

Document: Proposed Rule

Source: July 1, 2001, Indiana Register, Volume 24, Number 10

Disclaimer: These documents were created from the files used to produce the official (printed) Indiana Register, however, these documents are unofficial.

TITLE 326 AIR POLLUTION CONTROL BOARD

Proposed Rule

LSA Document #00-267

DIGEST

Adds 326 IAC 1-2-82.5 to define "Title I conditions". Amends 326 IAC 2 concerning amendments necessary to obtain U. S. EPA approval of the prevention of significant deterioration (PSD) rules as part of the state implementation plan and federal approval of the Title V permit program. Amends 326 IAC 3-5-1, 326 IAC 4-2-1, 326 IAC 5-1-1, 326 IAC 6-2-1, 326 IAC 6-5-1, 326 IAC 6-6-1, 326 IAC 7-1.1-1, 326 IAC 7-1.1-2, 326 IAC 7-3-1, 326 IAC 8-1-1, 326 IAC 9-1-2, 326 IAC 10-1-1, 326 IAC 11-1-1, 326 IAC 11-2-1, 326 IAC 11-3-1, 326 IAC 11-4-1, 326 IAC 11-5-1, 326 IAC 12-1-1, 326 IAC 14-1-3, and 326 IAC 15-1-1 to maintain consistency. Repeals 326 IAC 2-7-25. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: December 1, 2000, Indiana Register (24 IR 765).

Second Notice of Comment Period and Notice of First Hearing: April 1, 2001, Indiana Register (24 IR 2211).

Change of Notice of Public Hearing: June 1, 2001, Indiana Register (24 IR 2722).

Date of First Hearing: June 6, 2001.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

REQUEST FOR PUBLIC COMMENTS

This proposed (preliminarily adopted) rule includes amendments to 326 IAC 2 and other related sections in 326 IAC that are necessary to obtain U.S. EPA's approval of the prevention of deterioration (PSD) rules as part of the state implementation plan and federal approval of the Title V permit program. Discussions with U.S. EPA after the draft rule was published on April 1, 2001, at 24 IR 2211, identified additional changes necessary to obtain approval. These changes were included in the preliminarily adopted rule, and therefore, the proposed rule is substantively different from the draft rule published on April 1, 2001.

Due to the changes made to the rule prior to preliminary adoption and because continued discussions with U.S. EPA may identify additional program approval issues, public comment on the entire proposed rule is recommended. This notice requests the submission of comments relating to Title V program approval and PSD state implementation plan approval on the entire proposed rule, including suggestions for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Mailed comments should be addressed to:

#00-267 Air Permit Program Approval

Kathryn A. Watson, Chief

Air Programs Branch

Office of Air Quality

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana, Monday through Friday, between 8:15 a.m. and 4:45 p.m.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by July 23, 2001.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from April 1, 2001, through April 30, 2001, on IDEM's draft rule language. IDEM received comments from the following parties:

Guinn P. Doyle, Barnes & Thornburg, (BT)

Alphonse McMahon, General Electric Company, (GE)

Bernie Paul, Eli Lilly and Company, (Lilly)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: Commentor objects to the proposed limitation in 326 IAC 2-1.1-3(e)(5)(b) and 326 IAC 2-7-1(21)(G)(i)(BB) that only diesel fuel fired engines can be considered insignificant activities or exempt from new source permitting. This would mean engines of similar size and design that burn cleaner fuels, such as natural gas or propane, are not automatically exempt. A specific item for natural gas/propane fired engines in the permit exemption list and the insignificant activity list should be included. (Lilly)

Response: AP-42 Table 3.2-1 and 3.3-1 only have emission factors for natural gas, diesel and gasoline internal combustion engines. Gasoline would exceed the threshold for carbon monoxide, but natural gas would not. IDEM has added natural gas fired engines to this exemption. If there are data available showing that other fuels can be combusted without exceeding exempt thresholds, then IDEM will consider revising the rule to include those fuels as well.

Comment: In relation to 326 IAC 2-1.1-9.5, what is the rationale for imposing a limited term upon permits to construct or operate and permit modifications, but not upon registrations, modification approvals, and permit revisions? (GE)

Response: The new section, 326 IAC 2-1.1-9.5, was designed to clarify the supersession of previous construction permits so that the Title I conditions will continue. All of Indiana's permits expire in five (5) years as stated in Indiana statute at IC 13-15-3-2. Registrations and exemption letters do not expire. Additional clarification will be provided in a future rulemaking planned to correct problems and clarify language in all of 326 IAC 2.

Comment: In 326 IAC 2-2-1(w)(6)(B), it is not clear what is meant by "complying with 326 IAC 2-5.1-3 or 326 IAC 2-7 and 40 CFR 52.21* or this rule". IDEM should clarify this provision. (GE)

Response: The provision is intended to indicate that the permittee received a construction permit or a Title V source modification approval that contains provisions required by the federal or state prevention of significant deterioration (PSD) rule, 40 CFR 52.21 or 326 IAC 2-2 respectively. IDEM has revised the language to clarify the meaning.

Comment: Commentor supports the addition of ozone-depleting substances with a significance rate of 100 tons per year to the list of pollutants in 326 IAC 2-2-1(hh)(1). As a minor grammatical fix, the listed name should be changed to "Ozone-depleting substances (ODS)". (GE)

Response: IDEM concurs and has made the correction.

Comment: In 326 IAC 2-2-12, the phrase "prior to the effective date of this section" means prior to March 10, 1988, the effective date of section 12. What is the reason for limiting the ability of the owner or operator to make a request for a permit rescission to permits issued before March 10, 1988 (or, for that matter, any other date)? The owner or operator ought to be able to request rescission for any permit, regardless of its date of issuance. Does this date apply to only "this rule [326 IAC 2-2]" or to both "40 CFR 52.21 and this rule"? This language is ambiguous. The phrase " , prior to the effective date of this section," should be deleted. (GE)

Response: The phrase "prior to the effective date of this section" will actually mean prior to the effective date of this rulemaking when it is complete. Section 52.21(w) of Title 40 of the Code of Federal Regulations contains the federal provision that is parallel to this state provision. Section 52.21(w) was originally added to the federal rule during a major revision on August 7, 1980 (45 FR 52676) for the purpose of allowing sources to request that the U.S. EPA rescind any old provisions of the prevention of significant deterioration (PSD) requirements that were no longer in effect or outside the coverage of the revised PSD program. The date was updated to July 30, 1987 on July 1, 1987. The significance of this date in the federal rule is that it is the day before the effective date of the provisions that implemented the revised National Ambient Air Quality Standard (NAAQS) for particulate matter by changing the indicator for particulate matter from total suspended particulate (TSP) to particulate matter less than 10 microns (PM₁₀) on July 1, 1987 (52 FR 24672). This change was also reflected in the federal PSD rule, and the purpose of 40 CFR 52.21(w) is to allow sources to request rescission of permit provisions that are no longer applicable because of revisions to these rules. This date did not change in subsequent revisions to the federal rule because those changes were not intended to affect previous PSD conditions.

Since IDEM is removing TSP from the NAAQS and increment provisions of 326 IAC 2-2 and significantly revising 326 IAC 2-2, IDEM has included the effective date of this rulemaking as the rescission date cutoff for the state rule. This provision will apply to both 40 CFR 52.21 and this rule since IDEM has been delegated authority under 40 CFR 52.21 and will not have an approved PSD program prior to the effective date of this section. No changes to the section are necessary.

Comment: In 326 IAC 2-2-12, the reference to "this section" in subsection (2) appears to be a long-standing typographical error. The question is not whether "this section", i.e., section 12, applies to the source or modification, but whether the rule that contains section 12, i.e., 326 IAC 2-2, applies to the source or modification. IDEM should correct this error by changing "section" to "rule". (GE)

Response: IDEM concurs that the reference to "section" in 326 IAC 2-2-12(2) should be changed to reference the "rule" and has

made the correction.

Comment: In 326 IAC 2-2-12, the use of the word “title” appears to be in error. The word “title” should be changed to “rule” because, while section 12 is a part of the state’s PSD rule, it is not a part of any other rule in Article 2 or in Title 326. If the word “title” is truly intended, then this provision is of general applicability and does not belong in Rule 2, but rather in Rule 1.1. (GE)

Response: IDEM concurs that “title” should be changed to “rule” and has made the correction.

Comment: In 326 IAC 2-2-12, the meaning of the phrase “as follows” at the end of the introductory language is unclear. The language that follows has nothing to do with rescinding, modifying, revoking, or the expiration of a permit pursuant to IC 13-15-6 or IC 13-15-7. Instead, the language that follows is a method of rescinding the permit in addition to the statutory provisions cited. The phrase “as follows” should be deleted. A new introductory sentence should be added after the first sentence that reads “In addition:”. (GE)

Response: The purpose of this section is to provide additional detail specifically related to permit rescission for PSD requirements rather than to repeat the language already in the statute. To avoid confusion, IDEM has removed the reference to statutes, though compliance with applicable statutes is still required.

Comment: In 326 IAC 2-2-14(i), the phrase “of the department” should be inserted after “of the following actions” for clarification. (GE)

Response: The introductory language in 326 IAC 2-2-14(i) clearly states that the department shall transmit the applications and provide notice of the actions listed. The phrase “of the department” would be redundant. It is also clearly stated earlier in the section that the department notifies the federal land manager and federal officials. No changes have been made to this provision.

Comment: The commentor is not familiar with the term “advanced notification of a permit application” used in 326 IAC 2-2-14(i)(1). If IDEM intends that this paragraph require IDEM to notify EPA of IDEM’s receipt of a permit application, then the phrase “advanced notification of” can be deleted. If IDEM intends something other than this, IDEM should explain what is intended. (GE)

Response: The term “advanced notice of a permit application” does not refer to the permit application itself. The requirement to notify U.S. EPA of the permit application is contained in the introductory language in 326 IAC 2-2-14(i). Major sources often voluntarily arrange meetings with IDEM prior to submitting a PSD application to discuss the content of the application and the scope of the project. This provision is intended to reference that type of voluntary notification. Since this provision is strictly for IDEM actions, IDEM does not believe that further explanation of the language in the rule is necessary.

Comment: The proposed removal of the concept of “federally” enforceable from 326 IAC 2-2 is consistent with recent court rulings that invalidated federal enforceability as an element of potential to emit. There are other instances where the concept of federal enforceability should also be deleted for the same reasons. IDEM should consider deleting the terms in the following provisions: 326 IAC 1-2-2; 326 IAC 2-1.1-1(16); 326 IAC 2-3-1(c)(3); 326 IAC 2-3-1(t)(2)(D); 326 IAC 2-3-1(v); 326 IAC 2-3-2(c); 326 IAC 2-3-3(a)(3); 326 IAC 2-3-3(b)(5); 326 IAC 2-3-3(b)(8); 326 IAC 2-7-1(13)(A); 326 IAC 2-7-1(14); 326 IAC 2-7-1(29); 326 IAC 2-7-5(11); 326 IAC 2-7-5(11)(B); 326 IAC 2-7-12(b)(1)(D)(i); 326 IAC 2-7-22(a); 326 IAC 2-8-4(11); 326 IAC 2-8-4(11)(B); and 326 IAC 2-13-1(j)(3). The language in 326 IAC 2-7-1(29) includes the concept of federal enforceability. This is equivalent to the “federally enforceable” language in 326 IAC 2-2 from which IDEM is proposing to delete “federally”. The “federally enforceable” requirement in the Part 70 rule should be removed, just as has been proposed for the PSD rule. In addition, the word “federally” should be removed from the following provisions of 326 IAC 2-7: 1(13)(A); 1(14) (2 places); 1(36); 5(11) (2 places); 12(b)(1)(D)(i); and 22(a). (Lilly) (GE)

Response: This rulemaking involves: (1) changes to the Part 70 operating permit program to obtain full program approval; (2) changes to the major new source review provisions in attainment areas to obtain approval as part of the state implementation plan; and (3) implementation of the requirements of Public Law 112-2000. It does not include the major new source review provisions for the nonattainment areas. With the exception of the PSD rule and a change related to FESOPs and MSOPs, IDEM is not recommending that the board delete the adjective “federally” at this time. This change can cause other consequences, such as affecting the hierarchy of the different state permit levels. IDEM prefers to address the overall issue of federally enforceable in a future rulemaking.

Comment: In 326 IAC 2-7-1(21)(A), IDEM needs to update the reference from 326 IAC 2-1.1-3(d)(2) to 326 IAC 2-1.1-3(e)(2) because IDEM changed the numbering system in 326 IAC 2-1.1-3. (GE)

Response: IDEM concurs and has made the correction.

Comment: The rule, as currently written, requires persons who have been issued an operating permit under 326 IAC 2-6.1 to apply for a federally enforceable state operating permit when the permit issued under 326 IAC 2-6.1 expires. This, in effect, requires a facility that has taken a limit under a permit issued under 326 IAC 2-6.1 to apply for a FESOP even though the source would, under rules as revised by this rulemaking, not be a “major source” subject to the Title V permit requirements. The language in 326 IAC 2-7-2(b)(5)(B) should be amended to read as follows:

(b) The following source categories are exempt from requirements of a Part 70 permit:

(5) A major source that has become non-major through the issuance of (1) one of the following permits:

(A) a federally enforceable state operating permit under 326 IAC 2-8; or

(B) a valid initial operating permit under 326 IAC 2-6.1, that the commissioner determines has established enforceable conditions limiting potential to emit to less than the applicability levels of this rule.

Alternatively, 326 IAC 2-7-2(b)(5) could be deleted since a source which is not a major source because its potential to emit is limited by enforceable permit conditions (not just FESOP conditions) is not required to obtain a Title V permit. (BT)

Response: Regardless of whether the limits on potential to emit need to be federally enforceable, Indiana's fee structure requires the more significant sources pay higher fees to support compliance-related activities. Sources that obtain FESOPs take on an additional applicable requirement, that is the limit on potential to emit. Sources that obtain FESOPs are, in general, larger sources of air pollution. For both of these reasons, IDEM focuses more compliance resources on sources with FESOPs than those with MSOPs. Therefore, IDEM believes that the FESOP level of approval is appropriate for reasons other than federal enforceability.

Comment: Commentor objects to the proposed deletion of 326 IAC 2-7-5(1)(E). Removal of this provision means the permittee may be subject to enforcement for two violations when only one violation has occurred. Because this provision was not identified as a program deficiency in U.S. EPA's interim approval of the Indiana Title V program, IDEM should request a notice of deficiency from U.S. EPA before any action is taken on this provision. (Lilly)

Response: IDEM recommends that the board not delete 326 IAC 2-7-5(1)(E) from the rule at preliminary adoption. IDEM is continuing to discuss this issue with the U.S. EPA.

Comment: Commentor objects to the proposed deletion of the emergency defense provisions for "health-based" emission limitations. The commentor recognizes that U.S. EPA has requested IDEM to remove this provision. Because this provision was not identified as a program deficiency in U.S. EPA's interim approval of the Indiana Title V program, IDEM should request a notice of deficiency from U.S. EPA before any action is taken on this provision. If IDEM is unsuccessful at preserving the emergency defense, IDEM should revise 326 IAC 1-6 and 326 IAC 2-7-16(d) so that the malfunction rules will apply to Title V sources. (Lilly)

Response: The removal of "health based" is consistent with the Clean Air Act. Part 70 only allows emergency defense for non-compliance with technology based limits. IDEM must remove the allowance of emergencies to be an affirmative defense for non-compliance with a health based emission limitation so that the state program will comply with federal requirements.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On June 6, 2001, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 2 and related articles. Comments were made by the following parties:

Bernie Paul, Eli Lilly and Company, (Lilly)

Tony Sullivan, Barnes & Thornburg, (BT)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The Indiana Electric Utilities want more time to review the changes to the rule and an opportunity to meet with IDEM prior to preliminary adoption of this rule. (BT)

Response: There was a 30 day public notice period published in the April 1, 2001 Indiana Register. In addition to the publication of the Second Notice of Comment Period, IDEM sent copies of the Second Notice to those individuals that submitted comments to U.S. EPA concerning deficiencies in the Indiana Title V permitting process. IDEM believes it is important to keep the rulemaking process moving forward, but has and will continue to meet with members of the regulated community, at their request, to discuss the draft changes.

Comment: Why doesn't an insignificant activity or trivial activity need a modification when the applicable requirement is already in the permit and the modification is not subject to Title I of the CAA? The revisions on this topic are not clear. (BT)

Response: IDEM does not want to put an unnecessary burden on the regulated community or create a permitting backlog for the agency by requiring modifications for each and every insignificant or trivial activity. IDEM has worked with the U.S. EPA to streamline requirements to ease the permitting burden. Part 70 regulates applicable requirements, not specific emission units, therefore if the applicable requirement is contained in the permit, then the addition of an insignificant or trivial activity would not need to go through permit modification procedures. The exception to this is if the addition of the unit would be considered a modification under any provision of Title I of the CAA. In this case, federal law requires a significant permit modification.

Comment: How do the streamlined requirements affect monitoring? (BT)

Response: If the unit is subject to multiple requirements that have been streamlined using the provisions in 326 IAC 2-7-24, the source will need to certify compliance with each of the applicable requirements contained in the streamlined condition in the annual compliance certification.

Comment: How will deleting the start up, shut down, and emergency provision from 326 IAC 2-7-5 affect these same provisions in other rules? (BT)

Response: IDEM is complying with the state implementation plan (SIP) and CAA in not allowing 326 IAC 2-7-5(1)(F) to create new limits through a Title V permit. IDEM has discussed this with U.S. EPA and has agreed to make this change. This change is intended for the Title V program only at this time; all other programs will be evaluated in a future rulemaking.

The air pollution control board adopted a rule addressing alternative opacity limits during start up and shut down. That rule is

currently pending as a SIP revision. When U.S. EPA approves that rule, Title V permits will be able to incorporate those provisions.

Comment: How will the Title I condition language in 326 IAC 2-1.1-9.5 affect old construction permits? (Lilly)

Response: IDEM is working with the U.S. EPA to ensure that this provision will allow the supersession of old construction permits as long as the Title I conditions continue through new permits. IDEM will clarify any historical limitations prior to final adoption of this rule.

Comment: The term “federally enforceable” should be removed throughout Article 2. (Lilly)

Response: IDEM will continue to review the concept of “federally enforceable” in all parts of 326 IAC 2 and consider the removal of the term where appropriate.

Comment: The potential to emit (PTE) thresholds in 326 IAC 2-1.1-3 (exemptions) and 326 IAC 2-7-1(21) (insignificant activities) should be the same so that it would be clear if something is exempt from preconstruction approval it is also exempt from permit modification. (Lilly)

Response: The exemption levels listed in 326 IAC 2-1.1-3 are an element of Indiana’s State Implementation Plan for minor new source review (NSR SIP). In the context of the comment, the NSR SIP establishes thresholds that determine whether approval from the IDEM is required prior to beginning construction of a new emissions unit or modification. The ability to review a change prior to construction ensures that the design will protect air quality.

The thresholds established in 326 IAC 2-7-1(21) are an element of Indiana’s Title V Operating Permit Program and are lower than the thresholds in the NSR SIP. Again, in the context of the comment, these thresholds determine whether IDEM approval is required prior to operating a new emissions unit. One of the purposes of the Title V Operating Permit program is to ensure that the public has some ability to review or be notified of changes at permitted sources. In general, changes that are exempt under the NSR SIP, but above the thresholds established by Title V may be operated as minor modifications after submitting a complete application. The permit is modified and the public notified after the receipt of the application. Changes that are subject to the NSR SIP are generally subject to the same level of review under the Title V program to the extent that the separate federal requirements can accommodate that.

The IDEM believes that the separate thresholds serve their respective purposes, balancing the protection of air quality, the public interest, and operational flexibility at the permitted source.

Comment: If the health-based defense is deleted, most emergencies will not be covered. This defeats the purpose of the emergency provisions. (BT)

Comment: The emergency defense or health-based limitations should not be removed from the emergency provisions. In the past the malfunction rule accounted for such emergencies. It was acceptable for 326 IAC 2-7-18 to supercede the malfunction rule when it was a duplicate rule. If the health-based provisions are removed for the emergency defense, then Eli Lilly requests that the malfunction rule be applicable instead. (Lilly)

Response: Part 70 only allows an emergency defense for technology based limitations. The U.S. EPA will not allow the defense for health-based limitations. Health-based standards are based on the assessment of public health risks associated with certain levels of pollution in the ambient environment and are created for the purpose of maintaining the National Ambient Air Quality Standards (NAAQS). U.S. EPA and IDEM agree to use the enforcement discretion approach for sudden and unavoidable malfunctions caused by circumstances entirely beyond the control of the source. However, U.S. EPA feels that case law and Agency policy have consistently recognized that affirmative defenses should not be available for health-based standards. To allow such defense for health-based standards for periods of excess emissions can pose a threat to the NAAQS or otherwise create a risk to public health and could make Indiana’s program subject to federal disapproval.

