**TITLE 326 AIR POLLUTION CONTROL BOARD**

**SECOND NOTICE OF COMMENT PERIOD**
LSA Document #07-372

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CORRECTIONS AND CLARIFICATIONS (FIX-UPS) TO PERMIT RULES**

**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 2 and the repeal of certain sections in 326 IAC 2 concerning the air permit review rules. By this notice, IDEM is soliciting public comment on the draft rule language. The amendments include revisions required or suggested by the U.S. Environmental Protection Agency (U.S. EPA) for federal approvability of certain permit rule submissions as well as amendments to correct, clarify, and resolve certain consistency issues. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**HISTORY**

First Notice of Comment Period: July 18, 2007, Indiana Register (DIN: 20070718-IR-326070372FNA).

**CITATIONS AFFECTED:** 326 IAC 2-1.1-1; 326 IAC 2-1.1-3; 326 IAC 2-1.1-12; 326 IAC 2-2-1; 326 IAC 2-2-2; 326 IAC 2-2-4; 326 IAC 2-2-5; 326 IAC 2-2-7; 326 IAC 2-2-8; 326 IAC 2-2-10; 326 IAC 2-2.2; 326 IAC 2-2.3; 326 IAC 2-2.6; 326 IAC 2-3-1; 326 IAC 2-3-2; 326 IAC 2-3-3; 326 IAC 2-3.2; 326 IAC 2-3.3; 326 IAC 2-5.1-2; 326 IAC 2-5.1-3; 326 IAC 2-5.5-2; 326 IAC 2-6.1-3; 326 IAC 2-7-1; 326 IAC 2-7-4; 326 IAC 2-7-5; 326 IAC 2-7-6; 326 IAC 2-7-10.5; 326 IAC 2-7-12; 326 IAC 2-7-20; 326 IAC 2-8-1; 326 IAC 2-8-3; 326 IAC 2-8-4; 326 IAC 2-8-11.1; 326 IAC 2-8-15.

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

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

**Basic Purpose and Background**

U.S. EPA has identified revisions needed for federal approval of amendments to the Title V Permit Program and the minor new source review rules, and amendments resulting from litigation of the federal New Source Review (NSR) reform regulation. U.S. EPA has also made several suggestions for revisions for clarity and consistency. Other revisions are needed to address federal changes to these programs. These changes are consistent with amendments in the following Federal Registers:

- NSR reform changes – removal of vacated items – June 13, 2007, 72 FR 32526.
- Reasonable possibility in record keeping – December 21, 2007, 72 FR 72607.
- Changes to Title V definition of "applicable requirement" – June 3, 2004, 69 FR 31498.
- Compliance Assurance Monitoring (CAM) – October 22, 1997 (62 FR 54900).

**Title V Permit Program**

On March 20, 2002, IDEM submitted amendments to Indiana's Title V Program to U.S. EPA, Region V. U.S. EPA has identified various concerns with Indiana's Title V program. Many of the concerns are in regards to the definition of "insignificant activity" in the Title V permit program rules at 326 IAC 2-7-1(21). IDEM is working with U.S. EPA to clarify the language in order to obtain federal approval of the program. Some proposed changes have been included in the draft rule language in this notice. Others will be dealt with during rulemakings for the Article 2 Permit Initiative that IDEM is starting at this time to deal with issues that require more discussion with affected stakeholders than the type of changes included in this rulemaking. Examples of changes in this rulemaking include the following:

- Adding a time frame for bridge fabrication under 326 IAC 2-7-1(21)(G)(vi)(II).
- Restructuring the definition of insignificant activity under 326 IAC 2-7-1(21) so that language related to insignificant and trivial activities that was located at the end of the definition is now located at the beginning.
- Repealing 326 IAC 2-1.1-12 emission cap programs, and deleting references to 326 IAC 2-1.1-12 in order to address issues that U.S. EPA also has identified related to the minor new source review (minor NSR) SIP submittal that will impact approval of the Title V program.

Examples of changes that will be discussed with stakeholders during the Article 2 Permit Initiative rulemaking include the following:

- Placing a limit on operating hours for emergency generators in 326 IAC 2-7-1(21)(G)(xxii)(BB) that are considered insignificant.
- Clarifying in 326 IAC 2-7-1(21)(G)(vi)(CC) that degreasing activities that include one ton per year or more of a hazardous air pollutant (HAP) are not insignificant.

• Whether it is appropriate to include grinding and machining operations in the list of insignificant activities since a control device is required.

• Whether it is appropriate to include woodworking operations in the list of insignificant activities given the level of compliance monitoring required.

**Minor New Source Review**

On February 3, 1999, IDEM submitted amendments to Indiana's minor NSR rules. U.S. EPA has identified concerns with certain provisions that impact the minor NSR rules at 326 IAC 2 that must be changed before federal approval will be granted. IDEM is proposing to make the necessary revisions through this rulemaking and is continuing to work with U.S. EPA to determine if any additional issues that affect approvability need to be addressed. IDEM will consider any other additional amendments identified as needed for federal approval in this rulemaking. Examples of proposed changes related to the minor NSR SIP submittal include the following:

• In 326 IAC 2-1.1-3(e), clarify that modifications subject to both 326 IAC 2-2, Prevention of Significant Deterioration, and 326 IAC 2-3, Emission Offset, are excepted from this subsection.

• Remove the confusing phrase, "when subject only to specific emission limits contained in this title" and clarify the intent of the provisions in 326 IAC 2-1.1-3(h)(2).

• Remove the emission cap provisions in 326 IAC 2-1.1-12 and all references to it in the permitting rules.

**New Source Review Reform**

On December 31, 2002, U.S. EPA published revisions to the federal Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) regulations in 40 CFR Parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as "NSR reform" regulations and became effective on March 3, 2003. The revisions include provisions for baseline emissions determinations, actual-to-future actual methodology, plant-wide applicability limits (PAL), clean units, and pollution control projects (PCP). Indiana adopted the NSR reform rules and submitted a request for a state implementation plan (SIP) revision to U.S. EPA on September 2, 2004. On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling on challenges to the December 2002 NSR reform revisions that vacated both the clean unit and the PCP provisions. In addition, the court remanded to U.S. EPA the provision that requires record keeping and reporting for sources that elect to use the actual-to-projected actual emission test only where there is a reasonable possibility that a project may result in a significant net emissions increase. Indiana submitted revised requests to U.S. EPA requesting that no action be taken on the clean unit and PCP provisions and on the remanded provision.

On June 18, 2007, U.S. EPA published a partial approval of Indiana's NSR reform revisions for rules to implement the NSR reform provisions that have not been vacated by the June 24, 2005, court decision. Because the clean unit and PCP provisions of the rule have been vacated, IDEM proposes to remove them from Indiana's air permit rules. U.S. EPA has addressed the remanded "reasonable possibility" provision in a Federal Register published on December 21, 2007 (72 FR 72607). IDEM is proposing changes consistent with U.S. EPA's action within the PSD rules at 326 IAC 2-2-8(b) and 326 IAC 2-3-2(l) in the draft rule language.

IDEM is also making revisions to Title V permit rules for consistency with federal rulemaking actions, such as the Compliance Assurance Monitoring (CAM) rule. The revised compliance certification language at 326 IAC 2-7-6(5)(C) is consistent with the Title V compliance certification language at 40 CFR 70.6(c).

**Miscellaneous Changes**

There are also many changes throughout the draft rule that change "including the following" to "as follows" to address U.S. EPA's concern that the condition be limited to the provisions listed instead of leaving it open to include other items that may not be listed.

