAC 4-1-5; filed Mar 10, 1988, 1:20 pm: 11 IR 2420; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

326 IAC 4-1-6 Air curtain destructors; approval; exemptions

Authority: IC 13-15-2-1; IC 13-17-3-4
Affected: IC 13-12; IC 13-17-9

Sec. 6. (a) An owner or operator of an air curtain destructor as defined in 326 IAC 1-2-2.5 shall submit an application to the department to obtain a letter of approval from the commissioner or the commissioner's designated agent prior to its installation or operation at a new site. The owner or operator:

- (1) shall not operate the air curtain destructor unless the owner or operator holds a valid letter of approval; and
- (2) shall maintain the letter of approval at the air curtain destructor site at all times for verification by state or local officials.

BURNING REGULATIONS

(b) Burning exempted under section 3 of this rule does not require a letter of approval from the commissioner under this section. However, the burning shall comply with the conditions set forth in section 7 of this rule. (*Air Pollution Control Division; 326 IAC 4-1-6; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1126; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3345; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

326 IAC 4-1-7 Air curtain destructors; approval conditions

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 4-21.5; IC 13-12; IC 13-17-9

Sec. 7. (a) To obtain an air curtain destructor letter of approval, the owner or operator shall ensure that installation and operation of the air curtain destructor will comply with subdivisions (1) through (13). Burning shall be terminated immediately at any air curtain destructor site that does not comply with this section and the following requirements:

- (1) Only untreated wood products shall be burned, except for minimal amounts of uncontaminated petroleum products that may be used for ignition.
- (2) Burning shall not be conducted during unfavorable meteorological conditions, such as high winds or air stagnation or when a pollution alert or ozone action day has been declared.
- (3) The air curtain destructor shall not be operated prior to one (1) hour after official sunrise, the fire shall not be fed after two (2) hours before official sunset, and the fire must be completely extinguished by official sunset.
- (4) An air curtain destructor site shall be located not less than two hundred fifty (250) feet from any private residence, public roadway, power line, or structure, and not less than five hundred (500) feet from any pipeline or fuel storage area.
- (5) An air curtain destructor site shall not be located within one thousand (1,000) feet of a solid waste land disposal facility as defined in 329 IAC 10-2-176 or transfer station as defined in 329 IAC 11-2-47.
- (6) An air curtain destructor shall not be permanently located at any site, except in accordance with a valid permit under 326 IAC 2.
- (7) An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.
- (8) Burning shall not create or contribute to:
 - (A) an air pollution problem;
 - (B) a nuisance; or
 - (C) a fire hazard.
- (9) Material being loaded into the earthen pit or refractory-lined box shall be picked up and dropped into the pit or box, and at no time shall the material protrude through the curtain of air while burning.
- (10) The approval letter shall be made available at the burning site to state or local officials upon request.
- (11) The owner or operator of an air curtain destructor shall provide twenty-four (24) hour notification in advance to the local fire department and the local health department of the dates and times that the air curtain destructor will be in operation.
- (12) The following shall apply to an air curtain destructor using an earthen pit:
 - (A) An air curtain destructor and earthen pit shall be maintained and operated according to the manufacturer's specifications and recommendations.
 - (B) The fan blades of the air curtain destructor shall be regularly cleaned to reduce buildup of dirt and debris.
 - (C) All canisters must be properly aligned, connected, and maintained so as to prevent leaks between adjacent canisters.
 - (D) The nozzles must be maintained in good working condition. The minimum average velocity at the nozzle must be nine thousand fifty (9,050) feet per minute, and the air flow at the nozzle must be a minimum of seven hundred fifty (750) cubic feet per minute per foot of length.
 - (E) The engine running the air curtain destructor fan must be maintained in proper working condition.
 - (F) The width of the earthen pit shall not extend beyond the length of the nozzle action.
 - (G) The distance from the air curtain destructor to the opposite wall of the earthen pit shall not exceed ten (10) feet.
 - (H) The depth of the earthen pit shall be of such distance to allow all burning material to be below the curtain of air created by the air curtain destructor.

BURNING REGULATIONS

(I) All nozzles shall be aligned and directed toward the opposite wall so that the air strikes the opposite wall at least three (3) feet below the grade upon which the air curtain destructor is located so that the air tumbles in the earthen pit.

(J) The air curtain destructor shall not be at a higher elevation than the elevation of the opposite wall.

(K) The earthen pit shall be enclosed on four (4) sides, and the walls shall be perpendicular to level ground.

(L) At least one (1) foot of dirt must be placed over the ashes in the earthen pit by official sunset.