326 IAC 1-2-82.5	326 IAC 2-7-24
326 IAC 2-1.1-3	326 IAC 2-7-25
326 IAC 2-1.1-9.5	326 IAC 3-5-1
326 IAC 2-2-1	326 IAC 4-2-1
326 IAC 2-2-2	326 IAC 5-1-1
326 IAC 2-2-3	326 IAC 6-1-1
326 IAC 2-2-4	326 IAC 6-2-1
326 IAC 2-2-5	326 IAC 6-5-1
326 IAC 2-2-6	326 IAC 6-6-1
326 IAC 2-2-7	326 IAC 7-1.1-1
326 IAC 2-2-9	326 IAC 7-1.1-2
326 IAC 2-2-12	326 IAC 7-3-1
326 IAC 2-2-14	326 IAC 8-1-1
326 IAC 2-6.1-2	326 IAC 9-1-2
326 IAC 2-6.1-5	326 IAC 10-1-1
326 IAC 2-7-1	326 IAC 11-1-1
326 IAC 2-7-2	326 IAC 11-2-1
326 IAC 2-7-4	326 IAC 11-3-1
326 IAC 2-7-5	326 IAC 11-4-1
326 IAC 2-7-11	326 IAC 11-5-1
326 IAC 2-7-12	326 IAC 12-1-1
326 IAC 2-7-16	326 IAC 14-1-3
326 IAC 2-7-20	326 IAC 15-1-1

SECTION 1. 326 IAC 1-2-82.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 1-2-82.5 “Title I conditions” defined

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 82.5. “Title I conditions” means one (1) or more of the following types of permit conditions based on requirements of Title I of the CAA:

(1) Any condition based on a requirement of a new source review program under Part C (Prevention of Significant Deterioration of Air Quality) or Part D (Plan Requirements for Nonattainment Areas) or a preconstruction review program under Section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the CAA and implementing state rules or federal regulations.

(2) Any condition based on a source-specific determination of ambient impacts imposed for the purpose of achieving or maintaining attainment with a national ambient air quality standard and that was:

(A) part of a state implementation plan approved by the U. S. EPA; and

(B) submitted to the U. S. EPA and is pending approval under Section 110 of the CAA.

(3) Any condition for which there is no corresponding underlying applicable requirement and that the stationary source assumed to avoid being subject to a new source review program under Part C (Prevention of Significant Deterioration of Air Quality) or Part D (Plan Requirements for Nonattainment Areas) or a preconstruction review program under Section 112(g)(2)(B) of the CAA and implementing state rules or federal regulations.

(4) Any condition that is:

(A) part of a plan approved by the U. S. EPA; and

(B) submitted to the U. S. EPA and is pending approval under Section 111(d) of the CAA.

(Air Pollution Control Board; 326 IAC 1-2-82.5)

SECTION 2. 326 IAC 2-1.1-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-1.1-3 Exemptions

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. (a) Operation of a source that consists solely of emission units, operations, or processes identified in this section is exempt from the registration and permitting requirements of this article unless the potential to emit any regulated pollutant from the entire source exceeds an emission threshold establishing the requirement to have a registration or permit under this article.

(b) *(Voided by P.L.112-2000, SECTION 7, effective March 16, 2000.)*

(c) Construction or modification of any emission unit, operation, or process identified in this section is exempt from the requirement to obtain a registration, permit, modification approval, or permit revision required under this article unless the construction or modification:

(1) is subject to federal prevention of significant deterioration (PSD) requirements as set out in 326 IAC 2-2 and 40 CFR 52.21*;

(2) is subject to nonattainment new source review requirements as set out in 326 IAC 2-3;

(3) is located at a source that has an operating permit issued under 326 IAC 2-7, where the construction or modification would be considered a Title I modification under 40 CFR Part 70*; or

(4) would result in the source needing to make a transition to an operating permit issued under 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8.

(d) The new source requirements of 326 IAC 2-5.1-2 for registrations and 326 IAC 2-5.1-3 for permits, including the requirement to submit an application, do not apply to new sources as follows:

(1) New sources that obtain and comply with one (1) of the following enforceable operating agreements under 326 IAC 2-9:

(A) 326 IAC 2-9-2.5 or 326 IAC 2-9-3 for surface coating operations.

(B) 326 IAC 2-9-4(b) through 326 IAC 2-9-4(d) and 326 IAC 2-9-4(f) for woodworking operations.

(C) 326 IAC 2-9-5 for abrasive cleaning operations.

(D) 326 IAC 2-9-7(b)(1) for sand and gravel operations.

(E) 326 IAC 2-9-8(b)(1) for crushed stone processing plants.

(F) 326 IAC 2-9-9 for concrete batch operations.

(G) 326 IAC 2-9-10 for coal mines and coal preparation plants that have provided public notice under 310 IAC 12-3-106 and included a reference of the application for an operating agreement in such notice.

(H) 326 IAC 2-9-11 for automobile refinishing operations.

(I) 326 IAC 2-9-12 for degreasing operations.

(2) New sources that comply with the limitations set forth in 326 IAC 2-11.

(3) New sources eligible for and obtaining a general permit that includes emissions limits that are less than the applicability thresholds in 326 IAC 2-5.1-2 and 326 IAC 2-5.1-3.

(4) New sources with the potential to emit less than ten (10) tons per year of a single hazardous air pollutant (HAP), as defined under Section 112(b) of the Clean Air Act, or twenty-five (25) tons per year of any combination of HAPs, and not otherwise required to apply for and obtain a registration or permit.

The exclusion from the new source requirements of 326 IAC 2-5.1-2 for registrations and 326 IAC 2-5.1-3 for permits under subdivisions (1) through (3) shall only apply to those rules and rule sections that have been approved by the U.S. EPA as part of the state implementation plan (SIP).

(e) Except for modifications subject to 326 IAC 2-3, the new source requirements of 326 IAC 2-5.1-2 for registrations and 326 IAC 2-5.1-3 for permits, the modification approval requirements under 326 IAC 2-7-10.5, and the permit revision requirements under 326 IAC 2-6.1-6 ~~326 IAC 2-7-12~~, and 326 IAC 2-8-11.1, including the requirement to submit an application, do not apply to the following:

(1) New sources or modifications to existing sources that are proposed to be operated or constructed, that have the potential to emit less than the following amounts:

(A) Five (5) tons per year of either particulate matter (PM) or particulate matter with an aerodynamic diameter less than ten (10) micrometers (PM₁₀).

(B) Ten (10) tons per year of sulfur dioxide (SO₂).

(C) Ten (10) tons per year of nitrogen oxides (NO_x).

(D) Ten (10) tons per year of volatile organic compounds (VOC) for sources or modifications that are not described by clause (E).

(E) Five (5) tons per year of volatile organic compounds (VOC) for sources or modifications that require the use of air pollution control equipment to comply with the applicable provisions of 326 IAC 8.

(F) Twenty-five (25) tons per year of carbon monoxide (CO).

(G) Two-tenths (0.2) ton per year of lead (Pb).

(H) One (1) ton per year of a single hazardous air pollutant (HAP) or two and one-half (2.5) tons per year of any combination of HAPs listed pursuant to Section 112(b) of the CAA.

(I) Five (5) tons per year of the following regulated air pollutants:

(i) Hydrogen sulfide (H₂S).

(ii) Total reduced sulfur (TRS).

(iii) Reduced sulfur compounds.

(iv) Fluorides.

(2) Modifications of existing sources that consist of only an emissions unit or units or process or processes whose primary purpose is to conduct research and development into new processes and products, provided the modification:

(A) is operated under the close supervision of technically trained personnel;

(B) is conducted for the primary purpose of theoretical research or research and development into new or improved processes and products;

(C) does not manufacture more than de minimis amounts of commercial products;

(D) does not contribute to the manufacture of commercial products by collocated sources in more than a de minimis manner; and

(E) is not subject to 326 IAC 2-2 or 326 IAC 2-3.

(3) New sources or modifications of existing sources that consist of only a laboratory as defined in this subdivision. As used in this subdivision, "laboratory" means a place or activity, such as a medical, analytical, or veterinary laboratory, 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 subdivision 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 laboratory manufactures or produces products for profit in more than a de minimis manner, it shall not be considered to be a laboratory under this subdivision. 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 emission units that provide power to multiple projects or from emission units that would otherwise require permitting, such as boilers that provide power to a source or solid waste disposal units, such as incinerators.

(4) New sources or modifications of existing sources that consist of only educational and teaching activities as defined in this subdivision. As used in this subdivision, "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 emission units that provide power to multiple projects or from emission units that would otherwise require permitting, such as boilers that provide power to a source or solid waste disposal units, such as incinerators.

(5) New sources or modifications of existing sources that consist of only combustion related activities, including the following:

(A) Space heaters, process heaters, heat treat furnaces, or boilers described as follows:

(i) Natural gas-fired combustion sources with heat input equal to or less than ten million (10,000,000) British thermal units per hour.

(ii) Propane or liquified 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.

(iii) 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.

(iv) 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.

(B) 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 exceeds two million (2,000,000) British thermal units per hour.

(C) Combustion source flame safety purging on startup.

(D) Portable electrical generators that can be moved by hand from one (1) location to another. As used in this clause, "moved by hand" means that it can be moved without the assistance of any motorized or nonmotorized vehicle, conveyance, or device.

(E) Combustion emissions from propulsion of mobile sources.

(F) Fuel use related to food preparation for on-site consumption.

(G) Tobacco smoking rooms and areas.

(H) Blacksmith forges.

- (I) Indoor and outdoor kerosene heaters.
- (6) New sources or modifications of existing sources that consist of only activities that dispense fuel, including the following:
 - (A) A gasoline dispensing operation having a storage tank capacity equal to or less than ten thousand five hundred (10,500) gallons and dispensing less than or equal to one thousand three hundred (1,300) gallons per day. Such storage tanks may be in a fixed location or on mobile equipment.
 - (B) A petroleum fuel other than a 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.
- (7) New sources or modifications of existing sources that consist of only the following VOC and HAP storage containers:
 - (A) 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.
 - (B) Vessels storing the following:
 - (i) Lubricating oils.
 - (ii) Hydraulic oils.
 - (iii) Machining oils.
 - (iv) Machining fluids.
- (8) New sources or modifications of existing sources that consist of only refractory storage not requiring air pollution control equipment.
- (9) New sources or modifications of existing sources that consist of only equipment used exclusively for the following:
 - (A) Packaging of the following:
 - (i) Lubricants.
 - (ii) Greases.
 - (B) Filling drums, pails, or other packaging containers with the following:
 - (i) Lubricating oils.
 - (ii) Waxes.
 - (iii) Greases.
- (10) New sources or modifications of existing sources that consist of only the following:
 - (A) Application of:
 - (i) oils;
 - (ii) greases;
 - (iii) lubricants; and
 - (iv) nonvolatile material;as temporary protective coatings.
 - (B) Machining where an aqueous cutting coolant continuously floods the machining interface.
 - (C) Degreasing operations that do not exceed one hundred forty-five (145) gallons per twelve (12) months except if subject to 326 IAC 20-6.
 - (D) Cleaners and solvents characterized as:
 - (i) having a vapor pressure equal to or less than two (2) 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
 - (ii) having a vapor pressure equal to or less than 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.
 - (E) The following equipment related to manufacturing activities not resulting in the emission of HAPs as defined under Section 112(b) of the Clean Air Act:
 - (i) Brazing.
 - (ii) Cutting torches.
 - (iii) Soldering.
 - (iv) Welding.
 - (F) Closed loop heating and cooling systems.
 - (G) Infrared cure equipment.
 - (H) Exposure chambers (towers or columns), for curing of ultraviolet inks and ultraviolet coatings where heat is the intended discharge.
 - (I) Any of the following structural steel and bridge fabrication activities:
 - (i) Cutting two hundred thousand (200,000) linear feet or less of one (1) inch plate or equivalent.
 - (ii) Using eighty (80) tons or less of welding consumables.

- (11) New sources or modifications of existing sources that consist of only activities associated with the following recovery systems:
- (A) Rolling oil recovery systems.
 - (B) Ground water oil recovery wells.
- (12) New sources or modifications of existing sources that consist of only solvent recycling systems with batch capacity less than or equal to one hundred (100) gallons.
- (13) New sources or modifications of existing sources that consist of only the following water based activities:
- (A) Activities associated with the treatment of wastewater streams with an oil and grease content less than or equal to one percent (1%) by volume.
 - (B) Water run-off ponds for petroleum coke-cutting and coke storage piles.
 - (C) 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.
 - (D) Any operation using aqueous solutions containing less than or equal to one percent (1%) by weight of VOCs excluding HAPs as defined under Section 112(b) of the Clean Air Act.
 - (E) Water-based adhesives that are less than or equal to five percent (5%) by volume of VOCs excluding HAPs as defined under Section 112(b) of the Clean Air Act.
 - (F) Noncontact cooling tower systems with either of the following:
 - (i) Natural draft cooling towers not regulated under a NESHAP.
 - (ii) Forced and induced draft cooling tower systems not regulated under a NESHAP.
 - (G) Quenching operations used with heat treating processes.
- Oil, grease, or VOC content shall be determined by a test method acceptable to the commissioner and the U.S. EPA.
- (14) New sources or modifications of existing sources that consist of only trimmers that do not produce fugitive emissions and that are equipped with a dust collection or trim material recovery device, such as a bag filter or cyclone.
- (15) New sources or modifications of existing sources that consist of only stockpiled soils from soil remediation activities that are covered and waiting transport for disposal.
- (16) New sources or modifications of existing sources that consist of only paved and unpaved roads and parking lots with public access.
- (17) New sources or modifications of existing sources that consist of only general construction activities not related to the construction of an emissions unit.
- (18) New sources or modifications of existing sources that consist of only conveyors as follows:
- (A) Covered conveyors for solid raw material, including:
 - (i) coal or coke conveying less than or equal to three hundred sixty (360) tons per day; or
 - (ii) limestone conveying 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.
 - (B) Uncovered coal or coke conveying less than or equal to one hundred twenty (120) tons per day.
 - (C) Underground conveyors.
 - (D) Enclosed systems for conveying plastic raw material and plastic finished goods.
- (19) New sources or modifications of existing sources that consist of only coal bunker and coal scale exhausts and associated dust collector vents.
- (20) New sources or modifications of existing sources that consist of only asbestos abatement projects regulated by 326 IAC 14-10.
- (21) New sources or modifications of existing sources that consist of only 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:
- (A) Purging of gas lines.
 - (B) Purging of vessels.
- (22) New sources or modifications of existing sources that consist of only flue gas conditioning systems and associated chemicals, such as the following:
- (A) Sodium sulfate.
 - (B) Ammonia.
 - (C) Sulfur trioxide.
- (23) New sources or modifications of existing sources that consist of only equipment used to collect any material that might be released during a malfunction, process upset, or spill cleanup, including the following:
- (A) Catch tanks.
 - (B) Temporary liquid separators.
 - (C) Tanks.
 - (D) Fluid handling equipment.

- (24) New sources or modifications of existing sources that consist of only 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.
- (25) New sources or modifications of existing sources that consist of only activities associated with emergencies, including the following:
- (A) On-site fire training approved by the commissioner.
 - (B) Emergency generators as follows:
 - (i) Gasoline generators not exceeding one hundred ten (110) horsepower.
 - (ii) Diesel generators not exceeding one thousand six hundred (1,600) horsepower.
 - (iii) Natural gas turbines or reciprocating engines not exceeding sixteen thousand (16,000) horsepower.
 - (C) Stationary fire pump engines.
- (26) New sources or modifications of existing sources that consist of only 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-hundredths (0.03) grain 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:
- (A) Deburring.
 - (B) Buffing.
 - (C) Polishing.
 - (D) Abrasive blasting.
 - (E) Pneumatic conveying.
 - (F) Woodworking operations.
- (27) New sources or modifications of existing sources that consist of only purge double block and bleed valves.
- (28) New sources or modifications of existing sources that consist of only filter or coalescer media changeout.
- (29) New sources or modifications of existing sources that consist of only vents from ash transport systems not operated at positive pressure.
- (30) New sources or modifications of existing sources that consist of only mold release agents using low volatile products (vapor pressure less than or equal to two (2.0) kilo Pascals measured at thirty-eight (38) degrees Centigrade).
- (31) New sources or modifications of existing sources that consist of only farm operations.
- (32) New sources or modifications of existing sources that consist of only water-related activities, including the following:
- (A) Production of hot water for on-site personal use not related to any industrial or production process.
 - (B) Water treatment activities used to provide potable and process water for the plant, excluding any activities associated with wastewater treatment.
 - (C) Steam traps, vents, leaks, and safety relief valves.
 - (D) Cooling ponds.
 - (E) Laundry operations using only water solutions of bleach or detergents.
 - (F) Demineralized water tanks and demineralizer vents.
 - (G) Boiler water treatment operations, not including cooling towers.
 - (H) Oxygen scavenging (deaeration) of water.
 - (I) Steam cleaning operations and steam sterilizers.
 - (J) Pressure washing of equipment.
 - (K) Water jet cutting operations.
- (33) New sources or modifications of existing sources that consist of only ventilation, venting equipment, and refrigeration, including the following:
- (A) 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.
 - (B) 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.
 - (C) Vents from continuous emissions monitors and other analyzers.
 - (D) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.
 - (E) Air vents from air compressors.
 - (F) Vents for air cooling of electric motors provided the air does not commingle with regulated air pollutants.
 - (G) Vents from equipment used to air blow water from cooled plastics strands or sheets.
- (34) New sources or modifications of existing sources that consist of only 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:
- (A) Activities associated with the repair and maintenance of paved and unpaved roads, including paving or sealing, or both, of

parking lots and roadways.

(B) Painting, including interior and exterior painting of buildings, and solvent use excluding degreasing operations utilizing halogenated organic solvents.

(C) Brazing, soldering, or welding operations and associated equipment.

(D) Portable blast-cleaning equipment with enclosures.

(E) Blast-cleaning equipment using water as the suspension agent and associated equipment.

(F) Batteries and battery charging stations, except at battery manufacturing plants.

(G) Lubrication, including:

(i) hand-held spray can lubrication;

(ii) dipping metal parts into lubricating oil; or

(iii) manual or automated addition of cutting oil in machining operations.

(H) Nonasbestos insulation installation or removal.

(I) Tarring, retarring, and repair of building roofs.

(J) Bead blasting of heater tubes.

(K) Instrument air dryer and filter maintenance.

(L) Manual tank gauging.

(M) Open tumblers associated with deburring operations in maintenance shops.

(35) New sources or modifications of existing sources that consist of only activities performed using hand-held equipment, including the following:

(A) Application of hot melt adhesives with no VOC in the adhesive formulation.

(B) Buffing.

(C) Carving.

(D) Cutting, excluding cutting torches.

(E) Drilling.

(F) Grinding.

(G) Machining wood, metal, or plastic.

(H) Polishing.

(I) Routing.

(J) Sanding.

(K) Sawing.

(L) Surface grinding.

(M) Turning wood, metal, or plastic.

(36) New sources or modifications of existing sources that consist of only housekeeping and janitorial activities and supplies, including the following:

(A) Vacuum cleaning systems used exclusively for housekeeping or custodial activities, or both.

(B) Steam cleaning activities.

(C) Rest rooms and associated clean-up operations and supplies.

(D) Alkaline or phosphate cleaners and associated equipment.

(E) Mobile floor sweepers and floor scrubbers.

(F) Pest control fumigation.

(37) New sources or modifications of existing sources that consist of only office-related activities, including the following:

(A) Office supplies and equipment.

(B) Photocopying equipment and associated supplies.

(C) Paper shredding.

(D) Blueprint machines, photographic equipment, and associated supplies.

(38) New sources or modifications of existing sources that consist of only lawn care and landscape maintenance activities and equipment, including the storage, spraying, or application of insecticides, pesticides, and herbicides.

(39) New sources or modifications of existing sources that consist of only storage equipment and activities, including the following:

(A) Pressurized storage tanks and associated piping for the following:

(i) Acetylene.

(ii) Anhydrous ammonia.

(iii) Carbon monoxide.

(iv) Chlorine.

(v) Inorganic compounds.

