

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT	STATUS: Effective	POLICY NUMBER: Air-040-NPD	
AGENCY NONRULE POLICY DOCUMENT SUBJECT: <i>Revocation of Air Construction and/or Operating Permits</i>	AUTHORIZED: <i>Bruno L. Pigott, Commissioner</i>		
	SUPERSEDES: New	ISSUING OFFICE(S): Office of Air Quality	
	ORIGINALLY EFFECTIVE: November 10, 2017	RENEWED/REVISED:	

Disclaimer: This Nonrule Policy Document (NPD) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under IC 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to IC 13-14-1-11.5, this policy will be available for public inspection for at least 45 days prior to presentation to the appropriate State Environmental Board, and may be put into effect by IDEM 30 days afterward. If the nonrule policy is presented to more than one board, it will be effective 30 days after presentation to the last. IDEM also will submit the policy to the Indiana Register for publication.

1.0 PURPOSE

IDEM's Office of Air Quality, Permits Branch, and ("Air Permits Branch") normally revokes a construction or operating air permit upon receipt of a request for permit revocation from the source. However, some sources never construct the permitted facility, permanently cease operations, or vacate the permitted site without notifying IDEM. These types of sources usually have no reliable contact information, but still have a valid construction and/or operating air permit. This non-rule policy document provides a process that satisfies the notice requirements of Administrative Orders and Procedures Act (AOPA) in IC 4-21.5 for IDEM's Office of Air Quality to revoke an air permit when a request for permit revocation cannot be obtained from a source contact. This revocation process will allow IDEM's Office of Air Quality to maintain more accurate and up-to-date permits, inventory, and records concerning air emission sources in Indiana.

2.0 SCOPE

This policy covers air permits issued by IDEM's Office of Air Quality, Air Permits Branch in which the agency has reason to believe that a source no longer exists, is no longer operating, or has not constructed a source at a permitted location. The scope of implementation of the policy extends to the Air Permits Branch, Air Compliance and Enforcement Branch, the Air Operations Branch, and the Air Programs Branch.

3.0 SUMMARY

IDEM's Office of Air Quality, Air Permits Branch normally revokes a construction or operating air permit upon receipt of a request for permit revocation from the source. The agency may encounter closed sources, permanently ceased operations at sources in the process of closing, or sources that never constructed. Examples include the following: an Air Compliance Inspector discovers that the source has filed no reports, when an Air Compliance Inspector is attempting to conduct an inspection, the source appears shuttered and inoperative; the Air Operations Branch fails to receive permit fees; or the Air Permits Branch fails to get a response for permit information. Sources that have no current contact information and still have a valid construction or operating air permit need a

revocation for IDEM to maintain accurate and up-to-date permits, permitted source inventories, and records concerning air emission sources in Indiana. This policy should be used to revoke an air construction and/or operating air permit when a request for permit revocation cannot be obtained from a source contact.