**Sections Being Repealed**

The following sections of Title 326 would be repealed as a result of this rulemaking:

• 2-1.1-12 Emissions Cap Programs
• 2-2.2 Clean Unit Designations in Attainment Areas
• 2-2.3 Pollution Control Project Exclusion Procedural Requirements in Attainment Areas
• 2-2.6 Federal NSR Requirements for Sources Subject to P.L. 231-2003, SECTION 6, Endangered Species
• 2-3.2 Clean Unit Designations in Nonattainment Areas
• 2-3.3 Pollution Control Project Exclusion Procedural Requirements in Nonattainment Areas

This rulemaking potentially could impact anyone required to obtain an air permit in Indiana. Revisions to the rules that enable U.S. EPA to approve rules will provide consistency between state and federal requirements. Both industry and the public will benefit from the clarifications and corrections to be made by providing language that is easier to understand.

IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking. As mentioned under the Title V Permit Program heading, this fix-up rule is the first in a series of rules planned for improving IDEM's permitting program. IDEM has gone on public notice to request public comment on rulemakings to address short-term and long-term issues for the permitting rules. IDEM is planning multiple stakeholder meetings to work with affected parties on these amendments. Some of the comments submitted in response to the first notice of comment period on this fix-up rulemaking may be deferred to and addressed in these future permit rulemakings.

**IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed under Federal Law**

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. Changes are either required for federal approval of an air permit program or provide for clarity and consistency as U.S. EPA has requested.

**Potential Fiscal Impact**

This rulemaking is not anticipated to have a significant fiscal impact because the changes are already required under federal law or provide clarity and consistency.

**Public Participation and Workgroup Information**

At this time, no workgroup is planned specifically for this rulemaking. Workgroup meetings are planned for the Article 2 initiative rulemakings that will address more substantiative permit issues. This fix-up rulemaking is considered a component of the Article 2 initiative. The Article 2 initiative consists of this rulemaking and Article 2 rulemakings that address short-term and long-term (more complex) issues. The workgroup will be made up of IDEM staff and a cross-section of stakeholders. The first workgroup meeting is scheduled for September 16, 2009, at 1:00 p.m., at the Indiana Government Center South, 402 West Washington Street, Conference Center Room C, Indianapolis, Indiana. If you wish to attend meetings, or have suggestions related to the air permit workgroup, please contact Amy Smith, Rules Development Branch, Office of Legal Counsel at (317) 233-8628 or (800) 451-6027 (in Indiana) or e-mail at asmith@idem.in.gov. Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

**SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from July 18, 2007, through August 17, 2007, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Eli Lilly and Company (ELC)

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

*Comment:* Without understanding the nature of the comments U.S. EPA has made about Indiana's insignificant activity rules, it is impossible to make meaningful comments. IDEM should discuss these changes with stakeholders prior to development of proposed rule language. (ELC)

*Comment:* The commenter has not conducted an exhaustive review of the permit rules to identify potential issues and would like to participate in a stakeholder process to evaluate the permitting rules. (ELC)

*Comment:* The commenter is particularly concerned about any changes to the minor new source review program. Stakeholders should have an understanding regarding any changes that U.S. EPA has suggested. Many NSR permits are common, and the rules have grown increasingly complex over time. Changing the rules in one place may create unforeseen affects in other parts of the rules. (ELC)

*Response:* IDEM understands the commenter's request for obtaining stakeholder input before modifying Indiana's permit rules. IDEM has scheduled a permitting rule workgroup meeting for September 16, 2009, for the purpose of gathering and sharing information related to permit program rules, approvability issues and ways to streamline and improve flexibility while continuing to protect the environment. IDEM has initiated additional permitting rulemakings to address the more complex issues that have been raised by U.S. EPA for approvable permitting rules and by stakeholders. This rulemaking is focused on non-controversial fix-up amendments, however, should the draft rule language raise significant concerns in specific areas, these can be discussed during the Article 2 workgroup meetings and a determination made as to whether they are appropriately addressed in this rulemaking or the long-term Article 2 rulemaking. IDEM values interested party input and requests continued input during this and the future permit rulemakings.

*Comment:* The commenter believes that permit review processes should be required only when the permit review process adds value. Permits should not be required when the agency does not evaluate air quality impact, when there are no new applicable requirements affecting the source, and when no compliance assurance requirements need establishing. IDEM should meet with stakeholders to discuss which permit reviews add value and which do not. Those which do not add value should be eliminated or greatly reduced. IDEM's permitting process should also enable sources to make changes quickly, and with minimal administrative burden. Many changes rarely impact air quality or compliance with air quality requirements. (ELC)

*Response:* IDEM appreciates the commenter's willingness to assist in identifying where value is added in the permit review process and understands the need for operational flexibility. These concerns were an important component of the Office of Air Quality 'Lean' sessions that took place since this rulemaking was first noticed. It is important to note that some permit review requirements are required by U.S. EPA, especially within the Title V permit review program, and cannot be changed. Where permit review activities may be discretionary can be a topic of discussion for the stakeholder meetings.

*Comment:* A limit on the hours of operation for an emergency generator is not necessary. U.S. EPA guidance on this issue states that potential to emit for emergency generators may be based on five hundred (500) hours per year of operation as a default or some other value that the side demonstrates is more realistic. Insignificant

activity status should primarily be affected by how applicable requirements will need to be listed in some form or another in the Title V permit. This same concern applies to U.S. EPA's requests regarding degreasing operations. (ELC)

*Response:* IDEM agrees that these issues need additional discussion and is not changing the definition of emergency generator or degreasers in this rulemaking. These issues will be discussed in the future Article 2 Permit Initiative rulemakings.

*Comment:* The commenter understands that it may be appropriate to repeal 326 IAC 2-1.1-12, which created permitting flexibility for sources willing to take emission caps. However, IDEM should explore other flexible permitting rules with sources before developing a proposed rule that does nothing more than repeal 326 IAC 2-1.1-12. (ELC)

*Response:* While IDEM has not included other permitting flexibility to address the repeal of 326 IAC 2-1.1-12 (emissions cap programs) within the draft rule language included in this notice, there are provisions in place, where this type of flexibility is provided, as an example, plantwide applicability limits in 326 IAC 2-2.4. IDEM welcomes comments on this issue during the stakeholder meeting scheduled for September 16, 2009.

*Comment:* 326 IAC 2-8-6(b) should be revised so that the federally enforceable terms in a FESOP are only those terms that influence the potential to emit for pollutants that would otherwise be greater than major source levels, or the terms that are independently enforceable by U.S. EPA, such as, a SIP limit or a construction permit limit. It does not make sense that terms which have no affect on the source's status as a minor source should be considered federally enforceable simply because it is included in a FESOP. (ELC)

*Response:* This is required by U.S. EPA since this is a federally enforceable permit. This provides IDEM with a simple and efficient way to write permits where everything in the permit is federally enforceable, otherwise each provision that is not federally enforceable must be identified. 326 IAC 2-8, Indiana's Federally Enforceable State Operating Permit program was SIP approved on October 17, 1995 as a component of Indiana's Title V program. As such, 326 IAC 2-8 was adopted following the appropriate rulemaking procedures including public notice and the opportunity for comment. IDEM welcomes discussion on this issue and will share the concern with U.S. EPA.