(13) The following shall apply to a portable air curtain destructor using a refractory-lined box:

(A) An air curtain destructor, refractory-lined box, and associated equipment shall be maintained and operated according to the manufacturer's specifications and recommendations.

(B) All nozzles shall be aligned and directed toward the opposite wall so that the air strikes the opposite wall below the top of the opposite wall.

(C) Access to the refractory-lined box must be restricted by official sunset each day.

(D) Opacity shall not exceed ten percent (10%), except during times of startup. Measurement of opacity shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9.*

(E) During times of startup, opacity shall not exceed thirty-five percent (35%) and startup periods shall not exceed thirty (30) minutes.

(b) An air curtain destructor letter of approval shall be valid for not longer than one (1) year.

(c) The commissioner or the commissioner's designated agent may add conditions to an air curtain destructor letter of approval as necessary to prevent a public nuisance or protect the public health.

(d) A decision on the air curtain destructor letter of approval is subject to IC 4-21.5 (Administrative Orders and Procedures Act (AOPA)).

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is 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 46204. (*Air Pollution Control Division; 326 IAC 4-1-7; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1127; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3345; errata filed Oct 3, 2000, 2:31 p.m.: 24 IR 381; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed Oct 11, 2012, 1:02 p.m.: 20121107-IR-326110317FRA*)

326 IAC 4-1-8 Air curtain destructors; approval revocation

Authority: IC 13-15-2-1; IC 13-17-3-4

Affected: IC 13-12; IC 13-17-9

Sec. 8. The commissioner or the commissioner's designated agent may revoke an air curtain destructor letter of approval if the owner or operator:

(1) violates any requirement of section 7(a) of this rule;

(2) violates any condition added to the letter of approval under section 7(c) of this rule;

(3) violates any other state or local rule or ordinance pertaining to the installation or operation of air curtain destructors;

(4) falsifies information on an application for a letter of approval; or

(5) operates an air curtain destructor in a manner that is hazardous to the public health.

(*Air Pollution Control Division; 326 IAC 4-1-8; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1127; filed Jul 30, 1996, 2:00 p.m.: 19 IR 3346; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1567*)

Rule 2. Incinerators

326 IAC 4-2-1 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. (a) This rule establishes standards for the use of incinerators which emit regulated pollutants.

BURNING REGULATIONS

(b) This rule does not apply to the following:

(1) Incinerators in residential units consisting of four (4) or fewer families.

(2) Sources subject to the following:

(A) 40 CFR 60 Subpart Eb*, Large Municipal Waste Combustors for which Construction Commenced after September 20, 1994.

(B) 40 CFR 60 Subpart Ec*, Hospital/Medical/Infectious Waste Incinerators for which Construction Commenced after June 20, 1996.

(C) 40 CFR 60 Subpart CCCC*, Commercial and Industrial Solid Waste Incineration Units for which Construction Commenced after November 30, 1999.

(D) The state plan approved under 40 CFR 62.3640* through 40 CFR 62.3642*, Hospital/Medical/Infectious Waste Incinerators.

(E) The state plan approved under 40 CFR 62.3650* through 40 CFR 62.3652*, Large Municipal Waste Combustors.

(F) 40 CFR 63 Subpart EEE*, Hazardous Waste Combustors.

*These documents are incorporated by reference and 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 46204. (*Air Pollution Control Division; 326 IAC 4-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2420; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2366; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1597; filed Nov 15, 2002, 11:12 a.m.: 26 IR 1071*)

326 IAC 4-2-2 Incinerators

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-17-3

Sec. 2. (a) All incinerators shall comply with the following requirements:

(1) Consist of primary and secondary chambers or the equivalent.

(2) Be equipped with a primary burner unless burning only wood products.

(3) Comply with 326 IAC 5-1 and 326 IAC 2.

(4) Be maintained, operated, and burn waste in accordance with the manufacturer's specifications or an operation and maintenance plan as specified in subsection (c).

(5) Not emit particulate matter in excess of one (1) of the following:

(A) Three-tenths (0.3) pound of particulate matter per one thousand (1,000) pounds of dry exhaust gas under standard conditions corrected to fifty percent (50%) excess air for incinerators with a maximum solid waste capacity of greater than or equal to two hundred (200) pounds per hour.

(B) Five-tenths (0.5) pound of particulate matter per one thousand (1,000) pounds of dry exhaust gas under standard conditions corrected to fifty percent (50%) excess air for incinerators with solid waste capacity less than two hundred (200) pounds per hour.