4.0 DEFINITIONS

- 4.1. "Administration Support Section" – Permits Branch section that receives permit applications and tracks permit renewals.
- 4.2. "Agency" – The Indiana Department of Environmental Management (IDEM).
- 4.3. "Air Compliance and Enforcement Branch" – Branch in the Office of Air Quality that audits compliance of regulated stationary sources and takes appropriate action to resolve violations and to return non-compliant sources to compliance.
- 4.4. "Air Compliance Inspector" – Agency staff assigned to conduct regulatory compliance evaluations and investigations on behalf of the Compliance and Enforcement Branch in the Office of Air Quality.
- 4.5. "Agency Compliance staff" – Agency staff who may perform a compliance inspection. Compliance staff may include, but not be limited to, agency employees within the Office of Air Quality, Compliance Branch; the Office of Land Quality, Compliance Branch; the Office of Water Quality, Compliance Branch; the field inspection section of the Office of Water Quality, Drinking Water Branch; the Office of Criminal Investigations; agency employees within a Regional Office and agency staff from the Indianapolis Government Center Complex or other IDEM office locations.
- 4.6. "Air Operations Branch" - Branch in the Office of Air Quality responsible for fee billing and collection.
- 4.7. "Air Programs Branch" – Branch in the Office of Air Quality responsible for tracking Emission Statements and maintaining emission inventories.
- 4.8. "Air permit" – An operating permit (including Title V, FESOP, MSOP, SSOA, and Registration) that regulates level of air emissions based upon the potential to emit criteria air pollutants. This term includes construction permits for the associated programs.
- 4.9. "Air Permits Branch" – Office of Air Quality branch that writes stationary source air permits, including new sources, renewals, amendments, revisions, and modifications.
- 4.10. "AOPA" - The Indiana Administrative Orders and Procedures Act at IC 4-21.5.
- 4.11. "Construction permit" – An Indiana state construction permit issued in accordance with 326 IAC 2-5.1.
- 4.12. "Due diligence" – The use of all resources to make a reasonable effort.
- 4.13. "Federally Enforceable State Operating Permit (FESOP)" – An Indiana operating permit issued in accordance with 326 IAC 2-8-1 *et seq.*
- 4.14. "Identified source" – Permitted stationary source that IDEM OAQ staff believes to be permanently closed.
- 4.15. "Indiana Department of Environmental Management (IDEM)" – An agency of Indiana State Government whose mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial, and government activities vital to a prosperous economy.
- 4.16. "Minor Source Operating Permit (MSOP)" – An Indiana state operating permit issued in accordance with 326 IAC 2-6.1 *et seq.*

- 4.17. "Nonrule policy" - The term assigned by the Indiana Department of Environmental Management (IDEM) to those policies identified in IC 13-14-1-11.5 as any policy that: A. Interprets, supplements, or implements a statute or rule; B. Has not been adopted in compliance with IC 4-22-2; C. Is not intended by IDEM to have the effect of law; and D. Does not apply solely to the internal IDEM organization (is not an Administrative Policy).
- 4.18. "Part 70 Operating Permit" – An Indiana state operating permit issued pursuant to Title V (TV) of the Clean Air Act ("CAA" or "the Act") 42 U.S.C. §§ 7661-7661f, issued to sources who do not take certain voluntary limits in accordance with 326 IAC 2-7-1 *et seq.*
- 4.19. "Registration" – An Indiana state approval issued to sources under 326 IAC 2-5.5-1.
- 4.20. "Source" – An entity that emits criteria air pollutants as regulated by the Clean Air Act.
- 4.21. "Source Specific Operating Agreement (SSOA)" – An Indiana state operating permit that is issued in accordance with 326 IAC 2-9-1 *et seq.*

5.0 ROLES

- 5.1 The Air Compliance Inspector conducts a due diligence inquiry to verify that the source has physically abandoned the permitted facility, permanently ceased operations, or never constructed the source as a follow-up to an inspection, after repeated report non-submittals, or when requested from the Air Permits or Air Operations Branch. If the Air Compliance Inspector verifies that the source has physically abandoned the permitted facility, has permanently ceased operations, or never constructed the source and cannot contact the source representative, then he/she will initiate an air permit revocation.
- 5.2 The Air Permits Branch normally initiates air permit revocation upon receipt of request from the source. However, if the source contact information is not current, then the Air Compliance and Enforcement Branch should initiate air permit revocation in accordance with this policy.
- 5.3 The Air Operations Branch attempts to contact the source to verify operating status if permit fee payments are past due. If unsuccessful, this branch may enlist the assistance of the Air Compliance Inspector to verify source operating status.
- 5.4 The Air Programs Branch attempts to contact the source to verify operating status if Emission Statements are not submitted or are past due. If unsuccessful, this branch may enlist the assistance of the Air Compliance Inspector to verify source operating status.
- 5.5 The Air Permits Branch, Administration Support Section receives and processes air permit applications, including new source construction, renewals, modifications, revisions, amendments, and revocations. Upon receipt of the form(s) requesting revocation of a permit from the Compliance and Enforcement Branch the Permits Administration Support Section will assign a permit tracking number and issue a Revocation and a Notice of Decision.