*Comment:* Title V and FESOP rules should be amended to clarify that IDEM does not have authority to amend a Title V or FESOP without going through the permit reopening procedures in 326 IAC 2-7-9, unless the source notified IDEM that it would accept the permit modification without objection. The commenter has observed many instances where a permit modification application has been submitted and IDEM has included permit modifications that were not requested, and in some cases IDEM may not have had the legal authority to modify the permit in the proposed manner. (ELC)

*Response:* For efficient functioning of the permit program IDEM wants the authority to reopen a permit without going through the procedures in 326 IAC 2-7-9. IDEM has the authority under 326 IAC 2-7-12, permit modifications, and 326 IAC 2-7-11, administrative permit amendments to amend a Title V permit without going through permit reopening, 326 IAC 2-7-9, under certain circumstances. IDEM welcomes discussion on this point and will work with interested parties to clarify these processes, in order to improve the efficiency of the permitting program.

*Comment:* Permit rules should include additional categories of permit revisions that are eligible for administrative permit amendments. The changes should be those that do not involve the exercise of discretion by IDEM, for instance to remove a permit condition that is no longer applicable to the source or is legally invalid. U.S. EPA has authority to approve different kinds of administrative permit amendments. After implementing the Title V program for ten years, it is reasonable to expect that IDEM and stakeholders could identify other candidates for this process. (ELC)

*Response:* This is a topic that will be open for discussion in the stakeholder meetings.

*Comment:* IDEM's permit rules should state that complex federal rules may be incorporated into permits by reference. This would simplify and shorten permits. (ELC)

*Response:* IDEM incorporates by reference complex federal requirements now, to the extent feasible, and U.S. EPA is approving these permits. U.S. EPA requires IDEM to include a significant amount of detail to delineate those requirements of the federal rules that apply to the source. Some federal rules include options or plans that are developed by the source that must be detailed in the permit since they are not specified in the federal rule.

*Comment:* IDEM's permit rules should allow sources to submit annual compliance certifications with a statement that the source was in compliance with all terms and conditions in the permit, except for the terms and conditions which are explicitly listed in the certification. Using the so-called "short form" certification will reduce paperwork, and result in more transparent and easily understood certifications. (ELC)

*Response:* The Part 70 Permit Program, at 326 IAC 2-7, must be consistent with 40 CFR 70 for IDEM to maintain U.S. EPA approval of our program. IDEM revised the Nonrule Policy Document Air-007 (http://www.in.gov/idem/files/nrpd_air-007-r2.pdf) on October 31, 2008, to address the use of a "short form" while still maintaining U.S. EPA approval of our Part 70 Permit Program.

**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 draft rule. Mailed comments should be addressed to:

LSA #07-372 Air Permits Corrections and Clarifications (Article 2 Fix-ups)
Susan Bem MC 61-49
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251

Hand delivered comments will be accepted by the receptionist on duty at the thirteenth floor (east end) reception desk, Indiana Department of Environmental Management, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5517, 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 Branch at (317) 233-8903.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by October 2, 2009.

Additional information regarding this action may be obtained from Susan Bem, Rules Development Branch, Office of Legal Counsel, (317) 233-5697 or (800) 451-6027 (in Indiana).

**DRAFT RULE**

SECTION 1. 326 IAC 2-1.1-1 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-1.1-1 Definitions**

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

(1) "Authorized individual" means an individual responsible for the overall operation of one (1) or more manufacturing, production, or operating plants or a duly authorized representative of ~~such~~ **the** person. For any public agency, the term means either a ranking elected official, the chief executive officer, or a designated representative of ~~such~~ **the** person having responsibility for the overall operations of a principal geographic unit of the agency.

(2) "General permit" means a 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.

(3) "Major modification" means a modification to an existing major source to which either 326 IAC 2-2 or 326 IAC 2-3 applies.

(4) "Major source" means any source or facility to which either 326 IAC 2-2 or 326 IAC 2-3 applies.

(5) "Minor modification" means a modification to an existing source to which neither 326 IAC 2-2 nor 326 IAC 2-3 applies and is not exempt under section 3 of this rule.

~~(6) "Minor physical change" means a change at an existing source that includes, but is not limited to, the following:~~

~~(A) The reconfiguration of existing equipment.~~
~~(B) The movement of existing equipment within a building.~~
~~(C) The replacement, reconfiguration, or addition of ancillary equipment.~~
~~(D) The replacement, reconfiguration, or addition of supporting devices, such as piping or ductwork.~~
~~(E) The replacement or addition of air pollution control devices.~~

~~(7)~~ **(6)** "Minor source" means any source or facility to which 326 IAC 2-5.1 applies, but to which neither 326 IAC 2-2 nor 326 IAC 2-3 applies.

~~(8)~~ **(7)** "New emissions unit" means an emissions unit for which construction commences on or after ~~the effective date of this rule.~~ **December 25, 1998.**

~~(9)~~ **(8)** "New portable source" means any portable operation that:

**(A)** has not commenced construction as of ~~the effective date of this rule~~ **December 25, 1998;** or
**(B)** does not have a valid operating permit as of ~~the effective date of this rule.~~ **December 25, 1998.**

~~(10)~~ **(9)** "New source" means a source for which construction commences on or after ~~the effective date of this rule~~ **December 25, 1998,** that will be constructed:

**(A)** on undeveloped land; or ~~will be constructed~~

**(B)** at a location for which a valid permit has not been issued.

~~(11)~~ **(10)** "Operation" means:

**(A)** a single piece of equipment or multiple pieces of like equipment;

**(B)** a process or multiple like processes;

**(C)** a plant or multiple like plants; or

**(D)** any combination of ~~the three (3)~~ **clauses (A) through (C);**

that performs similar functions or when operated together produces similar products.

~~(12)~~ **(11)** "Plant-wide applicability limit" means a plant-wide enforceable emission limitation established for a stationary source such that subsequent physical or operational changes resulting in emissions that remain less than the limit are excluded from preconstruction or modification approval or operating permit revision requirements under this article.

~~(13)~~ **(12)** "Pollution control project" means any activity or project undertaken at an existing emissions unit ~~which,~~ **that,** as its primary purpose, reduces regulated air pollutant emissions from ~~such~~ **the** unit. Such activities or projects do not include the replacement of an existing unit with a newer or different unit, or the reconstruction of an existing unit, and are limited to any of the following:

(A) The installation of conventional or innovative pollution control equipment technology, including, but not limited to, the following:

(i) Conventional and advanced flue gas desulfurization and sorbent injection for sulfur dioxide ($SO_2$).

(ii) Electrostatic precipitators, baghouses, high efficiency multiclones, and scrubbers for particulates.

(iii) Flue gas recirculation, low-$NO_x$ burners, selective noncatalytic reduction, and selective catalytic reduction for $NO_x$.

(iv) Regenerative thermal oxidizers (RTO), catalytic oxidizers, condensers, thermal incinerators, flares, and carbon adsorbers for VOCs and HAPs.

(B) Switching to an inherently less polluting fuel. Any activity that is necessary to accommodate switching to an inherently less polluting fuel is considered to be part of the pollution control project to the extent the activities are undertaken to maintain the currently used capacity of the unit at the time the fuel switch is implemented.

~~(14)~~ **(13)** "Pollution prevention project" means any activity or project at an existing emissions unit where the primary purpose of ~~such an~~ **the** activity or project is the reduction or elimination of the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources. Such activity or project includes any practice that reduces **the:**

(A) ~~the~~ amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(B) ~~the~~ hazards to public health and the environment associated with the release of ~~such~~ **the** substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. The term does not include recycling, energy recovery, treatment, disposal, or the use of any add-on air pollution control technology.

