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TITLE 326 AIR POLLUTION CONTROL BOARD

FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #03-68(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CORRECTIONS TO PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to make corrections to the Prevention of Significant Deterioration (PSD) requirements identified by the United States Environmental Protection Agency (U.S. EPA) in the January 15, 2003, Federal Register (68 FR 1970). The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: 326 IAC 2-2-1; 326 IAC 2-2-6; 326 IAC 2-2-12.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

STATUTORY REQUIREMENTS

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under [IC 13-14-9-3]... would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

BACKGROUND

On September 30, 1980, U.S. EPA delegated to IDEM the authority to implement and enforce the federal PSD program. On April 11, 2001, IDEM submitted a request to U.S. EPA to revise its State Implementation Plan (SIP) to incorporate its PSD regulations. On February 1, 2002, IDEM submitted to U.S. EPA a revised request resolving issues identified by U.S. EPA during an informal review.

On January 15, 2003, U.S. EPA conditionally approved the rules submitted on February 1, 2002, by the State of Indiana as revisions to its SIP, for PSD provisions for attainment areas. The approval is conditioned upon Indiana correcting a minor deficiency within one year of the effective date of the federal approval. The deficiency was the inadvertent omission of "minor new source review permits" from the exemption to the definition of "major modification". Other corrections related to the Federal Register notice are also addressed in this rulemaking.

The Federal definition of "major modification" excludes from a physical change or a change in the method of operation the use by a stationary source of an alternative fuel or raw material which the source was capable of accommodating before January 1, 1975, unless the change is prohibited under any permit condition established after January 6, 1975 pursuant to 40 CFR section 52.21 or under regulations approved pursuant to 40 CFR Subpart I or 40 CFR section 51.166. 40 CFR Subpart I (40 CFR Part 51.160 through

40 CFR Part 51.166) contains requirements pertaining to minor new source review permits and major new source review permits in both attainment and nonattainment areas. Indiana's rule 326 IAC 2-2-1(x)(2)(E)(i) provides that the use of an alternative fuel or raw material is a change in the method of operation if prohibited by a condition of a permit issued pursuant to the authority of the PSD or major new source review programs, but does not address other new source review provisions. The omission of the reference to minor new source review provisions in 326 IAC 2-2-1(x)(2)(E)(i) was inadvertent. Indiana is not aware of any new source review permits that were not issued pursuant to PSD or major new source review authority that contains restrictions on the use of an alternative fuel or raw material; however, Indiana agreed to address this inadvertent omission within one year of the effective date of the conditional approval.

U.S. EPA granted conditional approval of the incorporation of the PSD rules into the SIP because it is unlikely that Indiana has limited the ability of any sources to use alternative fuels or raw materials through previous minor new source review permits and because Indiana committed in a December 12, 2002, letter to correct this minor deficiency within one year of the effective date of the federal approval. If Indiana does not correct this deficiency within one year of the federal action, U.S. EPA will initiate withdrawal of federal approval of the PSD rules into the SIP.

U.S. EPA also identified the following minor corrections to the State rules:

- In 326 IAC 2-2-1(y)(5), the words "and this subdivision" are superfluous.
- In 326 IAC 2-2-1(gg), "U.S. EPA" should be replaced with "IDEM" in the following sentence: "U.S. EPA shall give expedited consideration to permit applications...."
- In 326 IAC 2-2-6(b)(5), the phrase "whichever is later" is not necessary.

These wording differences do not constitute approvability issues; however, IDEM agreed to address them upon reopening the PSD rules.

In addition, upon review of U.S. EPA comments in the Federal Register notice, IDEM realized that in 326 IAC 2-2-12, the date of January 1, 2002, may be confusing. This date was intended to be the effective date of the Indiana PSD rule amendments. Since the department did not know at the time of final adoption what the actual effective date of the rule would be, an estimated date of January 1, 2002, was inserted. The actual effective date was January 19, 2002, so the draft rule substitutes this date for January 1, 2002. There should be no effect on sources from this correction.

In conclusion, this rule action is intended to correct the omission in the definition of "major modification" and make minor corrections addressed or identified in the Federal Register notice of January 15, 2003. This rulemaking is only intended to address the issues identified by U.S. EPA in the January 15, 2003, Federal Register regarding the PSD program as it existed at the time of the submittal on February 1, 2002. This rulemaking will ensure that IDEM's PSD program will remain an approved state program rather than a delegated federal program, and that appeals of permits will be made in a state rather than federal forum. The issue in this rulemaking is unrelated to and will not be affected by the new source review rule changes at the federal level. Issues related to the new source review (NSR) rules published in the Federal Register on December 31, 2002, will be addressed in a separate rulemaking. A First Notice of Comment Period rulemaking to consider NSR rule amendments is being published today in the Indiana Register.

FINDINGS

The commissioner of IDEM has prepared written findings regarding rulemaking on corrections to the PSD rules. These findings are prepared under IC 13-14-9-7 and are as follows:

- (1) The rulemaking policy alternatives available to the department are so limited that the public notice and comment period under IC 13-14-9-7 would provide no substantial benefit to the environment or persons to be regulated or otherwise affected by the proposed rule. U.S. EPA has required that the department correct the deficiency identified in the January 15, 2003, Federal Register notice, and identified specific minor corrections to a few other provisions. IDEM only has discretion regarding the actual language used to make the required change. IDEM has agreed to make the minor corrections. IDEM believes this notice and subsequent comment periods provide sufficient opportunity for public input on these points.
- (2) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (3) The draft rule is hereby incorporated into these findings.