- (vi) Liquid petroleum gas (LPG).
 - (vii) Liquid natural gas (LNG) (propane).
 - (viii) Natural gas.
 - (ix) Nitrogen dioxide.
 - (x) Sulfur dioxide.
- (B) Storage tanks, vessels, and containers holding or storing liquid substances that do not contain any VOC or HAP as defined under Section 112(b) of the Clean Air Act.
- (C) Storage tanks, reservoirs, and pumping and handling equipment of any size containing soap, vegetable oil, grease, wax, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
- (D) Storage of drums containing maintenance raw materials.
- (E) Storage of:
- (i) castings;
 - (ii) lance rods; or
 - (iii) any non-HAP containing material in solid form stored in a sealed or covered container.
- (F) 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 meter and the container is closed, except when the material is added or removed.
- (40) New sources or modifications of existing sources that consist of only emergency and standby equipment, including the following:
- (A) Emergency (backup) electrical generators at residential locations, such as dormitories, prisons, and hospitals.
 - (B) Safety and emergency equipment except engine driven fire pumps, including fire suppression systems and emergency road flares.
 - (C) 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:
 - (i) Explosion relief vents, diaphragms, or panels.
 - (ii) Rupture discs.
 - (iii) Safety relief valves.
 - (D) Activities and equipment associated with on-site medical care not otherwise specifically regulated.
 - (E) Vacuum producing devices for the purpose of removing potential accidental releases.
- (41) New sources or modifications of existing sources that consist of only sampling and testing equipment and activities, including the following:
- (A) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
 - (B) Hydraulic and hydrostatic testing equipment.
 - (C) Ground water monitoring wells and associated sample collection equipment.
 - (D) Environmental chambers not using HAP gases.
 - (E) Shock chambers.
 - (F) Humidity chambers.
 - (G) Solar simulators.
 - (H) Sampling activities, including:
 - (i) sampling of waste; or
 - (ii) glove box sampling, charging, and packaging.
 - (I) Instrument air dryers and distribution.
 - (J) VOC sampling activities associated with soil remediation projects.
- (42) New sources or modifications of existing sources that consist of only use of consumer products and equipment where the product or equipment is used at a source in the same manner as normal consumer use and is not associated with any production process.
- (43) New sources or modifications of existing sources that consist of only equipment and activities related to the handling, treating, and processing of animals, including the following:
- (A) Equipment used exclusively to slaughter animals, but not including the following:
 - (i) Rendering cookers.
 - (ii) Boilers.
 - (iii) Heating plants.
 - (iv) Incinerators.
 - (v) Electrical power generating equipment.
 - (B) Veterinary operating rooms and laboratories.

(44) New sources or modifications of existing sources that consist of only activities generating limited amounts of fugitive dust, including the following:

(A) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes as a major source under 326 IAC 2-7-1(22)(B), and any required fugitive dust control plan or its equivalent is submitted.

(B) Soil boring.

(C) Road salting and sanding.

(45) New sources or modifications of existing sources that consist of only activities associated with production, including the following:

(A) Closed, nonvented tumblers used for cleaning or deburring metal products without abrasive blasting.

(B) Electrical resistance welding.

(C) Carbon dioxide (CO₂) lasers, used only on metals and other materials that do not emit HAPs as defined under Section 112(b) of the Clean Air Act in the process.

(D) Laser trimmers that do not produce fugitive emissions and are equipped with a dust collection device such as a bag filter, cyclone, or equivalent device.

(E) Application equipment for hot melt adhesives with no VOC in the adhesive formulation.

(F) Drop hammers or hydraulic presses for forging or metalworking.

(G) Air compressors and pneumatically operated equipment, including hand tools.

(H) Compressor or pump lubrication and seal oil systems.

(I) Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.

(J) Equipment for washing or drying fabricated glass or metal products, if no VOCs or HAPs as defined under Section 112(b) of the Clean Air Act are used in the process, and no gas, oil, or solid fuel is burned.

(K) Handling of solid steel, including coils and slabs, excluding scrap burning, scarfing, and charging into steel making furnaces and vessels.

(46) The following types of miscellaneous equipment and activities:

(A) Equipment used for surface coating, painting, dipping, or spraying operation, except those that will emit VOCs or HAPs as defined under Section 112(b) of the Clean Air Act.

(B) Condensate drains for natural gas and landfill gas.

(C) Electric or steam heated drying ovens and autoclaves, including only the heating emissions and not any associated process emissions.

(D) Salt baths using nonvolatile salts, including caustic solutions that do not result in emissions of any regulated air pollutants.

(E) Ozone generators.

(F) Portable dust collectors.

(G) Scrubber systems circulating water based solutions of inorganic salts or bases that are installed to be available for response to emergency situations.

(H) Soil borrow pits.

(I) Manual loading and unloading operations.

(J) Purging of refrigeration devices using a combination of nitrogen and CFC-22 (R-22) as pressure test media.

(K) Construction and demolition operations.

(L) Mechanical equipment gear boxes and vents that are isolated from process materials.

(M) Nonvolatile mold release waxes and agents.

This subdivision is not meant to describe emission units or activities associated with the miscellaneous equipment and activities that would otherwise require approval under this article.

~~(e)~~ (f) 326 IAC 2-7, 326 IAC 2-8, and 326 IAC 2-9 shall not apply to a source operating in compliance with the requirements of 326 IAC 2-10 or 326 IAC 2-11.

~~(f)~~ (g) 326 IAC 2-6.1 shall not apply to a source operating pursuant to one (1) of the following:

(1) A Part 70 permit under 326 IAC 2-7.

(2) A federally enforceable state operating permit (FESOP) under 326 IAC 2-8.

(3) An operating agreement under 326 IAC 2-9.

(4) A permit-by-rule under one (1) of the following rules:

(A) 326 IAC 2-10.

(B) 326 IAC 2-11.

~~(g)~~ **(h)** The requirements for an operating permit revision under 326 IAC 2-6.1-6 ~~326 IAC 2-7-12~~, or 326 IAC 2-8-11.1, modification approval under 326 IAC 2-7-10.5, or an administrative amendment under ~~326 IAC 2-7-11~~ or 326 IAC 2-8-10 shall not apply to the following modifications:

(1) A modification that has the potential to emit less than one (1) ton per year of a single hazardous air pollutant (HAP) as defined under Section 112(b) of the CAA or two and five-tenths (2.5) tons per year of any combination of HAPs.

(2) A modification at an existing source that consists only of changes in a method of operation, a reconfiguration of existing equipment or other minor physical changes, or a combination thereof, and that does not result in an increase in the potential to emit that:

(A) exceeds the significance levels established in 326 IAC 2-2-1 when subject only to specific emission limits contained in this title;

(B) exceeds the significance levels established in 326 IAC 2-3-1 when subject only to specific emission limits contained in this title;

(C) is subject to 326 IAC 2-4.1 concerning new source toxics control;

(D) is greater than or equal to fifteen (15) pounds per day of VOCs from an existing source in Lake or Porter County that has the potential to emit, as defined by 326 IAC 2-3-1(v), or actual emissions of twenty-five (25) tons per year;

(E) is greater than or equal to twenty-five (25) pounds per day of NO_x from an existing source in Lake or Porter County that has the potential to emit, as defined by 326 IAC 2-3-1(v), or actual emissions of twenty-five (25) tons per year;

(F) is greater than or equal to one (1) ton or more per year of lead or lead compounds measured as elemental lead and the source is:

(i) a primary lead smelter;

(ii) a secondary lead smelter;

(iii) a primary copper smelter;

(iv) a lead gasoline additive plant; or

(v) a lead-acid storage battery manufacturing plant that produces two thousand (2,000) or more batteries per day;

(G) is greater than or equal to five (5) tons or more per year of lead or lead compounds measured as elemental lead and the source is not listed in clause (F);

(H) is greater than or equal to six-tenths (0.6) ton per year, for a source of lead emissions with a potential to emit greater than or equal to five (5) tons per year;

(I) is an emissions increase of VOC or NO_x subject to 326 IAC 2-3-2(b)(2) or 326 IAC 2-3-2(b)(3) at an existing source in Lake or Porter County that emits or has the potential to emit twenty-five (25) tons per year of VOC or NO_x;

(J) is greater than or equal to fifteen (15) tons per year particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers (PM₁₀); or

(K) is subject to the provisions of 326 IAC 8-1-6 that has not previously been subject to review in accordance with 326 IAC 8-1-6.

(3) Temporary operations and experimental trials that involve construction, reconstruction, or modification and that meet the following criteria:

(A) The potential emissions from the construction or reconstruction of a facility or source or the potential emissions increase from the modification are less than twenty-five (25) tons for the duration of the operation.

(B) The construction, reconstruction, or modification is not a major source or modification as defined by 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-7.

(C) The purpose of the construction, reconstruction, or modification is to:

(i) collect data for experimental purposes, including, but not limited to, process improvements, new product development, and pollution prevention; or

(ii) temporarily conduct an operation not considered part of the normal operation or production of the facility or source.

(D) The duration of the temporary operation or experimental trial is less than thirty (30) days of total operating time.

(E) If the construction, reconstruction, or modification is part of a soil or water remediation project, the duration of the project is less than twenty-four (24) hours or a greater period, not to exceed seventy-two (72) hours, as determined to be necessary by the department considering the nature of the project or the manner of testing, and the purpose of the project is to identify parameters necessary to design the remediation effort.

(F) If the construction, reconstruction, or modification would otherwise require a modification approval or operating permit revision, the owner or operator shall provide the department written notice of the proposed construction, reconstruction, or modification at least seven (7) days before beginning the construction, reconstruction, or modification. The notice shall contain the following information:

(i) A description of the purpose of the construction, reconstruction, or modification.

(ii) A description of how the construction, reconstruction, or modification is experimental or not part of the normal operation

or production of the facility or source.

(iii) The dates the owner or operator anticipates the construction, reconstruction, or modification to begin, operations to begin, and operations to cease.

(iv) An estimate of the potential emissions and actual emissions increase resulting from the construction or reconstruction.

(v) The equipment involved in the construction, reconstruction, or modification.

(G) If the construction, reconstruction, or modification would otherwise require a modification approval or operating permit revision, the owner or operator shall provide the department written notice of the proposed construction, reconstruction, or modification at most seven (7) days after concluding the temporary operation or experimental trial. The notice shall contain the following information:

(i) The actual start date of the construction, reconstruction, or modification.

(ii) The duration of the temporary operation or experimental trial.

(iii) The actual emissions occurring during the temporary operation or experimental trial.

(H) The exemption provided by this subdivision shall not apply to facilities or sources whose operations are experimental in nature, part of pilot plants, or characterized by frequent product changes.

***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 46204. (Air Pollution Control Board; 326 IAC 2-1.1-3; filed Nov 25, 1998, 12:13 p.m.: 22 IR 982; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105)**

SECTION 3. 326 IAC 2-1.1-9.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 2-1.1-9.5 General provisions; term of permit

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-11-2; IC 13-15-3-6; IC 13-17

Sec. 9.5. (a) The following shall be effective for a term not to exceed five (5) years:

(1) A permit to construct.

(2) A permit to operate.

(3) A permit modification.

(b) Notwithstanding the permit term in subsection (a), a Title I condition in a permit to construct, permit to operate, or permit modification shall remain in effect until:

(1) the Title I condition in the permit is modified; or

(2) the emission unit to which the Title I condition pertains permanently ceases operation.

(c) Except as provided in IC 13-15-3-6(a), expiration of a permit terminates the right to operate a stationary source. (Air Pollution Control Board; 326 IAC 2-1.1-9.5)

SECTION 4. 326 IAC 2-2-1, AS AMENDED AT 24 IR 2412, SECTION 1, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-1 Definitions

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

Affected: IC 13-15; IC 13-17

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two (2) year period which precedes the particular date and which is representative of normal source operation. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit, other than an electric utility steam generating unit described in subdivision (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit, other than a new unit or the replacement of an existing unit, actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the department on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years, may be required by the department if the department determines such a period to be more representative of normal source post-change operations.

(c) “Adverse impact on visibility” means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor’s visual experience of the federal Class I area, as defined in section 13 of this rule. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with:

- (1) times of visitor use of the federal Class I area; and
- (2) the frequency and timing of natural conditions that reduce visibility.

(d) “Allowable emissions” means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless a source is subject to ~~federally~~ enforceable permit limits which restrict the operating rate, or hours of operation, or both) and the most stringent of:

- (1) the applicable standards as set forth in 40 CFR 60 and 40 CFR 61*;
- (2) the state implementation plan emissions limitation, including those with a future compliance date; or
- (3) the emissions rate specified as a ~~federally~~ an enforceable permit condition, including those with a future compliance date.

(e) “Baseline area” means the following:

(1) Any intrastate area (and every part thereof) designated as attainment or unclassifiable in accordance with 326 IAC 1-4 in which the major stationary source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one (1) microgram per cubic meter ($\mu\text{g}/\text{m}^3$)(annual average) of the pollutant for which the minor source baseline date is established.

(2) Area redesignations under 326 IAC 1-4 and Section 107(d)(1)(D) or 107(d)(1)(E) of the Clean Air Act (CAA)* cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:

(A) establishes a minor source baseline date; or

(B) is subject to 40 CFR 52.21* and this rule and would be constructed in the same state as the state proposing the redesignation.

(3) Any baseline area established originally for the total suspended particulate (TSP) increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if U.S. EPA rescinds the corresponding minor source baseline date in accordance with 40 CFR 52.21(b)(14)(iv)*.

(f) “Baseline concentration” means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date. The baseline concentration is determined for each pollutant for which a baseline date is established and shall include the following:

(1) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in subdivision (3).

(2) The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(3) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(A) Actual emissions from any major stationary source on which the construction commenced after the major source baseline date.

(B) Actual emissions increases and decreases at any source occurring after the minor source baseline date.

(g) “Begin actual construction” means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework, and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(h) “Best available control technology” or “BACT” means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the provisions of the ~~Clean Air Act, CAA~~, which would be emitted from any proposed major stationary source or major modification, which the commissioner, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60* and 40 CFR 61*. If the commissioner determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirements for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

(i) “Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same “major group” (i.e., which have the same first two (2) digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office)*.

(j) “Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

(k) “Clean coal technology demonstration project” means a project using funds appropriated under the heading “Department of Energy–Clean Coal Technology”, up to a total amount of two billion five hundred million dollars (\$2,500,000,000) for commercial demonstration of clean coal technology, or similar projects funded through appropriations for U.S. EPA. The federal contribution for a qualifying project shall be at least twenty percent (20%) of the total cost of the demonstration project.

(l) “Commence”, as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

- (1) begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed within a reasonable time; or
- (2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(m) “Complete” means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the department from requesting or accepting any additional information.

(n) “Construction” means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(o) “Electric utility steam generating unit” means any steam electric generating unit that is constructed for the purpose of supplying more than one-third ($\frac{1}{3}$) of its potential electric output capacity and more than twenty-five (25) megawatts electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(p) “Emissions unit” means any part of a stationary source which emits or would have the potential to emit any pollutant regulated under the provisions of the ~~Clean Air Act, CAA~~.

(q) “Federal land manager” means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(r) "Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(s) "High terrain" means any area having an elevation nine hundred (900) feet or more above the base of the stack of a source.

(t) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(u) "Low terrain" means any area other than high terrain.

(v) "Major modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant net emissions increase of any pollutant that is being regulated under the ~~Clean Air Act~~ CAA. The following shall apply:

(1) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include the following:

(A) Routine maintenance, repair, and replacement.

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.

(C) Use of an alternative fuel by reason of an order under Section 125 of the ~~Clean Air Act~~ CAA.

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(E) Use of an alternative fuel or raw material by a source which:

(i) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any ~~federally~~ enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21* or under this rule or 326 IAC 2-3; or

(ii) the source is approved to use under any permit issued under 40 CFR 52.21* or under this rule.

(F) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any ~~federally~~ enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21* or under this rule or 326 IAC 2-3.

(G) Any change in ownership at a source.

(H) The addition, replacement, or use of a pollution control project as defined in subsection (bb) and 326 IAC 2-1.1-1(13) at an existing source unless the department determines that:

(i) such addition, replacement, or use is not environmentally beneficial; or

(ii) the pollution control project would result in a significant net emissions increase that will cause or contribute to a violation of any national ambient air quality standard (NAAQS) or PSD increment.

A pollution control project that is exempt under this clause shall be considered a significant source modification under 326 IAC 2-7-10.5(f)(8).

(I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(i) the state implementation plan; and

(ii) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

(J) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(K) The reactivation of a very clean coal-fired electric utility steam generating unit.

(w) "Major stationary source" means the following:

(1) Any of the following stationary sources of air pollutants which are located or may be located in an attainment or unclassifiable area as designated in 326 IAC 1-4 and which emit or have the potential to emit one hundred (100) tons per year or more of any pollutant subject to regulation under the ~~Clean Air Act~~ CAA:

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

(B) Coal cleaning plants (with thermal driers).

- (C) Kraft pulp mills.
 - (D) Portland cement plants.
 - (E) Primary zinc smelters.
 - (F) Iron and steel mill plants.
 - (G) Primary aluminum ore reduction plants.
 - (H) Primary copper smelters.
 - (I) Municipal incinerators capable of charging more than fifty (50) tons of refuse per day.
 - (J) Hydrofluoric, sulfuric, and nitric acid plants.
 - (K) Petroleum refineries.
 - (L) Lime plants.
 - (M) Phosphate rock processing plants.
 - (N) Coke oven batteries.
 - (O) Sulfur recovery plants.
 - (P) Carbon black plants (furnace process).
 - (Q) Primary lead smelters.
 - (R) Fuel conversion plants.
 - (S) Sintering plants.
 - (T) Secondary metal production plants.
 - (U) Chemical process plants.
 - (V) Fossil fuel boilers (or combinations thereof) totaling more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
 - (W) Taconite ore processing plants.
 - (X) Glass fiber processing plants.
 - (Y) Charcoal production plants.
 - (Z) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels.
- (2) Any stationary source with the potential to emit two hundred fifty (250) tons per year or more of any air pollutant subject to regulation under the ~~Clean Air Act~~ **CAA**.
- (3) Any of the following stationary sources with potential emissions of five (5) tons per year or more of lead or lead compounds measured as elemental lead:
- (A) Primary lead smelters.
 - (B) Secondary lead smelters.
 - (C) Primary copper smelters.
 - (D) Lead gasoline additive plants.
 - (E) Lead-acid storage battery manufacturing plants that produce two thousand (2,000) or more batteries per day.
- (4) Any other stationary source with potential emissions of twenty-five (25) or more tons per year of lead or lead compounds measured as elemental lead.
- (5) Any physical change occurring at a stationary source not qualifying under subdivisions (1) through (4) and this subdivision, if the change would by itself qualify as a major stationary source under subdivisions (1) through (4).
- (6) Notwithstanding subdivisions (1) through (5), the following sources shall not be considered a major stationary source:
- (A) A source or modification of a source where it would qualify under subdivisions (1) through (5) only if fugitive emissions, to the extent quantifiable, are considered in calculating potential to emit of the stationary source or modification and such source does not belong to any of the categories listed in subdivision (1) or any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the ~~Clean Air Act~~ **CAA** (42 U.S.C. 7411 or 42 U.S.C. 7412).
 - (B) A source or modification of a source ~~which that~~ is a portable stationary source ~~which that~~ has previously received a permit ~~complying with~~ **under 326 IAC 2-5.1-3 or 326 IAC 2-7 and section 3 of the permit contains conditions from 40 CFR 52.21*** **or** this rule if:
 - (i) the source proposes to relocate and emissions of the source at the new location would be temporary;
 - (ii) the emissions from the source would not exceed its allowable emissions;
 - (iii) emissions from the source would impact **no Class I area and** no area where an applicable increment is known to be violated; and
 - (iv) ten (10) days advance notice is given to the department prior to the relocation identifying the proposed new location and probable duration of the operation at the new location.
- (7) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.
- (x) "Major source baseline date" means the following:

- (1) In the case of particulate matter and sulfur dioxide, January 6, 1975.
- (2) In the case of nitrogen dioxide, February 8, 1988.

(y) “Minor source baseline date” means the earliest date after the trigger date on which a major stationary source or major modification subject to the requirements of this rule or to 40 CFR 52.21* submits a complete application under the relevant regulations, including the following:

(1) The trigger date is the following:

(A) In the case of particulate matter and sulfur dioxide, August 7, 1977.

(B) In the case of nitrogen dioxide, February 8, 1988.

(2) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(A) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under 326 IAC 1-4 for the pollutant on the date of its complete application under this rule; and

(B) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(3) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that U.S. EPA will rescind a minor source baseline date where it can be shown, to the satisfaction of U.S. EPA, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

(z) “Necessary preconstruction approvals or permits” means those permits or approvals required under those air quality control laws and regulations which are part of the state implementation plan.

(aa) “Net emissions increase”, with reference to a significant net emissions increase, means the tons per year amount by which the sum of the following exceeds zero (0):

(1) Any increase in actual emissions from a particular physical change or change in the method of operation at a source.

(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable as follows:

(A) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(i) the date five (5) years before construction on the particular change commences; and

(ii) the date that the increase from the particular change occurs.

(B) An increase or decrease in actual emissions is creditable only if the department has not relied on the increase or decrease in issuing a permit for the source under this rule, and the permit is in effect when the increase in actual emissions from the particular change occurs.

(C) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM₁₀ emissions shall be used to evaluate the net emissions increase for PM₁₀.

(D) An increase in actual emissions is creditable only to the extent that a new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is federally enforceable at and after the time that actual construction on the particular change begins; and

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from the physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

(bb) “Pollution control project” means the following:

(1) For an electric utility steam generating unit, any activity or project undertaken at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to the following:

(A) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators.

(B) An activity or project to accommodate switching to a fuel that is less polluting than the fuel in use prior to the activity or project, including, but not limited to:

- (i) natural gas or coal reburning; or
- (ii) the cofiring of natural gas and other fuels for the purpose of controlling emissions.