~~(15)~~ **(14)** "Portable source" means any operation, process, or emissions unit, other than mobile sources, that emits or has the potential to emit any regulated air pollutant and is specifically designed to be and capable of being moved from one (1) location or site to another location or site and is moved to other locations or sites at least one (1) time during the term of the permit. Indicia of transportability include, but are not limited to:

(A) wheels;

(B) skids;

(C) trailer; or

(D) platform.

~~(16)~~ **(15)** "Potential to emit" means the maximum capacity of a stationary source or emissions unit 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, the department, or the appropriate local air pollution control agency. The term does not alter or affect the use of potential to emit for any other purpose under the CAA, (or "capacity factor" as used in Title IV of the CAA) or the regulations promulgated thereunder.

~~(17)~~ **(16)** "Process" means any combination of equipment that is physically connected and operated in sequence that, when the process is operated, could operate independently to:

**(A)** generate energy;

**(B)** refine or produce materials or parts; or
**(C)** produce a finished product.

*(Air Pollution Control Board; 326 IAC 2-1.1-1; filed Nov 25, 1998, 12:13 p.m.: 22 IR 980; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105)*

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) **The** 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 new source requirements in 326 IAC 2-5.1-2 for registrations, new source requirements in 326 IAC 2-5.1-3 for permits, modification approval requirements in 326 IAC 2-7-10.5, and permit revision requirements in 326 IAC 2-6.1-6 and 326 IAC 2-8-11.1, 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:
**(i)** have provided public notice under 310 IAC 12-3-106 *[310 IAC 12-3-106 was repealed filed Jun 21, 2001, 2:53 p.m.: 24 IR 3612, eff Dec 1, 2001.]*; and
**(ii)** included a reference of the application for an operating agreement in ~~such~~ **the** 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,~~ **CAA,** 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 2-2 or** 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 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 ($PM_{10}$).

(B) Ten (10) tons per year of sulfur dioxide ($SO_2$).

(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 ($H_2S$).

(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:~~ **as follows:**

(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:
**(AA)** with heat input equal to or less than two million (2,000,000) British thermal units per hour; and
**(BB)** firing fuel containing equal to or less than five-tenths percent (0.5%) sulfur by weight.
(iv) Wood-fired combustion sources:
**(AA)** with heat input equal to or less than one million (1,000,000) British thermal units per hour; and
**(BB)** 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 start-up.
(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:~~ **as follows:**
(A) A gasoline dispensing operation:
**(i)** having a storage tank capacity equal to or less than ten thousand five hundred (10,500) gallons; and
**(ii)** 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:
**(i)** having a storage tank capacity less than or equal to ten thousand five hundred (10,500) gallons; and
**(ii)** 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:
**(i)** capacity less than or equal to one thousand (1,000) gallons; and
**(ii)** 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 **having a vapor pressure equal to or less than:**

(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 ~~(38°C)~~ (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 ~~(20°C)~~ (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:~~ **CAA:**

(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 **per year**.

(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 runoff 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. **This does not include sanitary sludge incineration.**

(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.~~ **CAA.**

(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.~~ **CAA.**

(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:

**(A)** do not produce fugitive emissions; and ~~that~~

**(B)** 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:~~ **as follows:**

(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:~~ **follows:**

(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:~~ **as follows:**

(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:~~ **as follows:**

(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:~~ **as follows:**

(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 **with a** 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, **except concentrated animal feeding operations as defined in 40 CFR 122.23.**

(32) New sources or modifications of existing sources that consist of only water-related activities, ~~including the following:~~ **as follows:**

(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:~~ **as follows:**

(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:~~ **as follows:**

(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:~~ **as follows:**

(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:~~ **as follows:**

(A) Vacuum cleaning systems used exclusively for housekeeping or custodial activities, or both.
(B) Steam cleaning activities.
(C) Restrooms and associated cleanup 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:~~ **as follows:**
(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:~~ **as follows:**
(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.~~ **CAA.**
(C) Storage tanks, reservoirs, and pumping and handling equipment of any size containing:
**(i)** soap;
**(ii)** vegetable oil;
**(iii)** grease;
**(iv)** wax;
**(v)** animal fat; and
**(vi)** 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:
**(i)** container capacity is equal to or less than forty-six hundredths (0.46) cubic meter; and ~~the~~
**(ii)** 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:~~ **as follows:**
(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:~~ **as follows:**
(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:~~ **as follows:**
(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:
**(A)** used at a source in the same manner as normal consumer use; and ~~is~~
**(B)** 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:~~ **as follows:**
(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:~~ **as follows:**
(A) Fugitive emissions related to movement of passenger vehicles, provided:
**(i)** the emissions are not counted for applicability purposes as a major source under 326 IAC 2-7-1(22)(B); and
**(ii)** 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:~~ **as follows:**
(A) Closed, nonvented tumblers used for cleaning or deburring metal products without abrasive blasting.
(B) Electrical resistance welding.
(C) Carbon dioxide ($CO_2$) lasers, used only on metals and other materials that do not emit HAPs as defined under Section 112(b) of the ~~Clean Air Act~~ **CAA** in the process.
(D) Laser trimmers that:
**(i)** do not produce fugitive emissions; and
**(ii)** 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:
**(i)** soaps;
**(ii)** vegetable oil;
**(iii)** grease;
**(iv)** animal fat; and
**(v)** nonvolatile aqueous salt solutions;
provided appropriate lids and covers are utilized.
(J) Equipment for washing or drying fabricated glass or metal products, if no:
**(i)** VOCs or HAPs as defined under Section 112(b) of the ~~Clean Air Act~~ **CAA** are used in the process; and ~~no~~
**(ii)** 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.~~ **CAA.**

(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.
**(N) The reconfiguration of existing equipment.**
**(O) The movement of existing equipment within a building.**
**(P) The replacement, reconfiguration, or addition of secondary equipment that supports an emission unit.**
**(Q) The replacement, reconfiguration, or addition of supporting devices, such as piping or ductwork.**
**(R) The replacement or addition of air pollution control devices.**

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.

(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.

(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.

(h) The requirements for an operating permit revision under 326 IAC 2-6.1-6 or 326 IAC 2-8-11.1, modification approval under 326 IAC 2-7-10.5, or an administrative amendment under 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 **as described in subsection (e)(46)(N) through (e)(46)(R),** 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 **County** or Porter County that has the potential to emit, as defined by ~~326 IAC 2-3-1(v),~~ **326 IAC 2-3-1(gg),** 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 **County** or Porter County that has the potential to emit, as defined by ~~326 IAC 2-3-1(v),~~ **326 IAC 2-3-1(gg),** 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 **County** 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 ($PM_{10}$); 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:
**(i)** 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~~
**(ii)** 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:
**(i)** experimental in nature;
**(ii)** part of pilot plants; or
**(iii)** 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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1550)*

SECTION 3. 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 regulated NSR 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 consecutive twenty-four (24) month period preceding the particular date and 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 that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
(4) The term shall not apply for calculating a significant emissions increase under section 2(d) of this rule or for establishing a PAL under 326 IAC 2-2.4. Instead, subsections (e) and ~~(rr)~~ **(pp)** shall apply for those purposes.