6.0 POLICY

- 6.1 The agency strives to issue proper air permits to sources and to maintain proper permit and operating status of all air emitting sources. Sometimes, sources abandon facility sites, permanently cease operation, or never construct the source without notifying IDEM. Usually, the source entity requests revocation of their construction and/or operating air permit in these circumstances. However, when the agency receives information that the source has abandoned the permitted site, the source has permanently ceased operations, or the source contact is no longer responsive, the agency should attempt to verify source closure and, if verified, should initiate permit revocation as outlined in this policy.
- 6.2 Upon receipt or identification of any information that indicates that a source has never constructed or is no longer operating, the agency may attempt to verify that it is permanently

closed or does not exist at that site. Discovery or suspicion of a closed source can occur multiple ways including, but not limited to the following:

- A. An Air Compliance Inspector, when preparing for an inspection or when conducting an inspection may encounter a closed source, what appears to be a closed source, or that a new source was never constructed. He/she, upon arriving at the source address, may see a vacant property, an empty parking lot, realtor signs indicating property for sale or lease, building windows and doors boarded up, or other evidence that the source is no longer operating. An Air Compliance Inspector may find that a source was never constructed, with no evidence of buildings or emission units on a property. In these scenarios often no one is available at the site.
- B. The Air Operations Branch has not received or logged permit fee payments for multiple years from a source. Sources with Minor Source Operating Permits (MSOPs), Federally Enforceable State Operating Permits (FESOPs), or Title V operating permits are required to pay annual fees. Non-payment of permit fees can indicate that a source has closed.
- C. The Air Compliance and Enforcement Branch, US EPA, or the Programs Branch has not received or logged reports, notifications, or emissions statements for multiple quarters or years from a source. The source has not submitted Emission Statements, Quarterly Reports, Annual Notifications, and/or required reports for multiple years. Sources with Registrations, Source Specific Operating Agreements (SSOAs), and Minor Source Operating Permits (MSOPs) must submit Annual Notifications and possibly Quarterly and/or Semi-Annual Reports. Sources with Federally Enforceable State Operating Permits (FESOPs) and Title V operating permits must submit Annual Compliance Certifications (ACCs), Annual or Triennial Emission Statements and possibly Quarterly and/or Semi-Annual Reports. Non-submittal of reports can indicate that a source has closed.

6.3 When the agency discovers or suspects a source is permanently closed, the Air Compliance Inspector should use due diligence to verify source closure or failure to construct a source prior to requesting the construction and/or operating permit revocation. Due diligence to verify closure may include, but is not limited to, one or more of the following:

- A. The Air Compliance Inspector will contact corporate office staff if the company is remaining in business with other operating facilities.
- B. The Air Compliance Inspector will attempt to verify source operational status with the Indiana Secretary of State Business Services Division.
- C. The Air Compliance inspector will conduct a site visit to verify that the source has never constructed or operated, is no longer operating, or has permanently closed. An inspection report will document the findings of the inspection and may include photographs to show an empty parking lot, realtor signs indicating property for sale or lease, building windows and doors boarded up and other indications of a vacant property.
- D. The Air Compliance Inspector may consult news articles of business closings, permanent plant shutdowns, or commercial property sales. The Air Compliance Inspector may search the Internet for company information to find relevant information pertaining to the construction, operation, or closure of a source.
- E. The Air Compliance Inspector may take photographs to document source closure.
- F. Air Permits Branch, Air Compliance and Enforcement Branch, or Air Operations Branch may use documentation of returned U.S. Mail and/or e-mail that was addressed to source contact, as well as disconnected business telephone numbers, failure to reply to multiple e-mails or phone messages and similar occurrences.
- G. The Air Compliance Inspector or Air Permits Branch may ask the Operations Branch about non-payment of annual permit fees (for sources with permits other than Registration or SSOA).