(C) A permanent clean coal technology demonstration project conducted under Title II, Section 101(d) of the Further Continuing Appropriations Act of 1985 42 U.S.C. 5903(d)*, or subsequent appropriations, up to a total amount of two billion five hundred million dollars (\$2,500,000,000), for commercial demonstration of clean coal technology, or similar projects funded through appropriations for U.S. EPA.

(D) A permanent clean coal technology demonstration project that constitutes a repowering project.

(2) For any unit other than an electric utility steam generating unit, pollution control project is defined at 326 IAC 2-1.1-1(13).

(cc) "Potential to emit" means the maximum capacity of a source or major modification to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is ~~federally~~ enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(dd) "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- (1) has not been in operation for the two (2) year period prior to the enactment of the ~~Clean Air Act~~ CAA Amendments of 1990, and the emissions from such unit continue to be carried in the department's emissions inventory at the time of enactment;
- (2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than eighty-five percent (85%) and a removal efficiency for particulates of no less than ninety-eight percent (98%);
- (3) is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and
- (4) is otherwise in compliance with the requirements of the CAA.

(ee) "Repowering" means replacement of an existing coal-fired boiler with one (1) of the following clean coal technologies:

- (1) Atmospheric or pressurized fluidized bed combustion.
- (2) Integrated gasification combined cycle.
- (3) Magnetohydrodynamics.
- (4) Direct and indirect coal-fired turbines.
- (5) Integrated gasification fuel cells.
- (6) As determined by U.S. EPA, in consultation with the Secretary of Energy, a derivative of one (1) or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

Repowering shall also include any oil or gas-fired ~~unit~~, or both, ~~unit~~ that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy. U.S. EPA shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under Section 409 of the ~~Clean Air Act~~ CAA.

(ff) "Representative actual annual emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two (2) year period after a physical change or change in the method of operation of a unit, (or a different consecutive two (2) year period within ten (10) years after that change, where the department determines that such period is more representative of normal source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions, the department shall do the following:

- (1) Consider all relevant information, including, but not limited to, the following:
 - (A) Historical operational data.
 - (B) The company's own representations.
 - (C) Filings with Indiana or federal regulatory authorities.
 - (D) Compliance plans under Title IV of the CAA.
- (2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the

unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

(gg) “Secondary emissions” means emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. The term includes emissions from any off-site support facility that would not be constructed or increase its emissions, except as a result of the construction or operation of the major stationary source or major modification. For the purpose of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from:

- (1) the tailpipe of a motor vehicle;
- (2) a train; or
- (3) a vessel.

(hh) “Significant” means **the following:**

(1) In reference to a net emissions increase or the potential of the source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- ~~(1)~~ **(A)** Carbon monoxide: one hundred (100) tons per year.
- ~~(2)~~ **(B)** Nitrogen oxides: forty (40) tons per year.
- ~~(3)~~ **(C)** Sulfur dioxide: forty (40) tons per year.
- ~~(4)~~ **(D)** Particulate matter: twenty-five (25) tons per year.
- ~~(5)~~ **(E)** PM₁₀: fifteen (15) tons per year.
- ~~(6)~~ **(F)** Ozone: forty (40) tons per year of volatile organic compounds.
- ~~(7)~~ **(G)** Lead: six-tenths (0.6) ton per year.
- ~~(8)~~ **(H)** Asbestos: seven one-thousandths (0.007) ton per year.
- ~~(9)~~ **(I)** Beryllium: four ten-thousandths (0.0004) ton per year.
- ~~(10)~~ **(J)** Mercury: one-tenth (0.1) ton per year.
- ~~(11)~~ **(K)** Vinyl chloride: one (1) ton per year.
- ~~(12)~~ **(L)** Fluorides: three (3) tons per year.
- ~~(13)~~ **(M)** Sulfuric acid mist: seven (7) tons per year.
- ~~(14)~~ **(N)** Hydrogen sulfide (H₂S): ten (10) tons per year.
- ~~(15)~~ **(O)** Total reduced sulfur (including H₂S): ten (10) tons per year.
- ~~(16)~~ **(P)** Reduced sulfur compounds (including H₂S): ten (10) tons per year.
- ~~(17)~~ **(Q)** Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): thirty-five ten-millionths (0.0000035 or 3.5×10^{-6}) ton per year.
- ~~(18)~~ **(R)** Municipal waste combustor metals (measured as particulate matter): fifteen (15) tons per year.
- ~~(19)~~ **(S)** Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): forty (40) tons per year.
- ~~(20)~~ **(T)** Municipal solid waste landfills emissions (measured as nonmethane organic compounds): fifty (50) tons per year.
- ~~(21)~~ **(U)** Ozone-depleting substances (ODS): one hundred (100) tons per year.
- ~~(22)~~ **(V)** Any pollutant subject to regulation under the CAA, other than the pollutants listed in this subsection or under Section 112(b) of the CAA*: any emission rate.

(2) Any emissions rate or any net emissions increase associated with a major stationary source or major modification that would be constructed within ten (10) kilometers of a Class I area and has an impact on such area equal to or greater than one (1) microgram per cubic meter (24-hour average).

(ii) “Stationary source” means any building, structure, facility, or installation that emits or may emit any air pollutant subject to regulation under the CAA. A stationary source does not include emissions resulting from an internal combustion engine used for transportation purposes, or from a nonroad engine or nonroad vehicle.

(jj) “Temporary clean coal technology demonstration project” means a clean coal technology demonstration project that:

- (1) is operated for a period of five (5) years or less; and
- (2) complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

*Copies of the Code of Federal Regulations (CFR); the United States Code; and the Clean Air Act referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department

of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. *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 46204. (Air Pollution Control Board; 326 IAC 2-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2391; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3022; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1102; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2020; filed Nov 25, 1998, 12:13 p.m.: 22 IR 997; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Oct 23, 2000, 9:47 a.m.: 24 IR 668; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2412)

SECTION 5. 326 IAC 2-2-2, AS AMENDED AT 24 IR 2419, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-2 Applicability

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

Affected: IC 13-11; IC 13-15; IC 13-17

Sec. 2. (a) The requirements of this rule shall apply to any major stationary source **or major modification**, as defined in section 1 of this rule, which is being constructed or will be constructed in ~~any attainment or unclassifiable~~ an area as designated, ~~in 326 IAC 1-4~~, as of the submittal date of a complete application in accordance with 326 IAC 2-5.1, **as attainment or unclassifiable in 326 IAC 1-4.**

(b) The owner or operator of a major stationary source or major modification shall not begin actual construction unless the requirements in sections 3 through 8, 10, and 14 through 16 of this rule have been met and a permit has been issued under this rule.

(c) Sources that are located in or proposed to be located in an area designated as nonattainment pursuant to 326 IAC 1-4 for a pollutant shall be exempt from the requirements of this rule for that particular pollutant.

(d) A source or modification of a source that would be a nonprofit health or nonprofit educational institution shall be exempt from the requirements of sections 3, 4, and 7 of this rule. (Air Pollution Control Board; 326 IAC 2-2-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2395; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1098; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1001; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2419)

SECTION 6. 326 IAC 2-2-3, AS AMENDED AT 24 IR 2419, SECTION 3, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-3 Control technology review; requirements

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

Affected: IC 13-11; IC 13-15; IC 13-17

Sec. 3. ~~(a)~~ Any owner or operator of a major stationary source or major modification shall comply with the following requirements:

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the state implementation plan and each applicable emissions standard and standard of performance under 40 CFR 60* and 40 CFR 61*.

(2) A new, major stationary source shall apply best available control technology for each pollutant subject to regulation under the provisions of the ~~Clean Air Act~~ CAA for which the source has the potential to emit in significant amounts as defined in section 1 of this rule.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under the provisions of the ~~Clean Air Act~~ CAA for which the modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase of the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time, which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable source may be required to demonstrate the adequacy of any previous determination of best available control technology for that source.

~~(b) The requirements for best available control technology set forth in subsection (a) shall not apply to a particular stationary source or modification that was subject to 40 CFR 52.21* as in effect on June 19, 1978; if the owner or operator of the source or modification submitted an application for a permit under this article or pursuant to this rule before August 7, 1980; and the department~~

subsequently determined that the application submitted before that date was complete. Instead, the requirements of 40 CFR 52.21(j)* and 40 CFR 52.21(n)* as in effect on June 19, 1978, apply to any such source or modification.

*Copies of the Code of Federal Regulations (CFR) referenced in this section *These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 and 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Management, Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220: 46204. (Air Pollution Control Board; 326 IAC 2-2-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2395; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2419)

SECTION 7. 326 IAC 2-2-4, AS AMENDED AT 24 IR 2420, SECTION 4, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-4 Air quality analysis; requirements

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

Affected: IC 13-15; IC 13-17

Sec. 4. (a) Any application for a permit under the provisions of this rule shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

- (1) For a source, each pollutant regulated under the provisions of the Clean Air Act CAA that the source would have the potential to emit in a significant amount.
- (2) For a modification, each pollutant regulated under the provision of the Clean Air Act CAA for which the modification would result in a significant net emissions increase.

(b) Exemptions are as follows:

(1) The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification would:

- (A) impact **no Class I area and** no area where an applicable increment is known to be violated; and
- (B) be temporary.

(2) The requirements of this section as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the provisions of the Clean Air Act, from the modification, after the application of best available control technology, would be less than fifty (50) tons per year.

(3) (2) A source or modification shall be exempt from the requirements of this section with respect to monitoring for a particular pollutant if:

- (A) the emissions increase of the pollutant from a new source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than:

Carbon Monoxide	575 $\mu\text{g}/\text{m}^3$, 8-hour average;
Nitrogen Dioxide	14 $\mu\text{g}/\text{m}^3$, annual average;
Total Suspended Particulate	10 $\mu\text{g}/\text{m}^3$, 24-hour average;
PM ₁₀	10 $\mu\text{g}/\text{m}^3$, 24-hour average;
Sulfur Dioxide	13 $\mu\text{g}/\text{m}^3$, 24-hour average;
Ozone	No de minimis air quality level is provided for ozone; however, any net increase of one hundred (100) tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data;
Lead	0.1 $\mu\text{g}/\text{m}^3$, 3-month average;
Mercury	0.25 $\mu\text{g}/\text{m}^3$, 24-hour average;
Beryllium	0.001 $\mu\text{g}/\text{m}^3$, 24-hour average;
Fluorides	0.25 $\mu\text{g}/\text{m}^3$, 24-hour average;
Vinyl Chloride	15 $\mu\text{g}/\text{m}^3$, 24-hour average;

Total Reduced Sulfur 10 mg/m³, 1-hour average;
Hydrogen Sulfide 0.2 µg/m³, 1-hour average;
Reduced Sulfur
Compounds 10 µg/m³, 1-hour average; or

(B) the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in clause (A), or the pollutant is not listed in clause (A).

(c) All monitoring required by this section shall be done in accordance with the following provisions:

(1) With respect to any pollutant for which no ambient air quality standard designated in 326 IAC 1-3 exists, the analysis shall contain such air quality monitoring data as the commissioner determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(2) With respect to any pollutant (other than nonmethane hydrocarbons) for which an ambient air quality standard as designated in 326 IAC 1-3 does exist, the analysis shall contain continuous air quality monitoring data gathered for the purpose of determining whether emissions of that pollutant would cause or contribute to a violation of **the standard or** any maximum allowable increase.

(3) In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one (1) year preceding receipt of the application, except that, if the commissioner determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year (but not less than four (4) months), the data that is required shall have been gathered over at least that shorter period.

(4) The owner or operator of the proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of 40 CFR 51, Appendix S, Section IV* may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under this subsection.

(5) The owner or operator of a major stationary source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the commissioner determines is necessary to determine the effect of the emissions which the source or modification may have, or are having, on air quality in any area.

(6) The owner or operator of a major stationary source or major modification shall comply with the requirements of 40 CFR 58, Appendix B* during operation of monitoring stations for purposes of complying with this section.

(7) All air quality monitoring shall be done in accordance with state and federal monitoring procedures as set forth in the following references: May 1987 U.S. EPA, "Ambient Air Monitoring Guidelines for Prevention of Significant Deterioration" (EPA 45014-87-007)* and the May 1999, "Indiana Department of Environmental Management, Office of Air Management Quality Assurance Manual** **".

~~*Copies of the Code of Federal Regulations (CFR) referenced~~ ***These documents are incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402. Copies are also 20401 or are available for review and copying~~ at the Indiana Department of Environmental Management, Office of Air Management, **Quality**, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana ~~46204-2220. 46204.~~

~~**These materials have been incorporated by reference and are available at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (Air Pollution Control Board; 326 IAC 2-2-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2396; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3026; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1099; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2420)~~

SECTION 8. 326 IAC 2-2-5, AS AMENDED AT 24 IR 2422, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-5 Air quality impact; requirements

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

Affected: IC 13-15; IC 13-17

Sec. 5. (a) The owner or operator of the proposed major stationary source or major modification shall demonstrate that allowable emissions increases in conjunction with all other applicable emissions increases or reductions (including secondary emissions) will not cause or contribute to air pollution in violation of:

- (1) any ambient air quality standard as designated in 326 IAC 1-3, in any air quality control region; or
- (2) any applicable maximum allowable increase over the baseline concentration in any area.

(b) The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the new source, or the net emissions increase of that pollutant from the

modification would:

- (1) impact **no Class I area** and no area where an applicable increment is known to be violated; and
- (2) be temporary.

(c) Air quality impact analysis required by this section shall be conducted in accordance with the following provisions:

- (1) Any estimates of ambient air concentrations used in the demonstration processes required by this section, shall be based upon the applicable air quality models, data bases and other requirements specified in 40 CFR 51, Appendix W (Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Guideline on Air Quality Models)*.
- (2) Where an air quality impact model specified in the guidelines cited in subdivision (1) is inappropriate, a model may be modified or another model substituted, provided that all applicable guidelines are satisfied.
- (3) Modifications or substitution of any model may only be done in accordance with guideline documents and with written approval from U.S. EPA and shall be subject to public comment procedures set forth in 326 IAC 2-1.1-6.

~~*Copies of 40 CFR 51, Appendix W referenced in this section~~ ***This document is incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402 and 20401~~ or are available for **review and copying** at the Indiana Department of Environmental Management, Office of Air ~~Management, Quality~~, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana ~~46204-2220~~ **46204**. (*Air Pollution Control Board; 326 IAC 2-2-5; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2398; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2024; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1001; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2422*)

SECTION 9. 326 IAC 2-2-6, AS AMENDED AT 24 IR 2422, SECTION 6, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-6 Increment consumption; requirements

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

Affected: IC 13-12

Sec. 6. (a) Any demonstration pursuant to section 5 of this rule should demonstrate that increased emissions caused by the proposed major stationary source or major modification will not exceed eighty percent (80%) of the available maximum allowable increases (MAI) over the baseline concentrations for sulfur dioxide, particulate matter and nitrogen dioxide indicated in subsection ~~(c)(1)~~ **(b)(1)**. Available maximum allowable increases are determined by adjusting the MAI to include impacts from:

- (1) actual emissions from any major stationary source or major modification on which construction commenced after the major source baseline date; and
- (2) actual emissions increases and decreases at any source occurring after the minor source baseline date.

On a case-by-case basis, a source may petition the commissioner to use in excess of this eighty percent (80%). The commissioner may authorize such use provided the source adequately demonstrates the need for the same.

~~(b) Exemptions are as follows:~~

~~(1) The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source or the net emissions increase of that pollutant from the modification would:~~

~~(A) impact no area where an applicable increment is known to be violated; and~~

~~(B) be temporary.~~

~~(2) The requirements of this section, as they relate to the maximum allowable increase over the baseline nitrogen dioxide concentration, shall not apply to a major stationary source or major modification for which a complete application was submitted on or before October 16, 1989.~~

~~(c)~~ **(b)** Increment consumption shall be in accordance with the following:

(1) The following allowable increments reflect the PSD increments for a Class II area (as defined in the ~~Clean Air Act~~: CAA). Indiana has no Class I or Class III areas; however, should some areas of the state be classified as Class I or III, the PSD increments pursuant to 40 CFR 52.21* must be adhered to. New permits issued after January 1, 1995, shall use PM₁₀ as the indicator for particulate matter. The allowable increments are as follows:

	Maximum Allowable Increments	Allowable Increments
		(Micrograms per Cubic Meter,
Pollutants		µg/m ³ Limits)

(A) Particulate Matter	
(i) TSP:	
Annual geometric mean	19
24-hour maximum	37
(ii) (PM ₁₀):	
Annual arithmetic mean	17
24-hour maximum	30
(B) Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
(C) Nitrogen Dioxide:	
Annual arithmetic mean	25

(2) For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location.

(3) When an applicant proposes to construct a major stationary source or major modification in an area designated as attainment or unclassified and the increments listed in subdivision (1) have been consumed, the increased emissions from the source or modification may be permitted to be offset by reducing emissions in the affected areas by an equal amount of the pollutant for which the area was designated as attainment or unclassified.

(4) The following pollutant concentrations shall be excluded when determining compliance with a maximum allowable increase:

(A) Concentrations attributable to the increase in emissions from sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such an order.

(B) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan.

(C) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources.

(D) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from sources are excluded provided, however, that as follows:

(i) Such exclusion shall not exceed two (2) years in duration unless a longer time is approved by the commissioner **and the U.S. EPA.**

(ii) Such exclusion is not renewable.

(iii) Such exclusion shall allow no emissions increase which would impact **a Class I area or** an area where an applicable increment is known to be violated, or cause or contribute to a violation of an ambient air quality standard as designated in 326 IAC 1-3.

(iv) An emission limitation shall be in effect at the end of the time period specified in accordance with item (i) which will ensure that the emissions levels will not exceed those levels occurring from such source before September 23, 1981.

(5) No exclusion of such a concentration pursuant to subdivision (4)(A) through (4)(B) shall apply more than five (5) years after either September 23, 1981, or the date the exclusion is granted pursuant to this rule, whichever is later. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the latter of such effective dates.

***Copies of the Code of Federal Regulations (CFR) referenced in this section *These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 and 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Management, Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220-46204. (Air Pollution Control Board; 326 IAC 2-2-6; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2398; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2025; filed Oct 3, 1995, 3:00 p.m.: 19 IR 185; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2422)**

SECTION 10. 326 IAC 2-2-7, AS AMENDED AT 24 IR 2424, SECTION 7, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-7 Additional analysis; requirements

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

Affected: IC 13-15; IC 13-17

Sec. 7. (a) The owner or operator shall provide an analysis of the following:

(1) Impairment to visibility, soils, and vegetation that would occur as a result of the major stationary source or major modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(b) The requirements of this section shall not apply to a major stationary source or major modification as defined in section 1 of this rule, with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of the pollutant from the modification would:

(1) impact **no Class I area and** no area where an applicable increment is known to be violated; and

(2) be temporary.

(Air Pollution Control Board; 326 IAC 2-2-7; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2399; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2424)

SECTION 11. 326 IAC 2-2-9, AS AMENDED AT 24 IR 2424, SECTION 9, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-9 Innovative control technology

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

Affected: IC 13-15; IC 13-17

Sec. 9. Any owner or operator of a proposed major stationary source or major modification may request the commissioner in writing to approve a system of innovative control technology as follows:

(1) The commissioner shall, with the consent of the governors of other affected states, allow the source or modification to employ a system of innovative control technology if **the following are met**:

(A) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(B) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under section 3 of this rule by a date specified by the commissioner. Such date shall not be later than four (4) years from the time of startup or seven (7) years from the date of permit issuance.

(C) The source or modification will meet the requirements of sections 3 and ~~4~~ **5** of this rule, based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the commissioner.

(D) The source or modification will not, before the date specified by the commissioner:

(i) cause or contribute to a violation of an applicable ambient air quality standard as designated in 326 IAC 1-3; or

(ii) impact any area where an applicable increment is known to be violated.

(E) All other applicable requirements, including those for public participation, have been met.

(F) If applicable, the provisions of section 14 of this rule, relating to Class I areas, have been satisfied with respect to all periods during the life of the source or modification.

(2) The commissioner shall withdraw any approval to employ a system of innovative control technology made under this section if:

(A) the proposed system fails by the specified date to achieve the required continuous emissions reductions rate;

(B) the proposed system fails before the specified date, so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(C) the commissioner decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(3) If a major stationary source or major modification fails to meet the required level of continuous emission reduction within the specified time period, or the approval is withdrawn in accordance with ~~subsection (a)(2)~~ **subdivision (2)**, the commissioner may allow the major stationary source or major modification up to an additional three (3) years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

(Air Pollution Control Board; 326 IAC 2-2-9; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2400; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2424)

SECTION 12. 326 IAC 2-2-12, AS AMENDED AT 24 IR 2425, SECTION 12, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-12 Permit rescission

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

Affected: IC 13-15-6; IC 13-15-7; IC 13-17

Sec. 12. Any permit issued under this ~~title rule~~ shall remain in effect unless and until it is rescinded, modified, revoked, or expires. ~~pursuant to IC 13-15-6 and IC 13-15-7 as follows:~~ **The following apply to rescission:**

- (1) Any owner or operator of a major stationary source or major modification who holds a permit for the source or modification which was issued under 40 CFR 52.21* **or this rule, prior to January 1, 2002**, may request the commissioner to rescind the permit or a particular portion of the permit.
- (2) The commissioner shall grant an application for rescission if the application shows that this ~~section rule~~ would not apply to the major stationary source or major modification.
- (3) If the commissioner rescinds a permit under this section the public shall be given adequate notice of the rescission. Publication of an announcement of the rescission in the affected region within sixty (60) days of the rescission shall be considered adequate notice.