(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 that restrict the operating rate or hours of operation, or both) and the most stringent of the:
(1) applicable standards as set forth in 40 CFR Part 60* and 40 CFR Part 61*;
(2) ~~state implementation plan~~ **SIP** emissions limitation, including those with a future compliance date; or
(3) emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(e) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following:
(1) For any existing electric utility steam generating unit, ~~"baseline actual emissions"~~ **the term** means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The commissioner shall allow the use of a different time period upon a determination that it is more representative of normal source operation. The baseline actual emissions shall be determined in accordance with the following:
(A) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions to the extent they are affected by the project.
(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period.
(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one (1)

consecutive twenty-four (24) month period may be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information available for determining annual emissions, in tons per year, and for adjusting this amount if required by clause (B).

(2) For an existing emissions unit other than an electric utility steam generating unit, ~~"baseline actual emissions"~~ **the term** means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project or the date a complete permit application is received by the department for a permit required by this rule, except that the ten (10) year period shall not include any period earlier than November 15, 1990. The baseline actual emissions shall be determined in accordance with the following:

(A) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions to the extent they are affected by the project.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply had the major stationary source been required to comply with the limitations during the consecutive twenty-four (24) month period. However, if an emission limitation is part of a maximum achievable control technology standard that the U.S. EPA proposed or promulgated under 40 CFR Part 63*, the baseline actual emissions need only be adjusted if the department has applied the emissions reductions to an attainment demonstration or maintenance plan consistent with the requirements of ~~326 IAC 2-3-3(b)(14).~~ **326 IAC 2-3-3(b)(12).**

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period may be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information available for determining annual emissions, in tons per year, and for adjusting this amount if required by clauses (B) and (C).

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of the unit shall equal zero (0) and thereafter, for all other purposes, shall equal the unit's potential to emit.

(4) For a PAL for a stationary source, the baseline actual emissions shall be calculated as follows:

(A) For an existing electric utility steam generating unit, in accordance with subdivision (1).

(B) For an existing emissions unit except an existing electric utility steam generating unit, in accordance with subdivision (2).

(C) For a new emissions unit, in accordance with subdivision (3).

(f) "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 ($\mu g/m^3$) (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 Part 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 the baseline area shall not remain in effect if **the** U.S. EPA rescinds the corresponding minor source baseline date in accordance with 40 CFR Part 52.21(b)(14)(iv)*.

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

(1) The actual emissions, as defined in subsection (b), 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 that 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 or increases:
(A) Actual emissions, as defined in subsection (b), from any major stationary source on which construction commenced after the major source baseline date.
(B) Increases and decreases of actual emissions, as defined in subsection (b), at any stationary source occurring after the minor source baseline date.

(h) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, the following:
(1) Installation of building supports and foundations.
(2) Laying underground pipework.
(3) Construction of permanent storage structures.
With respect to a change in method of operations, the term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

(i) "Best available control technology" or "BACT" means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification, that the commissioner, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for the 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 the pollutant. In no event shall application of ~~best available control technology~~ **BACT** result in emissions of any pollutant that 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.~~ **BACT.** The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

(j) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that 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, for example, that 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)*.

(k) "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.

(l) "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 **the** 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.

~~(m) "Clean unit" means an emissions unit that meets one (1) of the following criteria:~~
~~(1) An emissions unit that:~~
~~(A) has been issued a major NSR permit that requires compliance with BACT or LAER;~~
~~(B) is complying with the BACT or LAER requirements; and~~
~~(C) qualifies as a clean unit under 326 IAC 2-2.2-1.~~
~~(2) An emissions unit that has been designated by the department as a clean unit based on the criteria in 326~~

~~IAC 2-2.2-2.~~
~~(3) An emissions unit that has been designated as a clean unit by the U.S. EPA in accordance with 40 CFR Part 52.21(y)(3)(i) through 40 CFR Part 52.21(y)(3)(iv)*.~~

~~(n)~~ **(m)** "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.

~~(o)~~ **(n)** "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.

~~(p)~~ **(o)** "Construction" means any physical change or change in the method of operation, including:
(1) fabrication;
(2) erection;
(3) installation;
(4) demolition; or
(5) modification;
of an emissions unit, that would result in a change in emissions.

~~(q)~~ **(p)** "Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this rule to complete the following:
(1) Sample emissions on a continuous basis.
(2) If applicable, condition emissions.
(3) Analyze emissions on a continuous basis.
(4) Provide a record of emissions on a continuous basis.

~~(r)~~ **(q)** "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate in terms of mass per unit of time.

~~(s)~~ **(r)** "Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this rule to:
(1) monitor:
(A) process and control device operational parameters; and
(B) other information, such as gas flow rate, $O_2$ or $CO_2$ concentrations; and
(2) record the average operational parameter value on a continuous basis.

~~(t)~~ **(s)** "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third (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.

~~(u)~~ **(t)** "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant. For purposes of this rule, there are the following two (2) types of emissions units:
(1) A new emissions unit is any emissions unit that is, or will be, newly constructed and that has existed for less than two (2) years from the date the emissions unit first operated.
(2) An existing emissions unit is any emissions unit that does not meet the requirements in subdivision (1). A replacement unit is an existing emissions unit.

~~(v)~~ **(u)** "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over the lands.

~~(w)~~ **(v)** "Federally enforceable" means all limitations and conditions that are enforceable by the U.S. EPA, including:

(1) those requirements developed pursuant to 40 CFR Part 60* and 40 CFR Part 61*;

(2) requirements within the ~~state implementation plan;~~ **SIP;** and

(3) any permit requirements established pursuant to 40 CFR Part 52.21* or under regulations approved pursuant to 40 CFR Part 51, Subpart I*, including operating permits issued under an EPA-approved program that is incorporated into the ~~state implementation plan~~ **SIP** and expressly requires adherence to any permit issued under the program.

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

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

~~(z)~~ **(y)** "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.

~~(aa)~~ **(z)** "Indian reservation" means any federally recognized reservation established by:

(1) treaty;

(2) agreement;

(3) executive order; or

(4) act of Congress.

~~(bb)~~ **(aa)** "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.

~~(cc)~~ **(bb)** "Lowest achievable emission rate" or "LAER" means, for any source, the more stringent rate of emissions based on the most stringent emissions limitation of the following:

(1) Contained in the ~~state implementation plan~~ **SIP** for the class or category of stationary source unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable.

(2) Achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the ~~lowest achievable emissions rate~~ **LAER** for the new or modified emissions unit within the stationary source. In no event shall the application of the ~~lowest achievable emission rate~~ **LAER** allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

~~(dd)~~ **(cc)** "Low terrain" means any area other than high terrain.

~~(ee)~~ **(dd)** "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 emissions increase and a significant net emissions increase of a regulated NSR pollutant from the major stationary source. The following shall apply:

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for ~~volatile organic compounds~~ **VOC** 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 that the source:

(i) was capable of accommodating before January 6, 1975, unless the change would be prohibited under any enforceable permit condition that was established after January 6, 1975, pursuant to:
(AA) 40 CFR Part 52.21*;
(BB) this rule;
(CC) 326 IAC 2-3; or
(DD) minor new source review regulations approved pursuant to 40 CFR Part 51.160 through 40 CFR Part 51.166*; or
(ii) is approved to use under any permit issued under 40 CFR Part 52.21* or under this rule.
(F) An increase in the hours of operation or in the production rate unless the change would be prohibited under any enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR Part 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 at an existing emissions unit meeting the requirements of 326 IAC 2-2.3. A replacement control technology must provide more effective emission control than that of the replaced control technology to qualify for this exclusion.~~
~~(I)~~ **(H)** 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;~~ **SIP;** 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)~~ **(I)** 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)~~ **(J)** The reactivation of a very clean coal-fired electric utility steam generating unit.
(3) The term shall not apply to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under 326 IAC 2-2.4 for a PAL for that pollutant. Instead, the definition at 326 IAC 2-2.4-2(g) shall apply.