(6) If any of the requirements of subdivisions (1) through (5) are not met, then the owner or operator shall stop charging the incinerator until adjustments are made that address the underlying cause of the deviation.

(b) An incinerator is exempt from subsection (a)(5) if subject to a more stringent particulate matter emission limit in 40 CFR 52 Subpart P*, State Implementation Plan for Indiana.

(c) An owner or operator developing an operation and maintenance plan pursuant to subsection (a)(4) must comply with the following:

(1) The operation and maintenance plan must be designed to meet the particulate matter emission limitation specified in subsection (a)(5) and include the following:

(A) Procedures for receiving, handling, and charging waste.

(B) Procedures for incinerator startup and shutdown.

(C) Procedures for responding to a malfunction.

(D) Procedures for maintaining proper combustion air supply levels.

(E) Procedures for operating the incinerator and associated air pollution control systems.

(F) Procedures for handling ash.

(G) A list of wastes that can be burned in the incinerator.

(2) Each incinerator operator shall review the plan before initial implementation of the operation and maintenance plan and annually thereafter.

(3) The operation and maintenance plan must be readily accessible to incinerator operators.

(4) The owner or operator of the incinerator shall notify the department, in writing, thirty (30) days after the operation and maintenance plan is initially developed pursuant to this section.

(d) The owner or operator of the incinerator must make the manufacturer's specifications or the operation and maintenance plan available to the department upon request.

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326 IAC 4-2-3 Portable incinerators (Repealed)

Sec. 3. (*Repealed by Air Pollution Control Division; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1128*)

Rule 3. Outdoor Hydronic Heaters

326 IAC 4-3-1 Applicability

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec. 1. (a) Except as provided in subsection (b), this rule applies to any manufacturer, supplier, distributor, or person that:

- (1) distributes or sells;
- (2) markets;
- (3) installs;
- (4) operates; or
- (5) owns;

an outdoor hydronic heater in Indiana.

(b) Sections 3 and 6 of this rule do not apply to the following:

(1) An outdoor hydronic heater that:

(A) is or has been owned by a person for his or her own personal use; and

(B) is distributed or sold within three (3) years of the effective date of this rule to another for his or her own personal use.

For purposes of this subdivision, "personal use" means the use of an outdoor hydronic heater by an individual solely for residential space or domestic water heating, and not to service a commercial or institutional establishment.

(2) An outdoor hydronic heater available for sale in an Indiana dealer's inventory before the effective date of this rule.

(3) Homemade units.

(4) An outdoor hydronic heater where the manufacturer has demonstrated that the unit is designed for a thermal output of three hundred fifty thousand (350,000) British thermal units per hour (Btu/hr) or more.

(*Air Pollution Control Division; 326 IAC 4-3-1; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA*)

326 IAC 4-3-2 Definitions

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec 2. The following definitions apply throughout this rule:

BURNING REGULATIONS

- (1) "Clean wood" means untreated wood that has no paint, stains, coatings, glues, or any chemical treatment.
- (2) "Distribute or sell" means to:
 - (A) distribute;
 - (B) sell;
 - (C) advertise for sale;
 - (D) offer for sale;
 - (E) lease;
 - (F) ship;
 - (G) deliver for shipment;
 - (H) release for shipment; or
 - (I) receive and deliver, or offer to deliver.

The term does not include the distribution or sale by a manufacturer of an outdoor hydronic heater that is installed outside of Indiana.

- (3) "Homemade unit" means an outdoor hydronic heater built by a person for the builder's personal use. The term does not include installation kits.
- (4) "Manufacturer" means any person who constructs or imports into the United States an outdoor hydronic heater.
- (5) "Outdoor hydronic heater" means a fuel burning device:
 - (A) designed to burn wood or other approved renewable solid fuels;
 - (B) that is intended for outdoor installation or installation in structures not normally occupied by humans; and
 - (C) that heats building space or water, or both, by the distribution, typically through pipes, of a fluid heated in the device, typically water or a water and antifreeze mixture.
- (6) "Start-up period" means the time period beginning with flame stability after first charge of wood fuel and lasts no longer than two (2) hours. The term includes only initial start-up where no previous wood coal bed exists and does not include refueling.