~~*Copies of the Code of Federal Regulations (CFR) referenced in this section~~ ***This document is incorporated by reference.** Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402 and 20401~~ **or** are available for **review and copying** at the Indiana Department of Environmental Management, Office of Air ~~Management, Quality~~, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana ~~46204-2220~~ **46204**. (*Air Pollution Control Board; 326 IAC 2-2-12; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2425*)

SECTION 13. 326 IAC 2-2-14, AS ADDED AT 24 IR 2427, SECTION 14, IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-2-14 Sources impacting federal Class I areas: additional requirements

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

Affected: IC 13-15; IC 13-17

Sec. 14. (a) The department shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall be given within thirty (30) days of receipt of a permit application and at least sixty (60) days prior to any public hearing on the application for a permit to construct and shall include the following:

- (1) A copy of all information relevant to the permit application.
- (2) An analysis of the proposed source's anticipated impacts on visibility in the federal Class I area.

The department shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under this section, and shall make available to them any materials used in making that determination, promptly after the department makes the determination. The department shall also notify all affected federal land managers within thirty (30) days of receipt of any advance notification of any such permit application.

(b) The federal land manager and the federal official charged with direct responsibility for management of the Class I area have an affirmative responsibility to protect the air quality related values, including visibility, of the Class I area and to consider, in consultation with U.S. EPA, whether a proposed source or modification will have an adverse impact on such values.

(c) The department shall consider any analysis performed by the federal land manager, provided to the department within thirty (30) days of the notification required by subsection (a), that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the department finds that the analysis does not demonstrate to the satisfaction of the department that an adverse impact on visibility will result in the federal Class I area, the department must, in the notice of public hearing on the permit application, either explain the decision or give notice as to where the explanation may be obtained.

(d) The federal land manager of any Class I area may demonstrate to the department that the emissions from a proposed major stationary source or major modification would have an adverse impact on the air quality-related values, including visibility, of a Class I area, notwithstanding that the change in air quality resulting from emissions from the major stationary source or major modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the department concurs with the demonstration, then the department shall not issue the permit.

(e) The owner or operator of a proposed major stationary source or major modification may demonstrate to the federal land

manager that the emissions from the source or modification would have no adverse impact on the air quality related values of any Class I areas, including visibility, notwithstanding that the change in air quality resulting from emissions from the major stationary source or major modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with the demonstration and the federal land manager so certifies, the department may issue the permit provided that the applicable requirements of this section are otherwise met, to issue the permit with emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides shall not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Maximum Allowable Increase	
Pollutant	(Micrograms Per Cubic Meter)
Particulate matter:	
PM ₁₀ , annual arithmetic mean	17
PM ₁₀ , 24 hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24 hour maximum	91
3 hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(f) The owner or operator of a proposed major stationary source or major modification that cannot be approved under subsection (e) may demonstrate to the department that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that an exemption under this subsection would not adversely affect the air quality related values of the area, including visibility. The department, after consideration of the federal land manager's recommendation, if any, and subject to the federal land manager's concurrence, may, after notice and public hearing, grant an exemption from such maximum allowable increase. If such exemption is granted, the department shall issue a permit to such major stationary source or major modification pursuant to the requirements under subsection (h) provided that the applicable requirements of this section are otherwise met.

(g) In any case where the department recommends an exemption in which the federal land manager does not concur, the recommendations of the department and the federal land manager shall be transmitted to the president. The president may approve the department's recommendation if the president finds that the exemption is in the national interest. If the exemption is approved, the department shall issue a permit pursuant to the requirements under subsection (h) provided that the applicable requirements of this section are otherwise met.

(h) In the case of a permit issued pursuant to subsection (f) or (g), the major stationary source or major modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the major stationary source or major modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase		
(Micrograms Per Cubic Meter) of Sulfur Dioxide		
Terrain Areas		
Period of Exposure	Low	High
24 hour maximum	36	62
3 hour maximum	130	221

(i) The department shall transmit to the U.S. EPA a copy of each permit application relating to a major stationary source or major modification and provide notice to the U.S. EPA of the following actions related to consideration of such permit under this section:

- (1) Receipt of an advanced notification of a permit application affected by this section.
- (2) Any written notice provided to the federal land manager under this section.
- (3) Public notice of a preliminary determination.
- (4) Notices of public hearings.
- (5) Decisions to grant or deny exemptions in accordance with this section.
- (6) Any decision in accordance with subsection (c) that an analysis submitted by the federal land manager does not demonstrate to the satisfaction of the department that an adverse impact on visibility will result in the Class I area.
- (7) Denial of a permit.
- (8) Issuance of a permit.

(Air Pollution Control Board; 326 IAC 2-2-14; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2427; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2427)

SECTION 14. 326 IAC 2-6.1-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6.1-2 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. Except for sources required to have a Part 70 permit as described in 326 IAC 2-7-2, sources in existence prior to the effective date of this rule, December 25, 1998, and meeting any of the applicability criteria under 326 IAC 2-5.1-3(a) shall apply for an air operating permit as described in this rule. *(Air Pollution Control Board; 326 IAC 2-6.1-2; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1015)*

SECTION 15. 326 IAC 2-6.1-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-6.1-5 Operating permit content

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. (a) Permits or permit revisions issued under this rule shall contain the following:

- (1) Emission limitations for any source or emissions unit that assure:
 - (A) the ambient air quality standards set forth in 326 IAC 1-3 will be attained or maintained, or both;
 - (B) the applicable prevention of significant deterioration maximum allowable increases set forth in 326 IAC 2-2 will be maintained;
 - (C) the public health will be protected; and
 - (D) compliance with the requirements of this title and the requirements of the CAA will be maintained.
- (2) Monitoring, testing, reporting, and record keeping requirements that assure reasonable information is provided to evaluate compliance consistent with the permit terms and conditions, the underlying requirements of this title and the CAA. Such requirements shall be in accordance with 326 IAC 3 and other applicable regulations.
- (3) A requirement that any revision of an emission limitation, monitoring, testing, reporting, and record keeping requirements shall be made consistent with the permit revision requirements under section 6 of this rule and the procedures under this rule.
- (4) A requirement that upon presentation of credentials and other documents as may be required by law, the owner or operator shall allow the commissioner, an authorized representative of the commissioner, or the U.S. EPA to perform the following at a reasonable time of day and in accordance with safety requirements:
 - (A) Enter upon the premises where a permitted source is located or emissions-related activity is conducted or where records required by a permit term or condition are kept.
 - (B) Have access to and copy any records that must be kept under this title or the conditions of a permit or operating permit revision.
 - (C) Inspect any operations, processes, emissions units (including monitoring and air pollution control equipment), or practices regulated or required under a permit or operating permit revision.
 - (D) Sample or monitor substances or parameters for the purpose of assuring compliance with a permit, permit revision, or applicable requirement as authorized by the CAA and this title.
 - (E) Document alleged violations using cameras or video equipment. Such documentation may be subject to a claim of confidentiality under 326 IAC 17.
- (5) A requirement that an authorized individual provide an annual notice to the department that the source is in operation and in compliance with the permit or registration. The commissioner may request that the source provide an identification of all emission

units that have been installed that are described under 326 IAC 2-1.1-3(d)(1) through 326 IAC 2-1.1-3(d)(31) with the annual notification.

(b) An operating permit issued under this rule may include terms and conditions that, notwithstanding the permit modification or revision requirements under section 6 of this rule, allow the source to make modifications without review, provided the operating permit includes terms and conditions that prescribe emissions limitations and standards applicable to specifically identified modifications or types of modifications which may occur during the term of the permit. Such permit conditions shall include the following:

- (1) Emission limitations and standards necessary to assure compliance with the permit terms and conditions and all applicable requirements.
- (2) Monitoring, testing, reporting, and record keeping requirements that 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.

(c) The commissioner shall not issue a minor source operating permit that includes terms and conditions that limit the potential to emit of the source to below emission thresholds for a Part 70 permit. (*Air Pollution Control Board; 326 IAC 2-6.1-5; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1016; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106*)

SECTION 16. 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 and 326 IAC 1-2, 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 governing solid waste incineration under Section 129 of the CAA.
 - (H) Any standard or other requirement for consumer and commercial products under Section 183(e) of the CAA.
 - (I) Any standard or other requirement for tank vessels under Section 183(f) of the CAA.
 - (J) 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 such requirements need not be contained in a Part 70 permit.

(K) 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 hazardous air pollutants that is not a major source. This 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, means:

(A) with respect to 40 CFR*, generally, the July 1, ~~1994~~, **1998**, edition of the Code of Federal Regulations; and

(B) with respect to 40 CFR 70*, the codified regulation published in the Federal Register, Volume 57, Number 140, Tuesday, July 21, 1992.

(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, which:

(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.

An emergency 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) "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 volatile organic compounds (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) "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) "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. This term is not meant to alter or affect the definition of unit for purposes of Title IV of the CAA.

(16) "Federally enforceable state operating permit" or "FESOP" means a permit issued under 326 IAC 2-8.

(17) "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) "Fugitive emissions" means emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(19) "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 hazardous air pollutants 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 best available control technology (BACT);

(C) limits relied upon in a formal attainment demonstration supporting a state implementation plan approved by the U.S. EPA under Section 110(a)(2)(K) of the CAA, with the exception of limits based on reasonably available control technology (RACT) for sources of volatile organic compounds (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).

(21) “Insignificant activity” has any of the meanings specified in clauses (A) through (G) as follows:

(A) An emission unit or activity whose potential uncontrolled emissions meet the exemption levels specified in ~~326 IAC 2-1.1-3(d)(1)~~ **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 volatile organic compounds (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.

(B) For an emission unit or activity with potential uncontrolled emissions of particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers (PM₁₀), the exemption level is either five (5) pounds per hour or twenty-five (25) pounds per day.

(C) For units with potential uncontrolled emissions of HAPs, that are not listed as insignificant in clauses (D) through (G) or defined as trivial in subdivision (40), 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.

(D) 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.

(E) 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.

(F) 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.

(G) Any of the following listed activities:

(i) Combustion related activities, including the following:

- (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 liquified 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 by subdivision (38) exceeds two million (2,000,000) British thermal units per hour.
- (CC) Combustion source flame safety purging on startup.
- (ii) Fuel dispensing activities, including the following:
 - (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:
 - (aa) having a vapor pressure equal to or less than 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) having a vapor pressure equal to or less than 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.
 - (bb) Using eighty (80) tons or less of welding consumables.
- (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.
 - (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 do not produce fugitive emissions and that 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.
- (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 particulate matter with a diameter less than ten (10) microns 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 particulate matter with a diameter less than ten (10) microns 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.

(H) Detailed information concerning emissions from activities or equipment listed in clauses (A) through (G) 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.

(I) Notwithstanding any other requirements in this rule, the applicant shall include all emissions sources and quantify emissions if needed to determine major source status, to determine compliance with any applicable requirement or to determine 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.

(J) 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 (40) need not be included in a source's annual emission statement required by 326 IAC 2-6.

(K) 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 section 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 (40);

- (ii) is currently covered by an applicable requirement in the permit; and**

- (iii) is not subject to Title I conditions.**

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

(22) "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 such source or group of stationary sources on contiguous or adjacent properties belong to the same major group (i.e., 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. This 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 hazardous air pollutant that has been listed in Section 112(b) of the CAA;

- (BB) twenty-five (25) tpy or more of any combination of such hazardous air pollutants; 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 such units are in a contiguous area or under common control, to determine whether such 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 regulated air pollutant (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.

(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 volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate;

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

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

(DD) ten (10) tpy or more of volatile organic compounds or oxides of nitrogen 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 volatile organic compounds.

(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 particulate matter PM₁₀ nonattainment areas classified as serious, sources with the potential to emit seventy (70) tpy or more of PM₁₀.
- (23) “Part 70 permit” or “permit”, unless the context suggests otherwise, 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) “Part 70 permit modification” means a revision to a Part 70 permit that meets the requirements of section 12 of this rule.
- (25) “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 such 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) “Part 70 permit revision” means any Part 70 permit modification or administrative Part 70 permit amendment.
- (27) “Part 70 program” means the operating permit program established by this rule and approved by the U.S. EPA under 40 CFR 70*.
- (28) “Part 70 source” means any source subject to the permitting requirements as provided in section 2 of this rule.
- (29) “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).
- (30) “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.
- (31) “Regulated air pollutant” means any of the following:
- (A) Nitrogen oxides or any volatile organic compounds.
 - (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.
- (32) “Regulated pollutant which 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.
- (33) “Renewal” means the process by which a Part 70 permit is reissued at the end of its term.
- (34) “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:
 - (AA) the 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) the delegation of authority to such 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.

(35) "Risk management plan" means a plan specified by Section 112(r) of the CAA.

(36) "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.

(37) "State" means any nonfederal permitting authority, including any local agency, interstate association, or statewide program. The term shall have its conventional meaning where such 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.

(38) "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.

(39) "Technology-based emission limit" means any enforceable condition that is derived solely or in part from the capabilities of manmade equipment or processes, including, but not limited to, any requirement in a permit based on reasonably available control technology (RACT), best available control technology (BACT), maximum achievable control technology (MACT), lowest achievable emissions reduction (LAER), generally available control technology (GACT), best available retrofit technology (BART), any manufacturers' specifications, or the sources' physical potential to emit unless the applicable requirement was relied upon in a formal attainment demonstration supporting a state implementation plan approved by the U.S. EPA under Section 110(a)(2)(K) of the CAA.

(40) "Trivial activity" has any of the following meanings:

(A) Any activity or emission unit:

(i) not regulated by a NESHAP, whose potential uncontrolled emissions 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) whose potential uncontrolled emissions do not exceed the exemption levels specified in subdivision (21)(A) and (21)(B).

(B) 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.

(C) 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.

(D) 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.
- (E) 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.
- (F) 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.
- (G) 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) Rest rooms 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.
- (H) 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.

- (I) Lawn care and landscape maintenance activities and equipment, including the storage, spraying, or application of insecticides, pesticides, and herbicides.
- (J) 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) (propane).
 - (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 soap, vegetable oil, grease, wax, animal fat, and 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.
- (K) 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.
- (L) 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.
- (M) Use of consumer products and equipment where the product or equipment is used at a source in the same manner as normal consumer use and is not associated with any production process.
- (N) 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.
- (O) 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), and any required fugitive dust control plan or its equivalent is submitted.
 - (ii) Soil boring.
 - (iii) Road salting and sanding.
- (P) 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 do not produce fugitive emissions and 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 soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, provided appropriate lids and covers are utilized.
 - (x) Equipment for washing or drying fabricated glass or metal products, if no VOCs or HAPs are used in the process, and no 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.
- (Q) 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.

(R) 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) is currently covered by an applicable requirement in the permit; and**
- (iii) is not subject to Title I conditions.**

Trivial activities do not need to be included in a permit application required under this rule or 326 IAC 2-8.

(41) "U.S. EPA" means the administrator of the United States Environmental Protection Agency or the administrator's designee.

***Copies of the Code of Federal Regulations (CFR) and the Federal Register (FR) referenced *These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 and 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 46204-2220: 46204. (Air Pollution Control Board; 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**

SECTION 17. 326 IAC 2-7-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-2 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. (a) The following sources are required to have a Part 70 permit:

- (1) Any major source as defined in section 1(22) of this rule.
- (2) Any source, including an area source, subject to a standard, a limitation, or other requirement under Section 111 of the CAA.
- (3) Any source, including an area source, subject to a standard or other requirement under Section 112 of the CAA, or required to have a Part 70 permit under 326 IAC 20, except that a source is not required to obtain a Part 70 permit solely because it is subject to regulations or requirements under Section 112(r) of the CAA.
- (4) Any affected source as defined in section 1(3) of this rule.
- (5) Any source in a source category designated by the U.S. EPA under 40 CFR 70.3*.

(b) The following source categories are exempt from the requirement to have a Part 70 permit:

- (1) All sources listed in subsection (a) that are not major sources unless such sources are affected sources or solid waste incineration units required to obtain a Part 70 permit under Section 129(e) of the CAA and except as provided in 326 IAC 20.
- (2) Nonmajor sources subject to a standard or other requirement under either Section 111 or 112 of the CAA that are determined by the U.S. EPA to be exempt at the time a new standard is promulgated.
- (3) All sources and source categories that would be required to obtain a Part 70 permit solely because they are subject to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters*.
- (4) All sources and source categories that would be required to obtain a Part 70 permit solely because they are subject to 40 CFR 61, Subpart M, National Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145, Standard for Demolition and Renovation*.
- (5) A major source that has become nonmajor through the issuance of ~~one (1) of the following permits:~~
 - ~~(A) a federally enforceable state operating permit under 326 IAC 2-8.~~
 - ~~(B) A valid initial operating permit under 326 IAC 2-6.1, that the commissioner determines has established enforceable conditions limiting potential to emit to less than the applicability levels of this rule. This permit shall function as a FESOP until its expiration. The source shall:~~
 - ~~(i) pay a fee of one thousand five hundred dollars (\$1,500) in accordance with 326 IAC 2-8-16 upon billing by the department;~~
 - ~~(ii) submit an annual compliance certification in accordance with 326 IAC 2-8-5; and~~
 - ~~(iii) apply for a FESOP under 326 IAC 2-8 upon expiration of its operating permit under 326 IAC 2-6.1.~~
- (6) A source for which the commissioner has issued an operating agreement under 326 IAC 2-9.
- (7) A source that is not subject to this rule because it meets the requirements of 326 IAC 2-10 or 326 IAC 2-11.

(c) Any source listed in subsection (b) as exempt from the requirement to obtain a Part 70 permit may opt to apply for a Part 70 permit under this rule.

(d) Emissions units and Part 70 sources are subject to the following requirements:

- (1) For major sources, the commissioner shall include in a Part 70 permit all applicable requirements for all relevant emissions units in the major source.
- (2) For any nonmajor source subject to the Part 70 program under this section, the commissioner shall include in a Part 70 permit all applicable requirements applicable to emissions units that cause the source to be subject to the Part 70 program.

(e) Fugitive emissions from a Part 70 source shall be included in a Part 70 permit application and a Part 70 permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(f) A Part 70 source shall be exempt from the requirement to have an operating permit under 326 IAC 2-6.1 upon the date that an original Part 70 permit issued to the source under this rule becomes effective.

(g) A Part 70 source that has received a permit under 326 IAC 2-5.1 and receives approval to operate under 326 IAC 2-5.1-4(a)(3)

by the date a Part 70 permit application would be required for the source is exempt from the requirement to obtain a Part 70 permit under this rule.

~~*Copies of the Code of Federal Regulations (CFR) referenced~~ ***These documents are incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402 and 20401~~ or are available for copying at the Indiana Department of Environmental Management, **Office of Air Quality**, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana ~~46204-2220~~: **46204**. (*Air Pollution Control Board; 326 IAC 2-7-2; filed May 25, 1994, 11:00 a.m.: 17 IR 2253; filed Sep 5, 1996, 11:00 a.m.: 20 IR 9; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2337; errata filed May 9, 1997, 11:30 a.m.: 20 IR 2414; filed May 7, 1997, 4:00 p.m.: 20 IR 2302; errata filed May 9, 1997, 11:30 a.m.: 20 IR 2413; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1031; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106*)

SECTION 18. 326 IAC 2-7-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-4 Permit application

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) The owner or operator of each Part 70 source has a duty to submit a timely and complete permit application as follows:

(1) An application is timely if the following conditions are met:

(A) For a first time applicant, a timely application is an application that is submitted within twelve (12) months after the source becomes subject to the Part 70 permit program unless the commissioner establishes otherwise in accordance with clause (C). A source becomes subject to the Part 70 permit program:

(i) on December 14, 1995, if the source is in existence and meets an applicability criterion of section 2 of this rule on that date; or

(ii) for other sources, on the date on which a source first meets an applicability criterion of section 2 of this rule.

(B) Part 70 sources subject to Section 112(g) of the CAA or required to have a Part 70 permit under the preconstruction review program approved into the applicable implementation plan under Part C or Part D of Title I of the CAA, shall file a complete application to obtain a Part 70 permit or Part 70 permit revision within twelve (12) months after commencing operation or on or before such earlier date as the commissioner may establish. Where an existing Part 70 permit would prohibit such construction or change in operation, the source must obtain a Part 70 permit revision before commencing operation.