~~(ff)~~ **(ee)** "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.

~~(gg)~~ **(ff)** "Major stationary source" means the following:
(1) Any of the following stationary sources of air pollutants that are located or proposed to be located in an attainment or unclassifiable area as designated in 326 IAC 1-4 and that emit or have the potential to emit one hundred (100) tons per year or more of any regulated NSR pollutant:
(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 a regulated NSR pollutant.

(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) 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 the source does not belong to any of the categories listed in subdivision (1) or any other stationary source category that, 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~~ **VOC** shall be considered major for ozone.

~~(hh)~~ **(gg)** "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 Part 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 $PM_{10}$ 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 $PM_{10}$ emissions.

~~(ii)~~ **(hh)** "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.~~ **SIP.**

~~(jj)~~ **(ii)** "Net emissions increase", with respect to any regulated NSR pollutant emitted by a major stationary source, means the following:

(1) The amount by which the sum of the following exceeds zero (0):
(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under section 2(d) of this rule.
(B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this clause shall be determined as provided in subsection (e), except that subsection (e)(1)(C) and (e)(2)(D) shall not apply.

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

(A) The date five (5) years before construction of the particular change commences.

(B) The date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if

~~(A)~~ the department has not relied on the increase or decrease in actual emissions in issuing a permit to the source under 40 CFR Part 52.21* or this rule and the permit is in effect when the increase in actual emissions from the particular change occurs. ~~and~~

~~(B) the increase or decrease in emissions did not occur at a clean unit except as provided in 326 IAC 2-2.2-1(h) and 326 IAC 2-2.2-2(j).~~

(4) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that 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.

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

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

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

(B) it is enforceable as a practical matter at and after the time that actual construction on the particular change begins; **and**

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

~~(D) the decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a clean unit under 326 IAC 2-2.2-2 or 326 IAC 2-3.2-2. Once an emissions unit has been designated as a clean unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the clean unit designation is based on in calculating the net emissions increase for another emissions unit. However, any new emission reductions that were not relied upon in a PCP excluded under 326 IAC 2-2.3-1 or for a clean unit designation are creditable to the extent they meet the requirements in 326 IAC 2-2.3-1(g)(4) for the PCP and 326 IAC 2-2.2-1(h) and 326 IAC 2-2.2-2(j) for a clean unit.~~

(7) 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.

(8) Subsection (b)(1) shall not apply for determining creditable increases and decreases.

~~(kk)~~ **(jj)** "Plant-wide applicability limitation" or "PAL" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this rule. For the purposes of this rule, a PAL is an actuals PAL.

~~(ll) "Pollution control project" or "PCP" means any activity, set of work practices, or project, including pollution prevention undertaken at an existing emissions unit that reduces emissions of air pollutants from the unit. The qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects not listed in this subsection may qualify for a case-specific PCP exclusion under 326 IAC 2-2.3-1(c) and 326 IAC 2-2.3-1(f). The following projects are presumed to be environmentally beneficial under 326 IAC 2-2.3-1(c)(1):~~

~~(1) Conventional or advanced flue gas desulfurization or sorbent injection for control of sulfur dioxide.~~

~~(2) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.~~

~~(3) Flue gas recirculation, low-$NO_x$ burners or combustors, selective noncatalytic reduction, selective catalytic reduction, low emission combustion for internal combustion engines, and oxidation/absorption catalyst for control of nitrogen oxides.~~

~~(4) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this rule, "hydrocarbon combustion flare" means either a flare:~~

~~(A) used to comply with an applicable NSPS or MACT standard, including uses of flares during startup, shutdown, or malfunction permitted under the standard; or~~

~~(B) that serves to control emissions of waste streams comprised predominately of hydrocarbons and~~

~~containing no more than two hundred thirty (230) mg/dscm hydrogen sulfide.~~

~~(5) Activities or projects undertaken to accommodate switching or partially switching to an inherently less polluting fuel to be limited to the following fuel switches:~~

~~(A) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to five-hundredths percent (0.05%) sulfur diesel.~~

~~(B) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal.~~

~~(C) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of unclean wood.~~

~~(D) Switching from coal to No. 2 fuel oil with a five-tenths percent (0.5%) maximum sulfur content.~~

~~(E) Switching from high sulfur coal to low sulfur coal with a maximum one and two-tenths percent (1.2%) sulfur content.~~

~~(6) Activities or projects undertaken to accommodate switching from the use of one (1) ozone depleting substance (ODS) to the use of a substance with a lower or zero (0) ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:~~

~~(A) The productive capacity of the equipment is not increased as a result of the activity or project.~~

~~(B) The projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. This determination shall be made using the following procedure:~~

~~(i) Determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, Appendices A and B*.~~

~~(ii) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage, using the annualized average of any twenty-four (24) consecutive months of usage within the past ten (10) years, by the ODP of the replaced ODS.~~

~~(iii) Calculate the projected ODP-weighted amount by multiplying the projected actual usage of the new substance by its ODP.~~

~~(iv) If the value calculated in item (ii) is more than the value calculated in item (iii), then the projected use of the new substance is lower than the baseline usage of the replaced ODS, on an ODP-weighted basis.~~

~~(mm)~~ **(kk)** "Pollution prevention" means the following:

(1) Any activity that eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling, treatment, or disposal, through:

(A) process changes;

(B) product reformulation or redesign; or

(C) substitution of less polluting raw materials.

(2) The term does not include:

(A) recycling, except certain in-process recycling practices;

(B) energy recovery;

(C) treatment; or

(D) disposal.

~~(nn)~~ **(ll)** "Potential to emit" means the maximum capacity of a stationary source 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 as a practical matter. Secondary emissions do not count in determining the potential to emit of a stationary source.

~~(oo)~~ **(mm)** "Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to, on a continuous basis:

(1) monitor:

(A) process and control device operational parameters; and

(B) other information, such as gas flow rate, $O_2$ or $CO_2$ concentrations; and

(2) calculate and record the mass emissions rate, such as pounds per hour.

~~(pp)~~ **(nn)** "Prevention of significant deterioration program" or "PSD program" means a major source preconstruction permit program that has been approved by the U.S. EPA and incorporated into the ~~state implementation plan~~ **SIP** to implement the requirements of 40 CFR Part 51.166 or the program in 40 CFR Part 52.21. Any permit issued under the program is a major NSR permit.

~~(qq)~~ **(oo)** "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

~~(rr)~~ **(pp)** "Projected actual emissions" means the following:
(1) The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any consecutive twelve (12) month period of the five (5) years following the date the unit resumes regular operation after the project, or in any consecutive twelve (12) month period of the ten (10) years following the date the unit resumes regular operation, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.
(2) In determining the projected actual emissions under this subsection, before beginning actual construction, the owner or operator of the major stationary source:
(A) shall:
(i) consider all relevant information, including, but not limited to:
(AA) historical operational data;
(BB) the company's own representations;
(CC) the company's expected business activity and the company's highest projections of business activity;
(DD) the company's filings with the state or federal regulatory authorities; and
(EE) compliance plans under the approved ~~state implementation plan;~~ **SIP;**
(ii) include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions to the extent they are affected by the project; and
(iii) exclude, in calculating any increase in emissions that result from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions under subsection (e) and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or
(B) in lieu of using the method set out in clause (A), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subsection ~~(nn).~~ **(ll).**

~~(ss)~~ **(qq)** "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 the unit continue to be carried in the department's emissions inventory at the time of enactment;
(2) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of ~~no~~ **not** less than eighty-five percent (85%) and a removal efficiency for particulates of ~~no~~ **not** 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.