Lori Kaplan

Commissioner

Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the rule. Mailed comments should be addressed to:

#03-68(APCB), PSD Corrections
Chris Pedersen
c/o Administrative Assistant, Rules Development Section
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, Tenth Floor East, Indianapolis, Indiana.

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

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed or hand delivered by June 2, 2003.

Additional information regarding this action may be obtained from Chris Pedersen, Rules Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 2-2-1 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 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 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 stationary 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 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 Part 60* and 40 CFR Part 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 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) “Indian governing body” means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(u) “Indian reservation” means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(v) “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.

(w) “Low terrain” means any area other than high terrain.

(x) “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 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 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 enforceable permit condition which was established after January 6, 1975, pursuant to:
 - (AA) 40 CFR 52.21*; ~~or under~~
 - (BB) this rule; ~~or~~
 - (CC) 326 IAC 2-3; or
 - (DD) **minor new source review regulations approved pursuant to 40 CFR 51.160 through 40 CFR 51.166*; 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 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 (dd) at an existing electric steam generating unit unless:
 - (i) the commissioner and U.S. EPA determine that such addition, replacement, or use renders the unit less environmentally beneficial; or
 - (ii) the commissioner determines that 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), PSD increment, or visibility limitation.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) or 326 IAC 2-7-10.5(f)(9).
 - (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.

(y) “Major stationary source” means the following:

- (1) Any of the following stationary sources of air pollutants which are located or proposed to 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 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 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), a source or modification of a source shall not be considered a major stationary source if 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 CAA (42 U.S.C. 7411 or 42 U.S.C. 7412).
- (7) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(z) "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.

(aa) "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 the commissioner may rescind a minor source baseline date where it can be shown, to the satisfaction of the commissioner, 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.

(bb) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and air quality control laws and regulations that are part of the state implementation plan.

(cc) "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 minor source 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 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.

(dd) "Pollution control project" means, for purposes of this rule, 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:

(1) 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.

(2) 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:

(A) natural gas or coal reburning; or

(B) the cofiring of natural gas and other fuels for the purpose of controlling emissions.

(3) 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.

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

(ee) "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 enforceable. Secondary emissions do not count in determining the potential to emit of a source.

(ff) "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 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.

(gg) "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, that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy. ~~U.S. EPA~~ **The department** 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 CAA.

(hh) "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.

(ii) "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.

(jj) “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:

- (A) Carbon monoxide: one hundred (100) tons per year.
- (B) Nitrogen oxides: forty (40) tons per year.
- (C) Sulfur dioxide: forty (40) tons per year.
- (D) Particulate matter: twenty-five (25) tons per year.
- (E) PM₁₀: fifteen (15) tons per year.
- (F) Ozone: forty (40) tons per year of volatile organic compounds.
- (G) Lead: six-tenths (0.6) ton per year.
- (H) Asbestos: seven one-thousandths (0.007) ton per year.
- (I) Beryllium: four ten-thousandths (0.0004) ton per year.
- (J) Mercury: one-tenth (0.1) ton per year.
- (K) Vinyl chloride: one (1) ton per year.
- (L) Fluorides: three (3) tons per year.
- (M) Sulfuric acid mist: seven (7) tons per year.
- (N) Hydrogen sulfide (H₂S): ten (10) tons per year.
- (O) Total reduced sulfur (including H₂S): ten (10) tons per year.
- (P) Reduced sulfur compounds (including H₂S): ten (10) tons per year.
- (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.
- (R) Municipal waste combustor metals (measured as particulate matter): fifteen (15) tons per year.
- (S) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): forty (40) tons per year.
- (T) Municipal solid waste landfills emissions (measured as nonmethane organic compounds): fifty (50) tons per year.
- (U) Ozone-depleting substances (ODS): one hundred (100) tons per year.
- (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).

(kk) “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.

(ll) “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.

*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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1557)

SECTION 2. 326 IAC 2-2-6 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 (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) 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 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 Part 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	
Pollutants	Allowable Increments (Micrograms per Cubic Meter, µg/m ³ Limits)
(A) Particulate Matter:	
(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 stationary sources that are affected by state implementation plan revisions approved by U.S. EPA are excluded provided the following criteria is met:

- (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 the exclusion was granted.

(5) No exclusion of such a concentration pursuant to subdivision (4)(A) through (4)(B) shall apply more than five (5) years after 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.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1567*)

SECTION 3. 326 IAC 2-2-12 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 rule shall remain in effect unless and until it is rescinded, modified, revoked, or it expires in accordance with 326 IAC 2-1.1-9.5 or section 8 of this rule. 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~~, **July 30, 1987**, 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 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.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1569*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2 and IC 13-14-9, notice is hereby given that on June 4, 2003 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 2-2-1, 326 IAC 2-2-6, and 326 IAC 2-2-12.

The purpose of this hearing is to receive comments from the public prior to preliminary 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.

Additional information regarding this action may be obtained from Chris Pedersen, Rules Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

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) 233-0855. (TDD): (317) 233-6565. Speech and hearing impaired callers may contact IDEM 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 Office of Air Quality, Indiana Department of Environmental Management, Indiana
Government Center-North, 100 North Senate Avenue, Tenth Floor, Indianapolis, Indiana and are open for public inspection.*