(C) The commissioner may establish a schedule for submission of applications by source category or other means in order to fulfill the purposes of the CAA with regard to timely issuance of permits. Such schedule shall provide that an application shall be due no more than twelve (12) months after U.S. EPA approval of the Part 70 program. The department shall provide at least twelve (12) months' notice to any source for which an application is due prior to the date established in clause (A).

(D) For purposes of a Part 70 permit renewal, a timely application is one that is submitted at least nine (9) months prior to the date of expiration of the source's existing permit. If the commissioner fails to issue or deny the permit renewal prior to the expiration date of the source's existing permit, the existing permit shall not expire and all terms and conditions shall continue in effect, including any permit shield provided under section 15 of this rule, until the renewal permit has been issued or denied.

(2) In order for an application to be deemed complete, it must contain the following information:

(A) Substantive information required by each subdivision under subsection (c). Applications for a Part 70 permit revision must supply substantive information required by each subdivision under subsection (c) only as it relates to the proposed change.

(B) Certification by a responsible official that the submitted information is consistent with subsection (f).

(C) Unless, within sixty (60) days of receipt of an application, the commissioner determines, in accordance with section 8(c) of this rule, that an application is not complete, such application shall be deemed to be complete.

(D) If, while processing an application that has been determined or deemed to be complete, the commissioner determines that additional information is necessary to evaluate or take final action on that application, the commissioner may request such information in writing and set a reasonable deadline for a response.

(E) The source's ability to operate without a permit, as set forth in section 3 of this rule, shall be in effect from the date the application is determined or deemed to be complete until a final Part 70 permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the commissioner.

(3) In the case where a source has submitted confidential information to the commissioner under a claim of confidentiality under 326 IAC 17, the commissioner may also require the source to submit a copy of such information directly to the U.S. EPA.

(b) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a Part 70 permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected

information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date the applicant filed a complete application but prior to release of a draft Part 70 permit.

(c) An application for a Part 70 permit shall be submitted on the application form or forms prescribed by the commissioner, or in other application formats authorized by the commissioner, and shall include the information specified in this subsection. Such information shall be included in the application for all emissions units at a Part 70 source. The forms and attachments shall include the following information to the extent necessary to determine applicable requirements, including the requirement to pay fees, compliance with applicable requirements and this rule, and compliance during the term of the permit:

(1) Identifying information, including the following:

(A) Company name and address (or plant name and address if different from the company name).

(B) Owner's name and agent.

(C) Telephone numbers and names of plant site manager or site contact.

(2) A description of the source's processes and products (by Standard Industrial Classification Code), including any associated with each alternate scenario identified by the source.

(3) The following emissions related information:

(A) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A Part 70 permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this subsection. The applicant shall provide such additional information related to the emissions of air pollutants as is sufficient to verify which requirements are applicable to the source and other information necessary to collect any Part 70 permit fees owed under the fee schedule approved under section 19 of this rule.

(B) Identification and description of all points of emissions described in clause (A) in sufficient detail to establish the basis for fees and applicability of requirements of the CAA.

(C) Emissions rates of all pollutants described in clause (A) in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

(D) The following information to the extent it is needed to determine or regulate emissions:

(i) Fuels, including types and characteristics.

(ii) Fuel use, including types and quantities combusted.

(iii) Raw materials.

(iv) Production and process rates.

(v) Operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at a Part 70 source.

(G) Other information required by any applicable requirement, including information related to stack height limitations developed under Section 123 of the CAA.

(H) Calculations, examples of calculations, or descriptions of calculation methods or basis on which the information in this subsection is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(C) Where an applicant is proposing alternative or streamlined limitations or requirements, or both, the applicant shall provide the required documentation in accordance with ~~section 24 or 25 of this rule~~, 326 IAC 8-1-5 or 326 IAC 10-1-3(3)(A).

(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the CAA or of this rule or to determine the applicability of such requirements.

~~(6) An explanation of any proposed exemptions from otherwise applicable requirements, including any required documentation in accordance with section 24 or 25 of this rule, 326 IAC 8-1-5, or 326 IAC 10-1-3(3)(A).~~

~~(7) (6)~~ At the option of the applicant, a request that alternative operating scenarios be provided for in its Part 70 permit. Such a request shall include a description of the alternate operating scenarios that are proposed and any additional information determined to be necessary by the commissioner to define appropriate permit terms and conditions for such alternative scenarios under sections 5(9) and 20(d) of this rule.

~~(8) (7)~~ At the option of the applicant, a request that the permit provide terms and conditions allowing for the trading of emissions increases and decreases in the applicant's facility under sections 5(10) and 20(c) of this rule. In addition to such other information as may be requested by the commissioner as necessary to define such permit terms and conditions, the applicant shall include proposed replicable procedures and permit terms that ensure that emission trades conducted under such provisions are quantifiable

and enforceable.

~~(9)~~ **(8)** At the option of the applicant, a request that the permit provide terms and conditions allowing for the establishment of an emission cap program or programs. The request for an emission cap program or programs shall include the information under 326 IAC 2-1.1-12(d).

~~(10)~~ **(9)** Confirmation of the following:

(A) That the source maintains on-site a preventive maintenance plan as described in 326 IAC 1-6-3.

(B) That, upon request, the preventive maintenance plan will be forwarded to the department.

~~(11)~~ **(10)** A compliance plan for all Part 70 sources that contains all of the following information:

(A) A description of the compliance status of the source with respect to all applicable requirements ~~or alternative or streamlined requirements proposed in accordance with section 24 or 25 of this rule to assure compliance with otherwise applicable requirements~~ that addresses the following:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the source will meet such requirements on a timely basis.

(iii) For requirements for which the source is not in compliance at the time of a Part 70 permit issuance, a narrative description of how the source will achieve compliance with such requirements.

~~(iv) For alternative or streamlined requirements proposed in accordance with section 24 or 25 of this rule to assure compliance with otherwise applicable requirements; a statement that the source will continue to comply with the alternative or streamlined requirements and a description of how the source will continue to comply. For the purposes of this item, the description of how compliance will be maintained may be satisfied by the information provided in accordance with section 24 or 25 of this rule.~~

(B) A compliance schedule as follows:

(i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the Part 70 permit term shall satisfy this requirement unless a more detailed schedule is expressly required by the applicable requirement.

(iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of a Part 70 permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of Part 70 permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(C) A schedule for submission of certified progress reports no less frequently than every six (6) months for sources required to have a schedule of compliance to remedy a violation.

(D) The compliance plan content requirements specified in this section shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the CAA with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.

~~(12)~~ **(11)** Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements ~~or alternative or streamlined requirements proposed in accordance with section 24 or 25 of this rule to assure compliance with otherwise applicable requirements~~ by a responsible official consistent with subsection (f) and Section 114(a)(3) of the CAA.

(B) A statement of methods used for determining compliance, including a description of monitoring, record keeping, reporting requirements, and test methods.

(C) A schedule for submission of compliance certifications during the Part 70 permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the commissioner.

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the CAA.

~~(13)~~ **(12)** The use of nationally standardized forms for acid rain portions of Part 70 permit applications and compliance plans as required by the acid rain program.

~~(14)~~ **(13)** Identification of terms, conditions, or requirements under this title that are state enforceable and not enforceable by U.S. EPA.

(d) An applicant may include in a permit application a description of the types of emergency situations that may arise at the source

and the response actions the source proposes to take in such emergency situations.

(e) The following information need not be included in a permit application submitted under this rule:

- (1) Information concerning insignificant activities as defined in section 1(21) of this rule. However, an applicant shall include a list of all insignificant activities in the application.
- (2) Trivial activities as defined in section 1(40) of this rule.

(f) Any application form, report, or compliance certification submitted under this rule shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(g) An applicant wishing to obtain a compliance extension for requirements under Section 112(d) of the CAA shall follow the procedures under 40 CFR 63.70* that address application requirements. The commissioner shall forward any application information provided under 40 CFR 63.70* to the U.S. EPA for approval upon receipt of such information.

~~*Copies of the Code of Federal Regulations (CFR) referenced~~ ***This document is incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402 and 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 ~~46204-2220~~: **46204**. (*Air Pollution Control Board; 326 IAC 2-7-4; filed May 25, 1994, 11:00 a.m.: 17 IR 2254; errata filed Jun 10, 1994, 5:00 p.m.: 17 IR 2358; filed May 31, 1996, 4:00 p.m.: 19 IR 2866; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2338; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1032; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106*)

SECTION 19. 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 specify and reference the origin of and authority for each term or condition and 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 incorporated into the Part 70 permit and shall be 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 such 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 permit shall provide that, in the event of any exceedance of a permit limitation or condition which occurs contemporaneously with an exceedance of an associated surrogate or operating parameter established to detect or assure compliance with that limit or condition, both arising out of the same act or occurrence, such multiple exceedances shall constitute a single potential violation of the permit.

~~(F) Emission limitations applicable to start-up, shutdown, and emergency bypasses shall be addressed on a case-by-case basis in the permit. Such limitations shall be designed so as to minimize the frequency of such events and to minimize the excess emissions caused by these events, to the extent feasible, taking into consideration available technologies, safety, cost, and other relevant factors.~~

~~(G)~~ (F) 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.

~~(H)~~ **(G)** 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. ~~or alternative requirements established in accordance with section 24 or 25 of this rule.~~ 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 emissions monitoring and analysis procedures or test methods required under the applicable requirements, ~~or alternative requirements established in accordance with section 24 or 25 of this rule,~~ including any 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, ~~or alternative requirements established in accordance with section 24 or 25 of this rule,~~ 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 such 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 retain the records on-site for three (3) years and shall 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 ~~or alternative requirements established in accordance with section 24 or 25 of this rule~~ 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 such 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 such deviations, and any corrective actions or preventive measures taken. Proper notice submittal under section 16 of this rule 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 such 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 such 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 single payment of the entire fee is an undue hardship on the person and that 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 which 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. Such 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 such increases and decreases without a case-by-case approval of each emissions trade. Such 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) Terms and conditions, if requested by the permit applicant, which allow for changes at the permitted source that comply with a federally enforceable emissions cap established in accordance with 326 IAC 2-1.1-12 and section 20(e) of this rule. Such terms and conditions shall:
- (A) include all terms required under subdivision (3) and section 6 of this rule to determine compliance with the emission cap limit, all associated applicable requirements, and all terms required under section 20(a) and 20(e) of this rule;
 - (B) include a federally enforceable emissions cap, which may be independent of otherwise applicable requirements, with which the source must comply;
 - (C) be consistent with any specific emissions limits or restrictions otherwise required in the permit by any applicable requirements and require the permittee to meet all applicable requirements and all requirements of this rule;
 - (D) allow construction of new emission units or reconstruction or modification to existing emission units or processes that would otherwise require an operating permit revision or an approval under section 10.5 of this rule, provided the actual emissions from the emission units or processes specified under an emissions cap or to be included under the emissions cap do not exceed the emissions limitation for the cap;
 - (E) allow for emissions trading solely for the purposes of complying with the emissions cap, provided the emissions cap request contains adequate terms and conditions, including all terms required under subdivision (3) and section 6 of this rule to determine

- compliance with the cap and with any emissions trading provisions;
- (F) contain replicable procedures and permit terms that ensure the emissions cap is enforceable and trades pursuant to the cap are quantifiable and enforceable;
- (G) be established in accordance with the procedures pursuant to sections 8, 17, and 18 of this rule; and
- (H) require the owner or operator to provide notice for those changes that would have otherwise required a minor or significant operating permit revision or an approval under section 10.5 of this rule in accordance with section 20(e) of this rule.
- (12) 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) ~~shall~~ identify 40 CFR 68* as an applicable requirement;
- (B) ~~shall~~ 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) ~~shall~~ require the source to verify to the commissioner that a RMP or a revised plan was prepared and submitted as required by 40 CFR 68*.
- (13) 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)(10)~~ **4(c)(9)** of this rule.
- (B) Implement the preventive maintenance plan.
- (C) Forward to the department upon request the preventive maintenance plan.
- (14) 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.
- (15) Descriptive information.
- (16) 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 modifications without review, provided the operating permit includes terms and conditions that prescribe emissions limitations and standards applicable to specifically identified modifications or types of modifications which may occur during the term of the permit. Such 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.

***Copies of the Code of Federal Regulations (CFR) referenced *These documents are incorporated by reference. Copies** may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. ~~20402 and 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 ~~46204-2220~~: **46204**. (*Air Pollution Control Board; 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*)

SECTION 20. 326 IAC 2-7-11 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-11 Administrative permit amendments

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. (a) An administrative permit amendment is a Part 70 permit revision that does any of the following:

- (1) Corrects typographical errors.
- (2) Identifies a change in the name, address, or telephone number of any person identified in the Part 70 permit, or provides a similar minor administrative change at the source.
- (3) Requires more frequent monitoring or reporting by the permittee.
- (4) Allows for a change in ownership or operational control of a source where the commissioner determines that no other change in a Part 70 permit is necessary, provided that a written agreement containing a specific date for transfer of a Part 70 permit responsibility, coverage, and liability between the current and new permittee has been submitted to the commissioner.

- (5) Incorporates into a Part 70 permit the requirements from preconstruction permits issued under section 10.5 of this rule that have satisfied the requirements of sections 17 and 18 of this rule as appropriate.
- (6) Incorporates into a Part 70 permit a general permit issued under section 13 of this rule.
- (7) ~~Makes a change to a monitoring, maintenance, or record keeping requirement established by this article that is not environmentally significant. Such change shall not be an administrative amendment if the monitoring, maintenance, or record keeping is required by an applicable requirement.~~
- (8) (7) Revises descriptive information where the revision will not trigger a new applicable requirement or violate a permit term.

(b) Administrative Part 70 permit amendments, for purposes of the acid rain portion of a Part 70 permit, shall be governed by regulations promulgated under Title IV of the CAA.

- (c) An administrative Part 70 permit amendment may be made by the commissioner consistent with the following:
 - (1) The commissioner shall take no more than sixty (60) days from receipt of a request for an administrative Part 70 permit amendment to take final action on such request and may incorporate such changes without providing prior notice to the public or affected states provided that it designates any such Part 70 permit revisions as having been made under this subsection.
 - (2) The commissioner shall submit a copy of a revised Part 70 permit to the U.S. EPA.
 - (3) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(Air Pollution Control Board; 326 IAC 2-7-11; filed May 25, 1994, 11:00 a.m.: 17 IR 2262; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2345; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1043)

SECTION 21. 326 IAC 2-7-12 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-12 Permit modification

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. (a) A Part 70 permit modification is any revision to a Part 70 permit that cannot be accomplished under the program's provisions for administrative permit amendments under section 11 of this rule. A permit modification, for purposes of the acid rain portion of the permit, shall be governed by regulations promulgated under Title IV of the CAA.

- (b) Minor permit modification procedures shall be as follows:
 - (1) Minor permit modification procedures may be used only for those permit modifications that meet the following requirements:
 - (A) Do not violate any applicable requirement.
 - (B) Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the Part 70 permit.
 - (C) Do not require or change a:
 - (i) case-by-case determination of an emission limit or other standard;
 - (ii) source specific determination for temporary sources of ambient impacts; or
 - (iii) visibility or increment analysis.
 - (D) Do not seek to establish or change a Part 70 permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include the following:
 - (i) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the CAA.
 - (ii) An alternative emissions limit approved under regulations promulgated under Section 112(i)(5) of the CAA.
 - (E) Are not modifications under any provision of Title I of the CAA.
 - (F) Are not required by the Part 70 program to be processed as a significant modification.
 - (2) Notwithstanding subdivision (1) and subsection (c)(1), minor Part 70 permit modification procedures may be used for Part 70 permit modifications involving the use of economic incentives, marketable Part 70 permits, emissions trading, and other similar approaches to the extent that such minor Part 70 permit modification procedures are explicitly provided for in the applicable implementation plan (SIP) or in applicable requirements promulgated or approved by the U.S. EPA.
 - (3) An application requesting the use of minor Part 70 permit modification procedures shall meet the requirements of section 4(c) of this rule and shall include the following:
 - (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

- (B) The source's suggested draft Part 70 permit reflecting the requested change.
- (C) Certification by a responsible official, consistent with section 4(f) of this rule, that the proposed modification meets the criteria for use of minor Part 70 permit modification procedures and a request that such procedures be used.
- (D) Completed forms for the commissioner to use to notify the U.S. EPA and affected states.
- (E) A copy of any previous approval issued by the commissioner under this article.

(4) The public notice provisions of section 17 of this rule shall apply to minor modifications.

~~(4)~~ (5) Within five (5) working days of receipt of a complete Part 70 permit modification application, the commissioner shall notify the U.S. EPA and affected states of the requested Part 70 permit modification. The commissioner promptly shall send any notice required to the U.S. EPA.

~~(5)~~ (6) The commissioner may not issue a final Part 70 permit modification until after the U.S. EPA's forty-five (45) day review period or until U.S. EPA has notified the commissioner that U.S. EPA will not object to issuance of the Part 70 permit modification, whichever is first, although the commissioner may approve the Part 70 permit modification prior to that time. Within ninety (90) days of the commissioner's receipt of an application under the minor Part 70 permit modification procedures or fifteen (15) days after the end of the U.S. EPA's forty-five (45) day review period, whichever is later, the commissioner shall do any of the following:

- (A) Issue the Part 70 permit modification as proposed.
- (B) Deny the Part 70 permit modification application.
- (C) Determine that the requested modification does not meet the minor Part 70 permit modification criteria and should be reviewed under the significant modification procedures.
- (D) Revise the draft Part 70 permit modification and transmit to the U.S. EPA the new proposed Part 70 permit modification as required by section 18(b) of this rule.

~~(6)~~ (7) The source may make the change proposed in its minor Part 70 permit modification application immediately after it files such application. After the source makes the change allowed by this subdivision, and until the commissioner takes any of the actions specified in subdivision ~~(5)(A)~~ (6)(A) through ~~(5)(C)~~ (6)(C), the source must comply with both the applicable requirements governing the change and the proposed Part 70 permit terms and conditions. During this time period, the source need not comply with the existing Part 70 permit terms and conditions it seeks to modify. If the source fails to comply with its proposed Part 70 permit terms and conditions during this time period, the existing Part 70 permit terms and conditions it seeks to modify may be enforced against it.

~~(7)~~ (8) The Part 70 permit shield under section 15 of this rule is not applicable to minor Part 70 permit modifications until after the commissioner has issued the modification.

(c) Consistent with the following, the commissioner may modify the procedure outlined in subsection (b) to process groups of a source's applications for modifications eligible for minor Part 70 permit modification processing:

(1) Group processing of modifications may be used only for those Part 70 permit modifications that meet the following requirements:

- (A) The modifications meet the criteria for minor Part 70 permit modification procedures under subsection (b).
- (B) The modifications are exempt from preconstruction or permit revision approval under 326 IAC 2-1.1-3.

(2) An application requesting the use of group processing procedures shall meet the requirements of section 4(c) of this rule and shall include the following:

- (A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.
- (B) The source's suggested draft Part 70 permit which reflects the requested change.
- (C) Certification by a responsible official, consistent with section 4(f) of this rule, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
- (D) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subdivision (1)(B).
- (E) Certification, consistent with section 4(f) of this rule, that the source has notified the U.S. EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.
- (F) Completed forms for the commissioner to use to notify the U.S. EPA and affected states as required under section 18 of this rule.

(3) The notice provisions of section 17 of this rule shall apply to modifications eligible for group processing.

(4) On a quarterly basis or within five (5) business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set under subdivision (1)(B), whichever is earlier, the commissioner promptly shall notify the U.S. EPA, under section 18(a) of this rule, and affected states, under section 17(4) of this rule, of the requested Part 70 permit modifications. The commissioner shall send any notice required under section 18(b) of this rule to the

U.S. EPA.

(5) The provisions of subsection (b)(5) shall apply to modifications eligible for group processing, except that the commissioner shall take one (1) of the actions specified in subsection (b)(5) within one hundred eighty (180) days of receipt of the application or fifteen (15) days after the end of the U.S. EPA's forty-five (45) day review period, whichever is later.

(6) The provisions of subsection (b)(6) shall apply to modifications eligible for group processing.

(7) The Part 70 permit shield under section 15 of this rule is not applicable to modifications eligible for group processing until after the commissioner has issued the modifications.

(d) Significant modification procedures shall be as follows:

(1) Significant modification procedures shall be used for applications requesting Part 70 permit modifications that do not qualify as minor permit modifications or as administrative amendments. Every significant change in existing monitoring Part 70 permit terms or conditions and every relaxation of reporting or record keeping permit terms or conditions shall be considered significant. Nothing in this subdivision shall be construed to preclude the permittee from making changes consistent with this rule that would render existing Part 70 permit compliance terms and conditions irrelevant.

(2) Significant Part 70 permit modifications shall meet all requirements of this rule, including those for application, public participation, review by affected states, and review by the U.S. EPA, and availability of the permit shield as they apply to Part 70 permit issuance and Part 70 permit renewal. The commissioner shall complete review of the majority of significant Part 70 permit modifications within nine (9) months after receipt of a complete application.