~~(tt)~~ **(rr)** "Reasonably available control technology" or "RACT" means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:
(1) the necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
(2) the social, environmental, and economic impact of the controls; and
(3) alternative means of providing for attainment and maintenance of the standard.

~~(uu)~~ **(ss)** "Regulated NSR pollutant" means any of the following:
(1) Any:
**(A)** pollutant for which a national ambient air quality standard has been promulgated; and ~~any~~
**(B)** constituents or precursors for the pollutants identified by the U.S. EPA.
(2) Any pollutant that is subject to any standard promulgated under Section 111 of the CAA.
(3) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the CAA.
(4) Any pollutant that otherwise is subject to regulation under the CAA, except that any or all ~~hazardous air pollutants~~ **HAPs** either listed in Section 112 of the CAA or added to the list pursuant to Section 112(b)(2) of the CAA, which have not been delisted pursuant to Section 112(b)(3) of the CAA, are not regulated NSR pollutants unless the listed ~~hazardous air pollutant~~ **HAP** is also regulated as a constituent or precursor of a

general pollutant listed under Section 108 of the CAA.

(5) Notwithstanding subdivision (4), any pollutant listed in subsection ~~(xx)(1)(A)~~ **(vv)(1)(A)** through ~~(xx)(1)(U).~~ **(vv)(1)(U).**

~~(vv)~~ **(tt)** "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 **the** 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.

The term 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. 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.

~~(ww)~~ **(uu)** "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 that causes the secondary emissions. ~~Secondary emissions do~~ **The term does** 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.

~~(xx)~~ **(vv)** "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) $PM_{10}$: fifteen (15) tons per year.
(F) Ozone: forty (40) tons per year of ~~volatile organic compounds.~~ **VOC.**
(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 ($H_2S$): ten (10) tons per year.
(O) Total reduced sulfur (including $H_2S$): ten (10) tons per year.
(P) Reduced sulfur compounds (including $H_2S$): 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 $3.5 \times 10^{-6}$ 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 regulated NSR pollutant other than the pollutants listed in this subsection: any emission rate.

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

~~(yy)~~ **(ww)** "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant, as defined in subsection ~~(xx),~~ **(vv),** for that pollutant.

~~(zz)~~ **(xx)** "Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant. 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.

~~(aaa)~~ **(yy)** "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~~ **SIP** 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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** 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; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2216; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3889)*

SECTION 4. 326 IAC 2-2-2 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 sections 3 through 5, 7, 8, 10, 14, and 15 of this rule apply to the construction of any new major stationary source or the major modification of any existing major stationary source except as this rule otherwise provides.

(b) The requirements of this rule apply to the construction of any new major stationary source or any project at an existing major stationary source in an area designated as attainment or unclassifiable in 326 IAC 1-4.

(c) No new major stationary source or major modification to which the requirements of sections 3 through 5, 7, 8(a), 10, 14, and 15 **of this rule** apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet the requirements of sections 3 through 5, 7, 8(a), 10, 14, and 15 of this rule.

(d) The requirements of this rule will be applied in accordance with the following:
(1) Except as otherwise provided in ~~subsections~~ **subsection** (e), ~~and (f),~~ and consistent with the definition of major modification contained in section ~~1(ee)~~ **1(dd)** of this rule, a project is a major modification for a regulated NSR pollutant if it causes both a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
(2) Prior to beginning actual construction, the procedure for calculating if a significant emissions increase will

occur depends upon the type of emissions units being modified as provided in subdivisions (3) through ~~(6).~~ **(5).** The procedure for calculating, before beginning actual construction, if a significant net emissions increase will occur at the major stationary source is contained in section ~~1(jj)~~ **1(ii)** of this rule. Regardless of any preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(3) For an actual-to-projected-actual applicability test for projects that only involve existing emissions units, a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit equals or exceeds the significant amount for that pollutant.

(4) For an actual-to-potential applicability test for projects that only involve construction of new emissions units, a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

~~(5) For a project that will be constructed and operated at a clean unit without causing the emissions unit to lose its clean unit designation, no emissions increase is considered to occur.~~

~~(6)~~ **(5)** For projects that involve a combination of emission units using the tests in subdivisions (3) ~~through (5),~~ **and (4),** a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subdivisions (3) ~~through (5),~~ **and (4),** as applicable, with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

(e) For any major stationary source for which a PAL has been established for a regulated NSR pollutant, the major stationary source shall comply with the requirements under 326 IAC 2-2.4.

~~(f) An owner or operator undertaking a PCP shall comply with the requirements under 326 IAC 2-2.3.~~

~~(g)~~ **(f)** Sources that are located in or proposed to be located in an area designated as nonattainment under 326 IAC 1-4 for a pollutant shall be exempt from the requirements of this rule for that particular pollutant and subject to 326 IAC 2-3.

~~(h)~~ **(g)** A source or modification of a source that is or would be a nonprofit health or nonprofit educational institution shall be exempt from the requirements of sections 3, 4, and 7 of this rule.

~~(i)~~ **(h)** The requirements of sections 3 through 5, 7, 8, 10, 14, and 15 of this rule do not apply to a particular major stationary source or major modification if the source or modification is a portable stationary source that has previously received a permit under 326 IAC 2-5.1-3 or 326 IAC 2-7 and the permit contains conditions from 40 CFR Part 52.21* or this rule if:

(1) the source proposes to relocate and emissions of the source at the new location would be temporary;

(2) the emissions from the source would not exceed its allowable emissions;

(3) emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(4) 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.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1564; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3899)*

SECTION 5. 326 IAC 2-2-4 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 ~~or for a clean unit designation under 326 IAC 2-2.2-2~~ shall contain an analysis of ambient air quality in the area that the major stationary source **or** major modification, ~~or clean unit~~ would affect for each of the following pollutants:

(1) For a source, each regulated NSR pollutant that the source would have the potential to emit in a significant amount.

(2) For a modification, each regulated NSR pollutant for which the modification would result in a significant net emissions increase.

~~(3) For a clean unit designation, each regulated NSR pollutant emitted by the unit for which the owner or operator requests the department to designate the unit as a clean unit.~~

(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) A source **or** modification ~~or clean unit designation~~ shall be exempt from the requirements of this section with respect to monitoring for a particular pollutant if either of the following apply:

(A) The emissions increase of the pollutant from a new source **or** the net emissions increase of the pollutant from a modification ~~or the allowable emission rate on which the clean unit designation is based,~~ would cause, in any area, air quality impacts less than **the following:**

(i) Carbon monoxide: 575 $\mu g/m^3$, 8-hour average.

(ii) Nitrogen dioxide: 14 $\mu g/m^3$, annual average.

(iii) $PM_{10}$: 10 $\mu g/m^3$, 24-hour average.

(iv) Sulfur dioxide: 13 $\mu g/m^3$, 24-hour average.

(v) 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~~ **VOC** subject to PSD would be required to provide ozone ambient air quality data.

(vi) Lead: 0.1 $\mu g/m^3$, 3-month average.