- H. The Air Compliance Inspector or the Air Programs Branch may note non-submittal of Quarterly Reports, Annual Notifications, Annual Compliance Certifications, or Annual or Triennial Emission Statements for more than one reporting period.
- 6.4 The Air Compliance Inspector creates a log with supporting documentation or uses an inspection report (if he/she has conducted an inspection) that includes the information listed in Section 6.6.
- 6.5 If permit is a Title V, FESOP, or MSOP, and the expiration date is within one year of determining source closure, IDEM, OAQ may let it expire rather than seeking revocation.
- 6.6 If the due diligence investigation conducted in Section 6.3 indicates that the source constructively “does not exist” or never constructed with respect to the permitted site and the activities covered by any air permit for that site, and permit revocation is desired:
 - A. The Air Compliance Inspector creates a log with supporting documentation or uses an inspection report (if he/she has conducted an inspection) that includes the source name, source ID, level of air permit, permit number, and last known contact address.
 - B. The Air Compliance Inspector gives the log with supporting information or an inspection report to a designated representative of the Air Compliance and Enforcement Branch.
 - C. On a quarterly basis, the Air Compliance and Enforcement Branch compiles a list of sources for which revocations are proposed, and submits the list to IDEM’s Media and Communication Services (MACS) office to post to the IDEM website <http://www.in.gov/idem/airquality/2356.htm> at the hyperlink entitled “Permit revocation due to inactivity/abandonment/nonpayment.” The information posted on the website will:
 - i. State that the permit(s) will be administratively revoked 30 days after the list is posted to the website if no one objects.
 - ii. Provide details as to what steps an entity must take if an entity believes the permit should not be revoked.
 - D. If no one contacts IDEM within 30 days to object to the revocation, the Air Compliance and Enforcement Branch will submit the form(s) with supporting information or the inspection report to the Permits Administration Support Section.
 - E. The Air Permits Branch, Permits Administration Support Section will assign a permit tracking number and issue a Revocation and a Notice of Decision that will outline the steps to challenge the decision. The Revocation will become effective within 18 days of signing the Revocation unless the decision is challenged in accordance with IC 4-21.5-3-7 and IC 13-15-7-3.
 - F. The source will be changed to “Permanently Closed” in all applicable tracking databases.

7.0 REFERENCES

7.1. Indiana Codes:

- A. IC 4-21.5, Administrative Orders and Procedures Act
- B. IC 13-16, Fees Generally
- C. IC 13-16-2, Installment Payments
- D. IC 13-17-8-2, Title V Operating Permit Program: Collection of Title V Fees
- E. IC 13-18-20, Permit Fees

7.2. Indiana Administrative Codes:

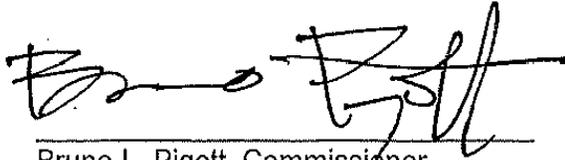
- A. 326 IAC 2-7-5(6)(E)

- B. 326 IAC 2-7-9(a)(3)
- C. 326 IAC 2-8-4(5)(C)
- D. 326 IAC 2-8-4(5)(A)
- E. 326 IAC 2-8-8
- F. 326 IAC 2-9-1(j)
- G. 326 IAC 2-1.1-7
- H. 326 IAC 2-1.1-7.5
- I. 326 IAC 2-12-1

7.3. Agency Policies:

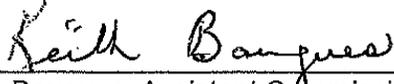
- A. P-002-AW-11-S-RO Collections

8.0 SIGNATURES



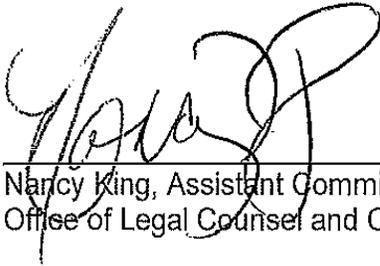
Bruno L. Pigott, Commissioner
Indiana Department of Environmental Management

8/10/17
Date



Keith Baugues, Assistant Commissioner
Office of Air Quality

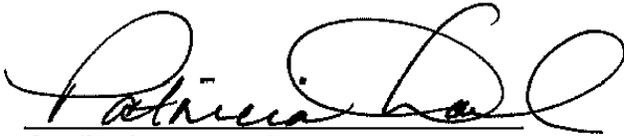
7/27/17
Date



Nancy King, Assistant Commissioner
Office of Legal Counsel and Criminal Investigations

7/31/17
Date

This policy is consistent with agency requirements.



Patricia Ball
Quality Assurance Program
Office of Program Support
Indiana Department of Environmental Management

8-10-17
Date