(Air Pollution Control Board; 326 IAC 2-7-12; filed May 25, 1994, 11:00 a.m.: 17 IR 2262; errata filed Jun 10, 1994, 5:00 p.m.: 17 IR 2358; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2345; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1044; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107)

SECTION 22. 326 IAC 2-7-16 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-16 Emergency provision

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 16. (a) An emergency as defined in section 1(12) of this rule is not an affirmative defense for an action brought for noncompliance with a federal or state health-based emission limitation, except as otherwise provided in this section.

(b) An emergency as defined in section 1(12) of this rule constitutes an affirmative defense to an action brought for noncompliance with a ~~health-based~~ or technology-based emission limitation if the affirmative defense of an emergency is demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that describe the following:

(1) An emergency occurred and the permittee can, to the extent possible, identify the causes of the emergency.

(2) The permitted facility was at the time being properly operated.

(3) During the period of an emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in a Part 70 permit.

(4) For an emergency lasting one (1) hour or more, the permittee notified the commissioner within four (4) daytime business hours after:

(A) the beginning of the emergency; or

(B) the emergency is discovered or reasonably should have been discovered.

(5) The permittee submitted notice either in writing or by facsimile of the emergency under subdivision (4) to the commissioner within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirements of section 5(3)(C)(ii) of this rule and must contain the following:

(A) A description of the emergency.

(B) Any steps taken to mitigate emissions.

(C) Corrective actions taken.

(6) The permittee immediately took all reasonable steps to correct the emergency.

(c) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(d) This emergency provision supersedes 326 IAC 1-6 for sources subject to this rule after the effective date of this rule. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

(e) Failure to notify the commissioner by telephone or facsimile of an emergency lasting more than one (1) hour in compliance with ~~subdivisions (4) and (5) of subsection (b)~~ **subsection (b)(4) and (b)(5)** shall constitute a violation of this rule and any other applicable rules.

(f) The commissioner may require that the preventive maintenance plan required under section 4(c)(9) of this rule be revised in response to an emergency.

(g) Operations may continue during an emergency only if the following conditions are met:

(1) If the emergency situation causes a deviation from a technology-based limit, the source may continue to operate the affected emitting facilities during the emergency provided the source immediately takes all reasonable steps to correct the emergency and minimize emissions.

(2) If an emergency situation causes a deviation from a health-based limit, the source may not continue to operate the affected emissions facilities unless:

(A) the source immediately takes all reasonable steps to correct the emergency situation and to minimize emissions; and

(B) continued operation of the facilities is necessary to prevent imminent injury to persons, severe damage to equipment, substantial loss of capital investment, or loss of product or raw materials of substantial economic value.

Any operation shall continue no longer than the minimum time required to prevent the situations identified in clause (B).

(Air Pollution Control Board; 326 IAC 2-7-16; filed May 25, 1994, 11:00 a.m.: 17 IR 2265; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2347)

SECTION 23. 326 IAC 2-7-20 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-20 Operational flexibility

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 20. (a) An owner or operator of a Part 70 source may make any change or changes at the source that are described in subsection (b), (c), or (e), without a prior permit revision, if each of the following conditions is met:

(1) The changes are not modifications under any provisions of Title I of the CAA.

(2) The changes do not result in emissions which exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

(3) The owner or operator of the Part 70 source notifies the commissioner and U.S. EPA in advance of the change by written notification given at least ten (10) days in advance of the proposed change. The commissioner and the owner or operator of a Part 70 source each shall attach every such notice to their copy of the relevant permit.

(4) The owner or operator of the source maintains records on-site which document, on a rolling five (5) year basis, all such changes and emissions trading that are subject to subsection (b), (c), or (e), and makes such records available, upon reasonable request, to public review. Such records shall consist of all information required to be submitted to the commission in the notices specified in subsections (b)(1), (c)(1), and (e)(2).

(b) An owner or operator of a Part 70 source may make Section 502(b)(10) of the CAA changes without a permit revision, subject to the constraints of subsection (a) and the following additional conditions:

(1) For each such change, the required written notification shall include a brief description of the change within the source, the date on which the change will occur, any change in emissions, and any permit term or conditions that are no longer applicable as a result of the change.

(2) The permit shield described in section 15 of this rule shall not apply to any change made under this subsection.

(c) An owner or operator of a Part 70 source may trade increases and decreases in emissions in the Part 70 source, where the applicable state implementation plan (SIP) provides for such emission trades without requiring a permit revision, subject to the constraints of subsection (a) and the further conditions of this subsection. Such changes may be made without a permit revision regardless of whether the permit fails to provide expressly for such emissions trading provided the following:

(1) For each such change, the required written notification shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including, at a minimum, the following:

(A) When the proposed change will occur.

(B) A description of each such change.

(C) Any change in emissions.

(D) The permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan.

(E) The pollutants emitted subject to the emissions trade.

The notice shall also refer to the provisions in the applicable implementation plan with which the source will comply and that provide for the emissions trade.

(2) The permit shield described in section 15 of this rule shall not apply to any change made under this subsection. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to the requirements of the applicable implementation plan authorizing the emissions trade.

(d) An owner or operator of a Part 70 source may make changes at the source within the range of alternative operating scenarios that are described in the terms and conditions of the Part 70 permit for the source in accordance with section 5(9) of this rule, without a prior permit revision, subject to compliance with such permit terms and conditions. To procure alternative operating scenarios for its Part 70 permit, the owner or operator of a Part 70 source must request such alternative scenarios in its application for the permit in accordance with section ~~4(c)(7)~~ **4(c)(6)** of this rule. The provisions of subsection (a) notwithstanding, no advanced notice to the department is required prior to making such a change.

(e) An owner or operator of a Part 70 source may make changes otherwise requiring a minor or significant permit revision under an emissions cap included in a Part 70 permit without a permit revision, subject to the conditions of subsection (a) and the following additional conditions:

- (1) The emissions cap has been established in accordance with the emission cap provisions of 326 IAC 2-1.1-12 and this rule.
- (2) The notification to the commissioner under subsection (a) shall include the information required under 326 IAC 2-1.1-12(f).
- (3) The permit shield in section 15 of this rule shall extend to terms and conditions that allow such increases and decreases in emissions.

(Air Pollution Control Board; 326 IAC 2-7-20; filed May 25, 1994, 11:00 a.m.: 17 IR 2269; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1047; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107)

SECTION 24. 326 IAC 2-7-24 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-7-24 Establishment of streamlined requirements for units subject to multiple requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 24. (a) A source owner subject to this rule may request to comply with streamlined requirements for any unit subject to multiple requirements for a specific pollutant, provided the streamlined requirements are established under the Part 70 permit issuance, renewal, or significant permit modification process under this rule.

(b) ~~Instead of the requirements imposed under 326 IAC 3, 326 IAC 4-2, 326 IAC 5, 326 IAC 6, 326 IAC 7, 326 IAC 8, 326 IAC 9, 326 IAC 10, 326 IAC 11, 326 IAC 12, 326 IAC 14, 326 IAC 15, and 326 IAC 20 or a permit issued under 326 IAC 2-5.1,~~ A source proposing the streamlining of multiple requirements shall use the following procedures:

- (1) The applicant shall submit a proposal for the streamlining of multiple requirements with the permit application required under section 4 of this rule or any amendment thereof. The proposal for streamlining of multiple requirements may be submitted up to thirty (30) days after issuance of the draft permit.
- (2) The applicant shall provide a side-by-side comparison of all requirements included in a streamlining proposal that are currently applicable and effective for each specific regulated air pollutant and emissions unit for which streamlining is being proposed. The applicant shall distinguish between requirements that are emissions standards or work practice standards, or both, and monitoring and compliance demonstration provisions in the streamlining proposal. The applicant shall provide any information the department determines is needed to evaluate the proposal.
- (3) The applicant shall develop and provide a compliance schedule with the streamlining proposal to implement any new monitoring requirements or compliance requirements, or both, relevant to the streamlined limit, if the source is unable to comply with the streamlined limit upon permit issuance. The record keeping, monitoring, and reporting requirements of the applicable requirements being subsumed shall remain in effect, as well as any emission limits associated with those requirements, until the new monitoring requirements or compliance requirements, or both, become effective.

(c) In the event the department determines the proposal to be inadequate, the applicant shall be notified and given a reasonable deadline to respond.

(d) The commissioner shall include citations to all subsumed requirements in the Part 70 permit's specification of the origin and authority of permit conditions and shall specify all subsumed requirements under the permit shield. In addition, the Part 70 permit shall include any additional terms and conditions necessary to assure compliance with the streamlined requirement and all subsumed requirements. In all instances, the proposed permit terms and conditions shall be enforceable as a practical matter.

(e) The commissioner may deny a request for streamlining of multiple requirements for any of the following reasons:

- (1) The streamlined requirements are not as stringent as the requirements to be subsumed.
- (2) The streamlined requirements will not adequately assure compliance with all applicable requirements.
- (3) U.S. EPA objects to the use of the streamlined requirements.
- (4) Any other reason related to the stringency of the streamlined requirements or compliance with the CAA.

(f) In carrying out the public participation and notice to affected states requirements under section 17 of this rule, the commissioner shall do the following:

- (1) Note the use of streamlined requirements or limits, or both, in any required transmittal of a Part 70 application, Part 70 modification application, application summary, or revised application to U.S. EPA and an affected state.
- (2) Include the demonstration used to establish streamlined requirements and supporting documentation in the public record.
- (3) Reissue a draft permit in any case where a request for streamlining of multiple requirements is submitted to the department after issuance of the draft permit.

(g) A streamlined requirement is approved for the source by the U.S. EPA if it is incorporated in an issued Part 70 permit to which the U.S. EPA has not objected. Public comments concerning a Part 70 permit that includes a streamlined requirement shall be transmitted to the U.S. EPA no later than five (5) working days after the end of the public comment period. The commissioner's determination of approval is not binding on the U.S. EPA.

(h) If the commissioner or the U.S. EPA determines that the Part 70 permit does not assure compliance with applicable requirements, the commissioner shall reopen and revise the permit.

(i) The source shall comply with all applicable requirements to be subsumed by the proposed streamlined requirement until the Part 70 permit has been issued with the streamlined requirements.

(j) A source violating a streamlined limitation or requirement in a Part 70 permit may be subject to an enforcement action for violation of one (1) or more of the subsumed requirements.

(k) Noncompliance with any provision in a permit established pursuant to this section constitutes a violation of this rule. (*Air Pollution Control Board; 326 IAC 2-7-24; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2352; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1048*)

SECTION 25. 326 IAC 3-5-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 3-5-1 Applicability; monitoring requirements for applicable pollutants

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-14-4-3; IC 13-15; IC 13-17

Sec. 1. (a) This rule establishes the following:

- (1) Substantive requirements for monitoring certain types of sources.
- (2) A process for developing suitable monitoring requirements for other types of sources.

(b) This rule applies to the following sources and facilities hereinafter referred to as affected facilities:

- (1) Any facility required to perform continuous monitoring under 326 IAC 12, which incorporates by reference the requirements of 40 CFR 60*, or by a standard for hazardous air pollutants under 326 IAC 14, which incorporates by reference the requirements of 40 CFR 61*, or 326 IAC 20, which incorporates by reference the requirements of 40 CFR 63*.
- (2) Fossil fuel-fired steam generators of greater than one hundred million (100,000,000) British thermal units (Btus) per hour heat input capacity.
- (3) Sulfuric acid plants or production facilities of greater than three hundred (300) tons per day acid production capacity.
- (4) Petroleum refinery catalyst regenerators for fluid bed catalytic cracking units of greater than twenty thousand (20,000) barrels (eight hundred forty thousand (840,000) gallons) per day fresh feed capacity.

- (5) Portland cement plants.
- (6) Facilities that combust sewage sludge.
- (7) Sources making coke from raw materials, including the following:
 - (A) Coal refining byproducts.
 - (B) Petroleum refining byproducts.
- (8) Facilities in Clark and Floyd Counties that:
 - (A) have potential to emit NO_x greater than or equal to forty (40) tons per year; and
 - (B) are located at sources that have potential to emit NO_x greater than or equal to one hundred (100) tons per year as described in 326 IAC 10.

(c) Sources and facilities described in subsection (b) are subject to the following requirements: ~~or an approved streamlined requirement established in accordance with 326 IAC 2-7-24:~~

- (1) Any facility subject to 326 IAC 12, which incorporates by reference the requirements of 40 CFR 60*, 326 IAC 14, which incorporates by reference the requirements of 40 CFR 61*, or 326 IAC 20, which incorporates by reference the requirements of 40 CFR 61*, shall comply with the following:
 - (A) The monitoring and reporting requirements as specified for the applicable rule.
 - (B) All requirements of this rule.
- (2) Fossil fuel-fired steam generators of greater than one hundred million (100,000,000) Btu per hour heat input capacity shall monitor the following:
 - (A) Opacity, unless:
 - (i) Gaseous fuel is the only fuel combusted.
 - (ii) Oil or a mix of gas and oil are the only fuels combusted and the facility is able to comply with both of the following without using particulate matter collection equipment:
 - (AA) 326 IAC 5-1.
 - (BB) 326 IAC 6-2.
 - (iii) An alternative monitoring requirement request has been granted by the department. An alternative monitoring requirement may be requested when installation of an opacity monitoring system would not provide accurate determinations of emissions as a result of interference from condensed uncombined water vapor. Any alternative monitoring requirement request shall address the following:
 - (AA) Information pertaining to the inability of the affected facility to find an acceptable monitoring location prior to the source of the condensed, uncombined water vapor.
 - (BB) A list of proposed alternative monitoring requirements. For each proposed alternative monitoring requirement, the request must provide a detailed description of thresholds or triggers for corrective action resulting from deviation from normal operating parameters and how deviations from key surrogate parameters shall be addressed to insure continuous compliance with all applicable particulate and opacity requirements. An example of an acceptable alternative monitoring requirement is a particulate compliance demonstration that is no less frequent than annual in accordance with 326 IAC 3-6 and a compliance monitoring plan that, at a minimum, satisfies monitoring requirements under 326 IAC 2-7 or 326 IAC 2-8.
 - (CC) Record keeping that is consistent with section 6 of this rule.
 - (DD) Reporting frequency that is no less frequent than that required in section 7 of this rule.
 - (iv) An alternative monitoring requirement request granted by the department under item (iii) shall be submitted to U.S. EPA as a SIP revision and shall not be in effect until approved as a SIP revision.
 - (B) Sulfur dioxide (SO₂) under the following conditions:
 - (i) SO₂ pollution control equipment has been installed.
 - (ii) A monitor is required to determine compliance with either of the following:
 - (AA) 326 IAC 12.
 - (BB) A construction permit required under 326 IAC 2.
 - (C) Nitrogen oxide (NO_x) under the following conditions:
 - (i) NO_x pollution control equipment has been installed.
 - (ii) A monitor is required to determine compliance with either of the following:
 - (AA) 326 IAC 12.
 - (BB) A construction permit required under 326 IAC 2.
 - (D) The percent O₂ or CO₂ if measurements of O₂ or CO₂ in the flue gas are required to convert either SO₂ or NO_x continuous monitoring data, or both, to units of the emission limitation for the particular facility.
- (3) Sulfuric acid plants or production facilities of greater than three hundred (300) tons per day acid production capacity shall monitor SO₂ for each sulfuric acid producing facility within the source.

(4) Petroleum refinery catalyst regenerators for fluid bed catalytic cracking units of greater than twenty thousand (20,000) barrels (eight hundred forty thousand (840,000) gallons) per day fresh feed capacity shall monitor opacity for each regenerator within the source.

(5) Portland cement plants shall monitor opacity at the following facilities:

- (A) Kilns.
- (B) Clinker coolers.

(6) Facilities that combust sewage sludge shall monitor from the effluent gas exiting incinerator the following:

- (A) Total hydrocarbons.
- (B) Oxygen.
- (C) Moisture, unless an alternative method is approved by the department and the U.S. EPA.
- (D) Temperature.

(7) Sources making coke from coal shall monitor opacity on the underfire stack associated with each coke oven battery.

(8) Facilities in Clark and Floyd Counties that have potential to emit NO_x greater than or equal to forty (40) tons per year and are located at sources that have potential to emit NO_x greater than or equal to one hundred (100) tons per year shall install NO_x continuous emission monitors as described in 326 IAC 10-1.

(d) The department may require, as a condition of a construction or operating permit issued under 326 IAC 2-1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-7, 326 IAC 2-8, or 326 IAC 2-9 that the owner or operator of a new or existing source of air emissions monitor emissions to ensure compliance with the following:

- (1) An emission limitation or standard established in one (1) of the permits listed in **this** subsection. ~~(d)~~.
- (2) Permit requirements.
- (3) Monitoring requirements in 326 IAC 7.

(e) Unless explicitly stated otherwise, nothing in this rule shall:

- (1) Excuse the owner or operator of a source from any monitoring, record keeping, or reporting requirement that applies under any provision of the CAA or state statutes or regulations.
- (2) Restrict the authority of the department to impose additional or more restrictive monitoring, record keeping, testing, or reporting requirements on any owner or operator of a source under any other provision of the CAA, including Section 114(a)(1), or state statutes or regulations, as applicable.

(f) Within one hundred eighty (180) days of startup or, for a source existing on the effective date of this rule, within three hundred sixty-five (365) days of becoming an affected facility under this rule, all continuous monitoring systems shall be installed, operational, and the certification testing complete pursuant to section 3 of this rule.

~~*Copies of the Code of Federal Regulations (CFR) referenced~~ ***These documents are incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402 and 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 ~~46206-6015~~. **46204**. (*Air Pollution Control Board; 326 IAC 3-5-1; filed Jan 30, 1998, 4:00 p.m.: 21 IR 2064*)

SECTION 26. 326 IAC 4-2-1, PROPOSED TO BE READOPTED AT 24 IR 2754, SECTION 7, IS AMENDED TO READ AS FOLLOWS:

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. This rule (~~326 IAC 4-2~~) establishes standards for the use of incinerators which emit regulated pollutants. This rule (~~326 IAC 4-2~~) does not apply to incinerators in residential units consisting of four (4) or fewer families. ~~or incinerators for which streamlined requirements have been established in accordance with 326 IAC 2-7-24~~. All other incinerators are subject to this rule. (~~326 IAC 4-2~~). (*Air Pollution Control Board; 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*)

SECTION 27. 326 IAC 5-1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 5-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-11; IC 13-17

Sec. 1. (a) This rule applies to opacity, not including condensed water vapor, emitted by or from a facility or source. The limitations set forth in section 2 of this rule shall not apply to facilities for which specific opacity limitations have been established in 326 IAC 6, 326 IAC 11, or 326 IAC 12. ~~or a Part 70 permit pursuant to 326 IAC 2-7-24.~~

(b) Section 2(1) of this rule applies to sources or facilities located in areas not listed in this section.

(c) Section 2(2) of this rule applies to sources or facilities located in the following areas:

(1) Clark County, Jeffersonville Township.

(2) Dearborn County, Lawrenceburg Township.

(3) Dubois County, Bainbridge Township.

(4) Lake County, an area bounded on the north by Lake Michigan, on the west by the Indiana-Illinois state line, on the south by U.S. 30 from the state line to the intersection of I-65 to the intersection of I-94 then following I-94 to the Lake-Porter county line, and on the east by the Lake-Porter county line.

(5) Marion County, except the area of Washington Township east of Fall Creek and the area of Franklin Township south of Thompson Road and east of Five Points Road.

(6) St. Joseph County, the area north of Kern Road and east of Pine Road.

(7) Vanderburgh County, the area included in the city of Evansville and Pigeon Township.

(8) Vigo County, the area within a five-tenths (0.5) kilometer radius circle centered at UTM Coordinates Zone 16 East four hundred sixty-four and fifty-two hundredths (464.52) kilometers North four thousand three hundred sixty-nine and twenty-one hundredths (4,369.21) kilometers.

(Air Pollution Control Board; 326 IAC 5-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2421; filed May 12, 1993, 11:30 a.m.: 16 IR 2364; filed Jun 19, 1996, 9:00 a.m.: 19 IR 3049; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2366; filed Oct 9, 1998, 3:56 p.m.: 22 IR 426)

SECTION 28. 326 IAC 6-1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 6-1-1 Applicability

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

Affected: IC 13-15; IC 13-17

Sec. 1. Sources or facilities specifically listed in section 7 of this rule shall comply with the limitations contained therein. Sources or facilities that are:

(1) located in the counties listed in section 7 of this rule;

(2) but which sources or facilities are not specifically listed in section 7 of this rule; and

(3) have the potential to emit one hundred (100) tons or more of particulate matter per year or have actual emissions of ten (10) tons or more of particulate matter per year;

shall comply with the limitations of section 2 of this rule. ~~The limitations in sections 2 and 7 of this rule shall not apply to sources for which specific emission limitations have been established in a Part 70 permit in accordance with 326 IAC 2-7-4.~~ *(Air Pollution Control Board; 326 IAC 6-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2425; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2366; filed Apr 17, 1998, 9:00 a.m.: 21 IR 3342)*

SECTION 29. 326 IAC 6-2-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6-2-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule establishes limitations for sources of indirect heating.