(Air Pollution Control Division; 326 IAC 4-3-2; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA)

326 IAC 4-3-3 Emission limit for outdoor hydronic heaters installed after the effective date of this rule

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4
Affected: IC 13-17-1-3; IC 13-17-3

Sec. 3. After the effective date of this rule, except as provided in section 1(b) of this rule, no person shall distribute or sell or install an outdoor hydronic heater unless:

- (1) it has been qualified through U.S. EPA's voluntary outdoor hydronic heater program to meet the Phase 2 particulate matter emission limit of thirty-two hundredths (0.32) pounds per million British thermal units (lb/MMBtu) heat output, with no individual test run exceeding eighteen (18) grams per hour; and
- (2) a U.S. EPA white tag is affixed to the unit in a readily visible or accessible location. The white tag signifies that the unit meets the Phase 2 emission limit for U.S. EPA's voluntary outdoor hydronic heater program.

(Air Pollution Control Division; 326 IAC 4-3-3; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA)

326 IAC 4-3-4 General requirements for existing outdoor hydronic heaters

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4
Affected: IC 13-17-1-3; IC 13-17-3

Sec. 4. (a) After November 30, 2011, all outdoor hydronic heaters that have not been qualified to meet the Phase 2 emission limit in section 3 of this rule must have a permanent stack extending five (5) feet higher than the peak of the roof of any occupied building:

- (1) located within one hundred fifty (150) feet of the unit; and
 - (2) not located on the same property on which the heater is installed.
- (b) The maximum stack height required under this rule is twenty-two (22) feet above the ground. *(Air Pollution Control*

BURNING REGULATIONS

Division; 326 IAC 4-3-4; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA)

326 IAC 4-3-5 Operating standards

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec. 5. (a) No person shall operate an outdoor hydronic heater from May 1 through September 30 if the unit is located less than three hundred (300) feet away from an occupied building not located on the same property on which the heater is installed, unless the outdoor hydronic heater has been qualified to meet the Phase 2 emission limit in section 3 of this rule.

(b) A person shall burn only clean wood or other approved renewable solid fuel in an outdoor hydronic heater.

(c) No person shall burn any of the following items in an outdoor hydronic heater:

(1) Any wood that does not meet the definition of clean wood.

(2) Garbage.

(3) Tires.

(4) Lawn clippings or yard waste.

(5) Materials containing plastic.

(6) Materials containing rubber.

(7) Waste petroleum products.

(8) Paints and paint thinners.

(9) Chemicals.

(10) Coal.

(11) Glossy or colored papers.

(12) Construction and demolition debris.

(13) Plywood.

(14) Particleboard.

(15) Manure.

(16) Animal remains.

(17) Asphalt products.

(d) Home heating oil, natural gas, or other fuels recommended by the manufacturer may be used as a starter or supplemental fuel for dual-fired outdoor hydronic heaters.

(e) No person shall cause or allow the emission of a smoke plume from an outdoor hydronic heater to exceed an average of twenty percent (20%) opacity, a measure of the amount of light obscured by particulate pollution, for six (6) consecutive minutes in any one (1) hour period. Upon initial firing of the unit where no wood coal bed exists, visible emissions may not exceed forty percent (40%) opacity for twenty (20) consecutive minutes during the start-up period. Measurements of opacity shall be conducted in accordance with 40 CFR 60, Appendix A, Method 9* by a representative of the commissioner.

(f) Outdoor hydronic heaters must comply with all applicable:

(1) state and federal laws; and

(2) local ordinances.

*This document is incorporated by reference and is available from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or is 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 46204. (*Air Pollution Control Division; 326 IAC 4-3-5; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA*)

326 IAC 4-3-6 Notice to buyers

Authority: IC 13-14-8-7; IC 13-17-1-1; IC 13-17-3-4

Affected: IC 13-17-1-3; IC 13-17-3

Sec. 6. (a) After the effective date of this rule, no person shall distribute or sell, or install, any outdoor hydronic heater unless the seller or dealer provides the buyer or lessee with a copy of this rule.

BURNING REGULATIONS

(b) The buyer or lessee shall sign a notice at the time of purchase or lease that includes the following:

(1) A statement acknowledging receipt of the rule, as follows: "I, (buyer or lessee's name), have been provided a copy of 326 IAC 4-3 (Outdoor Hydronic Heater Indiana Air Pollution Control Board rule) from (seller or dealer's name) at the time of my purchase or lease."

(2) The name, address, and telephone number of both the seller or dealer and the buyer or lessee.

(3) The address of the location where the outdoor hydronic heater will be installed.

(4) The make and model of the outdoor hydronic heater.

(c) Within seven (7) days of making delivery of the outdoor hydronic heater into the possession of the buyer or lessee, the seller or dealer shall mail or otherwise provide a copy of the signed notice to the department. (*Air Pollution Control Division; 326 IAC 4-3-6; filed Apr 18, 2011, 11:27 a.m.: 20110518-IR-326050332FRA*)

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