(b) Particulate emissions from the combustion of fuel for indirect heating from all facilities located in Lake, Porter, Marion, Boone, Hamilton, Hendricks, Johnson, Morgan, Shelby, and Hancock Counties, which were existing and in operation or which received permit to construct prior to September 21, 1983, shall be limited by section 2 of this rule.

(c) Particulate emissions from the combustion of fuel for indirect heating from all facilities not specified in subsection (b), which were existing and in operation or which received permits to construct prior to September 21, 1983, shall be limited by section 3 of this rule.

(d) Particulate emissions from the combustion of fuel for indirect heating from all facilities receiving permits to construct on or after September 21, 1983, shall be limited by section 4 of this rule.

(e) If any limitation established by this rule is inconsistent with applicable limitations contained in 326 IAC 6-1, then the limitations contained in 326 IAC 6-1 prevail.

(f) If any limitation established by this rule is inconsistent with applicable limitations contained in 326 IAC 12 concerning new source performance standards, then the limitations contained in 326 IAC 12 prevail.

(g) If any limitation established by this rule is inconsistent with a limitation contained in a facility's construction or operation permit as issued pursuant to 326 IAC 2 concerning permit review regulations, then the limitations contained in the source's current permits prevail.

(h) If any limitation established by this rule is inconsistent with a limitation required by 326 IAC 2 concerning permit review regulations, to prevent a violation of the ambient air quality standards set forth in 326 IAC 1-4, then the limitations required by 326 IAC 2 prevail.

(i) The addition of a new facility at a source does not affect the limitations of the existing facilities unless such changes in the limitations are required by the provisions of 326 IAC 2 or 326 IAC 6-1.

(j) ~~The limitations established by this rule shall not apply to sources for which specific emission limitations have been established in a Part 70 permit in accordance with 326 IAC 2-7-24. (Air Pollution Control Board; 326 IAC 6-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2493; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2366; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)~~

SECTION 30. 326 IAC 6-5-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6-5-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. (a) Any source of fugitive particulate matter emissions located in nonattainment areas for particulate matter as designated by the board (except for such a source located in Lake County) which has potential fugitive particulate matter emissions of twenty-five (25) tons per year or more, including the following:

(1) Primary nonattainment areas, to include the portion of Marion County bounded on the west by Keystone Avenue, on the north and east by Southeastern Avenue, and on the east and south by Center Township.

(2) Secondary nonattainment areas as follows:

(A) The portion of Clark County included in Jeffersonville Township.

(B) The portion of Dubois County included in Bainbridge Township.

(C) The portions of Marion County included in Center and Wayne Townships, the portion of Decatur Township located east and north of I-465, and the portion of Perry Township located north of I-465.

(D) The portion of St. Joseph County north of Kern Road and east of Pine Road.

(E) The portion of Vanderburgh County included in the city of Evansville and Pigeon Township.

(F) The portion of Vigo County located within a five-tenths (0.5) kilometer radius of UTM Coordinates four hundred sixty-four and five hundred nineteen-thousandths (464.519) east and four thousand three hundred sixty-nine and two hundred eight-thousandths (4,369.208) north, in Indiana State University parking lot number 23 in Terre Haute.

(b) Any new source of fugitive particulate matter emissions, located anywhere in the state, requiring a permit as set forth in 326 IAC 2, which has not received all the necessary preconstruction approvals before December 13, 1985. If any control measure established by this rule is inconsistent with an applicable control measure contained in 326 IAC 12, the more stringent measure shall apply.

(c) Any source or facility of fugitive particulate matter emissions subject to the requirements of this rule shall be subject to 326 IAC 6-4-6.

(d) The following emission factors and control efficiencies apply to sources subject to this rule:

(1) Emission factor equations listed in supplements 11.2.1, 11.2.3, and 11.2.6 of the May 1983 edition and no later amendments of "Compilation of Air Pollutant Factors" (AP-42)* shall be used to determine potential emissions for unpaved roads, aggregate handling and storage piles, and paved roads, respectively.

(2) Efficiencies of any existing control measures shall be obtained from the following:

(A) Supplement 11.2.1 of the May 1983 edition and no later amendments of "Compilation of Air Pollutant Factors" (AP-42)* for unpaved roads.

(B) The August 1983 edition* of "Iron and Steel Plant Open Source Fugitive Emission Control Evaluation" (prepared by Midwest Research Institute) for aggregate handling and storage piles.

(C) The April 26, 1984, edition* of "Cost Estimates for Selected Fugitive Dust Controls Applied to Unpaved and Paved Roads in Iron and Steel Plants" for paved roads (prepared by Midwest Research Institute).

(3) Emission factors and efficiencies of existing controls, if any, for sources in the categories not covered in subdivisions (1) and (2) shall be obtained from "Reasonably Available Control Measures for Fugitive Dust Sources", as amended August 1983 and no later amendments, Ohio EPA**. Where a range of values is available for a source or process as referenced in subdivisions (1) and (2), the mid-value of the range shall be used.

(4) A source may petition the commissioner to use emission factors and control efficiencies other than those referenced in subdivisions (1), (2), and (3) if adequate support documentation is submitted.

~~(e) This rule shall not apply to sources for which alternative requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24 or 326 IAC 2-7-25.~~

*Copies of the May 1983 edition of "Compilation of Air Pollutant Factors" (AP-42); the August 1983 edition of "Iron and Steel Plant Open Source Fugitive Emission Control Evaluation"; and the April 26, 1984, edition of "Cost Estimates for Selected Fugitive Dust Controls Applied to Unpaved and Paved Roads in Iron and Steel Plants" may be obtained from the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 and are available for copying at the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220.

**Copies of "Reasonably Available Control Measures for Fugitive Dust Sources", as amended August 1983 may be obtained from Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216 and are available for copying at the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*Air Pollution Control Board; 326 IAC 6-5-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2501; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2367; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 31. 326 IAC 6-6-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 6-6-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. This rule is effective December 7, 1984. Sources and facilities specifically listed in sections 4 and 5 of this rule shall comply with the limitations contained therein. ~~unless alternative limitations have been established in a Part 70 permit in accordance with 326 IAC 2-7-24 or 326 IAC 2-7-25.~~ Sources and facilities subject to this rule ~~or alternative requirements established in a Part 70 permit in accordance with 326 IAC 2-7-24 or 326 IAC 2-7-25~~ are exempt from the requirements of 326 IAC 6-1, 326 IAC 6-2, 326 IAC 6-3, 326 IAC 6-4, and 326 IAC 6-5. (*Air Pollution Control Board; 326 IAC 6-6-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2505; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2368; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 32. 326 IAC 7-1.1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 7-1.1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. All facilities with a potential to emit twenty-five (25) tons per year or ten (10) pounds per hour of sulfur dioxide shall comply with the limitations in section 2 of this rule and the compliance test methods in 326 IAC 7-2. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ The above facilities shall also comply with the sulfur dioxide emission limitations and other requirements pursuant to 326 IAC 2, 326 IAC 7-4, and 326 IAC 12. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ (Air Pollution Control Board; 326 IAC 7-1.1-1; filed Aug 28, 1990, 4:50 p.m.: 14 IR 52; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2368)

SECTION 33. 326 IAC 7-1.1-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 7-1.1-2 Sulfur dioxide emission limitations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 2. (a) Sulfur dioxide emissions from fuel combustion facilities shall be limited as follows, unless specified otherwise in 326 IAC 7-4 or in a construction permit issued pursuant to 326 IAC 2: ~~or in a Part 70 permit in accordance with 326 IAC 2-7-24:~~

- (1) Six and zero-tenths (6.0) pounds per million Btu for coal combustion.
- (2) One and six-tenths (1.6) pounds per million Btu for residual oil combustion.
- (3) Five-tenths (0.5) pound per million Btu for distillate oil combustion.

(b) For facilities combusting coal and oil simultaneously, the sulfur dioxide emission limitation shall be six and zero-tenths (6.0) pounds per million Btu. ~~unless alternative limitations have been established in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ For facilities combusting oil and any fuel other than coal simultaneously, the sulfur dioxide emission limitation shall be the limitation specified in subsection (a)(2) or (a)(3), depending on the type of oil combusted. ~~unless alternative limitations have been established in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ For the purposes of this subsection, simultaneous combustion of coal and oil shall include those periods of startup, shutdown, and flame stabilization required under normal facility operations. (Air Pollution Control Board; 326 IAC 7-1.1-2; filed Aug 28, 1990, 4:50 p.m.: 14 IR 52; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2369)

SECTION 34. 326 IAC 7-3-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 7-3-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. Sources with total actual emissions of sulfur dioxide greater than ten thousand (10,000) tons per year are subject to the requirements of this rule. ~~unless alternative requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ (Air Pollution Control Board; 326 IAC 7-3-1; filed Aug 28, 1990, 4:50 p.m.: 14 IR 53; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2369)

SECTION 35. 326 IAC 8-1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 8-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule contains general provisions applicable to all other rules in this article. Once a facility becomes subject to a rule within this article under any rule applicability section in this article, such facility shall remain subject to such rule notwithstanding any subsequent decrease in VOC emissions unless the provisions of subsections (b) through (d) are met. ~~or alternative limitations and requirements have been streamlined in a Part 70 permit in accordance with 326 IAC 2-7-24.~~ Any proposal to establish an alternative limitation or requirement other than the streamlining of multiple requirements shall be in accordance with ~~326 IAC 8-1-5.~~ **section 5 of this rule.**

(b) A facility subject to this article may be exempted by the commissioner from any of these applicability sections if the facility has an enforceable permit issued under 326 IAC 2 or a federally-approved SIP revision that permanently restricts one (1) or more facility activities that result in VOC emissions, such as production, hours of operation, or capacity utilization, such that restrictions lower actual emissions before add-on controls to a level below fifteen (15) pounds per day. Upon expiration of any facility's permit, such exemption shall also expire, and such facility shall be subject to the requirements of all applicable rules within this article, unless

a renewed permit containing such exemption is issued pursuant to 326 IAC 2.

(c) The permit or other enforceable document referenced in subsection (b) shall also require a facility owner or operator to keep records to demonstrate compliance with the permit or document restrictions. If the restriction is based on actual emissions or operations, the facility owner or operator shall keep records of throughput or actual coating usage to determine compliance. If the applicability level of the rule is in terms of actual emissions per day, the facility owner or operator shall be required to keep, at a minimum, daily consumption records, certification of VOC emission rates, and daily calculation of VOC emissions. If the rule specifies an applicability level based on potential emissions per year, the permit or enforceable document shall restrict actual production, hours of operation, and/or capacity utilization on a monthly basis, and the facility owner or operator shall be required to keep, at a minimum, daily consumption records, certification of VOC emission rates, and monthly calculations of VOC emissions.

(d) All permits, renewed permits, and other enforceable documents referenced in subsection (b) shall be submitted to the U.S. EPA as SIP revisions. (*Air Pollution Control Board; 326 IAC 8-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2527; filed May 6, 1991, 4:45 p.m.: 14 IR 1712; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2369*)

SECTION 36. 326 IAC 9-1-2, PROPOSED TO BE READOPTED AND AMENDED AT 24 IR 2777, SECTION 36, IS AMENDED TO READ AS FOLLOWS:

326 IAC 9-1-2 Carbon monoxide emission limits

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 2. Emissions of carbon monoxide shall be limited to the following ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24, or~~ unless specific carbon monoxide emission limits have been established in 326 IAC 11, 326 IAC 20, 326 IAC 60*, 40 CFR 62*, or 40 CFR 63*:

(1) Petroleum refining emissions. No person shall cause or allow the discharge of carbon monoxide from any catalyst regeneration of a petroleum cracking system or from any petroleum fluid coker into the atmosphere unless the waste gas stream is burned in a direct-flame afterburner or boiler that maintains a minimum temperature of one thousand three hundred (1,300) degrees Fahrenheit for a minimum retention time of three-tenths (0.3) second or is controlled by other means approved by the commissioner.

(2) Ferrous metal smelters. No person shall cause or allow the discharge of carbon monoxide from any grey iron cupola, blast furnace, basic oxygen steel furnace, or other ferrous metal smelting equipment, having a capacity of ten (10) tons per hour or more process weight unless the waste gas stream is burned in a direct-flame afterburner or boiler that maintains a minimum temperature of one thousand three hundred (1,300) degrees Fahrenheit for a minimum retention time of three-tenths (0.3) second or is controlled by other means approved by the commissioner. In instances where carbon monoxide destruction is not required, carbon monoxide emissions shall be released at such elevation that the maximum ground level concentration from a single source shall not exceed twenty percent (20%) of the maximum one (1) hour Indiana ambient air quality value for carbon monoxide.

(3) Solid waste incineration and burning equipment. No person shall operate an incinerator or burning equipment that burns solid waste, as defined in 329 IAC 11-2-39, unless the waste gas stream is burned in a direct-flame afterburner that maintains a minimum temperature of one thousand three hundred (1,300) degrees Fahrenheit for a minimum retention time of three-tenths (0.3) seconds or carbon monoxide emissions are controlled by other means approved by the commissioner.

~~*Citations to the Code of Federal Regulations (CFR) in this section are incorporated by reference and~~ ***These documents are incorporated by reference. Copies** may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~ **or are 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 Board; 326 IAC 9-1-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2547; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2370*)

SECTION 37. 326 IAC 10-1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. (a) Emissions of nitrogen oxides (NO_x) from facilities located in Clark or Floyd County shall be controlled as follows, ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24; any proposal to establish an alternative limitation or requirement other than the streamlining of multiple requirements shall be in accordance with section 4(c)(1) of this rule:~~

- (1) Any stationary source located in Clark or Floyd County that exists on or before the effective date of this rule and that emits or has the potential to emit greater than or equal to one hundred (100) tons per year or more of NO_x from all facilities at the source shall apply reasonable available control technology (RACT) as set forth in this rule.
- (2) Any facility that exists on or before the effective date of this rule that has the potential to emit NO_x greater than or equal to forty (40) tons per year and that is located at a source that emits or has the potential to emit NO_x greater than or equal to one hundred (100) tons per year, shall comply with the applicable provisions of this rule.
- (3) Facilities requiring a permit under 326 IAC 2 that are constructed, modified, or reconstructed after the effective date of this rule and to which a new source performance standard (NSPS) does not apply shall comply with this rule or best available control technology (BACT), whichever is more stringent.

(b) Unless emissions have been limited in accordance with subsection (c), the emission limitations established in section 4 of this rule shall apply to the following facilities at sources meeting the requirements of subsection (a)(1):

- (1) Each electric utility steam generating unit of the type listed in section 4(b)(2) of this rule with heat input capacity greater than or equal to two hundred fifty (250) million Btu per hour.
- (2) Each industrial, commercial, or institutional steam generating unit of the type listed in section 4(b)(3) of this rule with heat input capacity greater than or equal to one hundred (100) million Btu per hour.
- (3) Each portland cement long dry kiln with production capacity greater than or equal to twenty (20) tons of clinker per hour.
- (4) Each portland dry preheat process kiln with production capacity greater than or equal to twenty (20) tons of clinker per hour.
- (5) Any other type of facility that emits or has the potential to emit NO_x greater than or equal to forty (40) tons per year.

(c) A facility identified in subsection (b) shall not be subject to the emissions limits of section 4 of this rule if the source's actual emissions have been limited to below one hundred (100) tons per year through federally enforceable production or capacity limitations in an operating permit in accordance with section 3(2) of this rule and 326 IAC 2-8 on or before December 14, 1996.

(d) A facility that exists on or before the effective date of this rule that is subject to a NSPS under 40 CFR 60* that affects emissions of NO_x is not subject to this rule.

~~*Copies of 40 CFR 60, New Source Performance Standards for New Stationary Sources; *These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 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 46204-2220: 46204. (Air Pollution Control Board; 326 IAC 10-1-1; filed May 13, 1996, 5:00 p.m.: 19 IR 2869; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2370)~~

SECTION 38. 326 IAC 11-1-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12

Affected: IC 13-15; IC 13-17

Sec. 1. This rule establishes emission limitations for particulate matter from foundries. Particulate emissions from all foundries in operation on or before December 6, 1968, shall comply with the requirements set forth in section 2 of this rule. All foundries beginning operation after December 6, 1968, shall comply with 326 IAC 6-3. If any emission limit established by this rule is inconsistent with applicable limits contained in 326 IAC 6-1, then the limit contained herein shall not apply; but the limit in 326 IAC 6-1 shall apply. ~~The requirements of this rule, including compliance with 326 IAC 6-1 or 326 IAC 6-3, shall not apply to sources for which alternative requirements or limitations, or both, have been established in a Part 70 permit in accordance with 326 IAC 2-7-24; (Air Pollution Control Board; 326 IAC 11-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2548; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2371; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)~~

SECTION 39. 326 IAC 11-2-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-2-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. (a) All sulfuric acid production facilities located in the state of Indiana are subject to the emission limitations specified in this rule ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24 or 326 IAC 2-7-25~~, and shall be defined as established in subsection (b).

(b) As used in this rule, "sulfuric acid production unit" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge. The term does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds. (*Air Pollution Control Board; 326 IAC 11-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2548; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2371; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 40. 326 IAC 11-3-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-3-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. This rule applies to all coke oven batteries for which construction or modification commenced prior to June 19, 1979. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24~~. Emission limitations for coke oven batteries construction or modification of which commences after June 19, 1979, shall be established as permit conditions pursuant to the provisions and requirements of 326 IAC 2 concerning permits and new source review. (*Air Pollution Control Board; 326 IAC 11-3-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2548; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2371; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 41. 326 IAC 11-4-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-4-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. This rule applies to facilities for producing fiberglass insulation by the superfine (flame blown) process existing on June 19, 1979, located in Shelby County. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24~~. Facilities shall be exempt from 326 IAC 6-3. (*Air Pollution Control Board; 326 IAC 11-4-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2551; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2371; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 42. 326 IAC 11-5-1, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 11-5-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. This rule establishes fluoride emission limitations for primary aluminum plants in operation on or before January 26, 1976. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24~~. A primary aluminum plant is defined as any facility manufacturing aluminum by electrolytic reduction. All primary aluminum plants for which construction or modification commenced after January 26, 1976, shall comply with the limitations set forth in 326 IAC 12. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24~~. (*Air Pollution Control Board; 326 IAC 11-5-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2552; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2371; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 43. 326 IAC 12-1-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 12-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This article applies to the owner or operator of any stationary source for which a standard is prescribed under this article.

(b) The air pollution control board incorporates by reference the following:

- (1) 40 CFR 60*.
- (2) 54 FR 34008*.
- (3) 54 FR 37534*.
- (4) 55 FR 5211*.
- (5) 55 FR 26912*.
- (6) 55 FR 26931*.
- (7) 55 FR 36932*.
- (8) 55 FR 37674*.
- (9) 55 FR 40171*.

(c) If the emission limitations contained in this article conflict with or are inconsistent with any other emission limitations established by this title, ~~or in a Part 70 permit in accordance with 326 IAC 2-7-24~~, then the more stringent limitation shall apply.

***These documents 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 Board; 326 IAC 12-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2554; filed Aug 9, 1991, 11:00 a.m.: 14 IR 2218; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2372)**

SECTION 44. 326 IAC 14-1-3, AS READOPTED AT 24 IR 1477, IS AMENDED TO READ AS FOLLOWS:

326 IAC 14-1-3 More stringent limitations apply

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 3. If emission limitations contained in this article conflict with or are inconsistent with any other emission limitations established by ~~326 IAC or in a Part 70 permit in accordance with 326 IAC 2-7-4~~, **this title**, then the more stringent limit shall apply. (Air Pollution Control Board; 326 IAC 14-1-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2562; filed Apr 13, 1988, 3:30 p.m.: 11 IR 3011; errata, 11 IR 3047; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2372; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 45. 326 IAC 15-1-1, AS READOPTED AT 24 IR 1478, IS AMENDED TO READ AS FOLLOWS:

326 IAC 15-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. This rule applies to stationary sources listed in section 2 of this rule. ~~unless alternative limitations and requirements have been established in a Part 70 permit in accordance with 326 IAC 2-7-24~~. (Air Pollution Control Board; 326 IAC 15-1-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2564; filed Jun 14, 1989, 5:00 p.m.: 12 IR 1850; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2372; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 46. 326 IAC 2-7-25 IS REPEALED.

Notice of Public Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on September 5, 2001 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on proposed amendments to 326 IAC 2 and related articles.

The purpose of this hearing is to receive comments from the public prior to final adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral

statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996, Indiana Register, page 1710 (19 IR 1710).

Additional information regarding this action may be obtained from Chris Pedersen, Rule Development section, (317) 233-6868 or (800) 451-6027, press 0, and ask for 3-6868 (in Indiana). If the date of this hearing is changed, it will be noticed in the Change of Notice section of the Indiana Register.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-1785. TDD: (317) 232-6565. Speech and hearing impaired callers may also contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet G. McCabe
Assistant Commissioner
Office of Air Quality