(vii) Mercury: 0.25 $\mu g/m^3$, 24-hour average.

(viii) Beryllium: 0.001 $\mu g/m^3$, 24-hour average.

(ix) Fluorides: 0.25 $\mu g/m^3$, 24-hour average.

(x) Vinyl chloride: 15 $\mu g/m^3$, 24-hour average.

(xi) Total reduced sulfur: 10 $mg/m^3$, 1-hour average.

(xii) Hydrogen sulfide: 0.2 $\mu g/m^3$, 1-hour average.

(xiii) Reduced sulfur compounds: 10 $\mu g/m^3$, 1-hour average.

(B) The concentrations of the pollutant in the area affected by the source **or** modification ~~or clean unit designation~~ 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,~~ **exists,** 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~~ **VOC** who satisfies all conditions of 40 CFR Part 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 that the source or modification may have, or ~~are~~ **is** 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 Part 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*".

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

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SECTION 6. 326 IAC 2-2-5 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 any:
(1) ambient air quality standard, as designated in 326 IAC 1-3, in any air quality control region; or
(2) applicable maximum allowable increase over the baseline concentration in any area as described in section 6 of this rule.

~~(b) The owner or operator that requests a clean unit designation under 326 IAC 2-2.2-2 shall demonstrate that the allowable emissions rate on which the clean unit designation is based will not cause or contribute to air pollution in violation of any:~~
~~(1) ambient air quality standard, as designated in 326 IAC 1-3, in any air quality control region; or~~
~~(2) applicable maximum allowable increase over the baseline concentration in any area.~~

~~(c)~~ **(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.

~~(d)~~ **(c)** The requirements of this section do not apply to a major stationary source or major modification with respect to total suspended particulate matter.

~~(e)~~ **(d)** 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, databases, and other requirements specified in 40 CFR Part 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:
**(A)** may only be done in accordance with guideline documents and with written approval from **the** U.S. EPA; and
**(B)** shall be subject to public comment procedures set forth in 326 IAC 2-1.1-6.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1566; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3902)*

SECTION 7. 326 IAC 2-2-7 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 ~~or clean unit designation~~ and general commercial, residential, industrial, and other growth associated with the source **or** modification. ~~or clean unit.~~ 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. ~~or clean unit designation.~~

(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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1568; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3904)*

SECTION 8. 326 IAC 2-2-8 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-2-8 Source obligation**

**Authority: IC 13-14-8; IC 13-17-3**
**Affected: IC 13-15; IC 13-17**

Sec. 8. (a) The following shall apply to any owner or operator who proposes to construct, constructs, or operates a major stationary source or major modification subject to this rule:
(1) Approval to construct, under section 2(b) of this rule, shall become invalid if construction:
**(A)** is not commenced within eighteen (18) months after receipt of the approval; ~~if construction~~
**(B)** is discontinued for a period of eighteen (18) months or more; or ~~if construction~~
**(C)** is not completed within a reasonable time.
The commissioner may extend the eighteen (18) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen (18) months of the projected and approved commencement date.
(2) Approval for construction shall not relieve any owner or operator of the responsibility to comply fully with

applicable provisions of the ~~state implementation plan~~ **SIP** and any other requirements under local, state, or federal law.

(3) At the time a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this rule shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(b) The following provisions apply **with respect** to **any regulated NSR pollutant emitted from** projects at an existing emissions unit at a major stationary source, other than projects ~~at a clean unit or~~ at a source with a PAL, in circumstances where there is a reasonable possibility, **within the meaning of this subsection,** that a project that is not a part of a major modification may result in a significant emissions increase **of a regulated NSR pollutant,** and the owner or operator elects to use the method specified in section ~~1(rr)(2)(A)~~ **1(pp)(2)(A)** of this rule for calculating projected actual emissions:

(1) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(A) A description of the project.

(B) Identification of any emissions unit whose emissions of a regulated NSR pollutant could be affected by the project.

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including **the following:**

(i) The baseline actual emissions.

(ii) The projected actual emissions.

(iii) The amount of emissions excluded under section ~~1(rr)(2)(A)(iii)~~ **1(pp)(2)(A)(iii)** of this rule. ~~and~~

(iv) An explanation for why the amount was excluded, and any netting calculations, if applicable.

(2) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subdivision (1) to the department. Nothing in this subdivision shall be construed to require the owner or operator of the unit to obtain any determination from the department before beginning actual construction.

(3) The owner or operator shall:

(A) monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subdivision (1)(B); and

(B) calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity of or the potential to emit that regulated NSR pollutant at the emissions unit.

(4) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the department within sixty (60) days after the end of each year during which records must be generated under subdivision (3) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(5) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified in subdivision (1) exceed the baseline actual emissions, as documented and maintained under subdivision (1)(C), by a significant amount, as defined in section ~~1(xx)~~ **1(vv)** of this rule, for that regulated NSR pollutant and if the emissions differ from the preconstruction projection as documented and maintained under subdivision (1)(C). The report shall be submitted to the department within sixty (60) days after the end of the year. The report shall contain the following:

(A) The name, address, and telephone number of the major stationary source.

(B) The annual emissions as calculated under subdivision (3).

(C) The emissions calculated under the actual-to-projected actual test stated in section 2(d)(3) of this rule.

(D) Any other information that the owner or operator wishes to include in the report, such as an explanation as to why the emissions differ from the preconstruction projection.

**(6) A reasonable possibility under this subsection occurs when the owner or operator calculates the project to result in either:**

**(A) a projected actual emissions increase of at least fifty percent (50%) of the amount that is a significant emissions increase, as defined in section 1(ww) of this rule, without reference to the amount that is a significant net emissions increase, for the regulated NSR pollutant; or**

**(B) a projected actual emissions increase that, added to the amount of emissions excluded under section 1(pp)(2)(A)(iii) of this rule, sums to at least fifty percent (50%) of the amount that is a significant emissions increase, as defined in section 1(ww) of this rule, without reference to the**

**amount that is a significant net emissions increase, for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this clause, and not also within** the **meaning of clause (A), then subdivisions (2) through (5) do not apply to the project.**

(c) The owner or operator of the source shall make the information required to be documented and maintained under subsection (b) available for review upon a request for inspection by the department. The general public may request this information from the department under 326 IAC 17.1.

*(Air Pollution Control Board; 326 IAC 2-2-8; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2400; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2424; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3904)*

SECTION 9. 326 IAC 2-2-10 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-2-10 Source information**

**Authority: IC 13-14-8; IC 13-17-3**
**Affected: IC 13-11; IC 13-15; IC 13-17**

Sec. 10. The owner or operator of a proposed major stationary source **or** major modification ~~or an owner or operator that requests a clean unit designation~~ shall submit all information necessary to perform any analysis or make any determination required under this rule ~~or under the clean unit designation requirements~~ as follows:

(1) With respect to a source or modification to which this rule applies, ~~such~~ **the** information shall include **the following:**

(A) A description of the:

**(i)** nature;

**(ii)** location;

**(iii)** design capacity; and

**(iv)** typical operating schedule;

of the major stationary source or major modification, including specifications and drawings showing its design and plant layout.

(B) A detailed schedule for construction of the major stationary source or major modification. ~~and~~

(C) A detailed description as to what system of continuous emission reduction is planned for the major stationary source or major modification, emission estimates, and any other information necessary to determine that ~~best available control technology~~ **BACT** would be applied.

(2) Upon request of the commissioner, the owner or operator shall also provide information on the following:

(A) The air quality impact of the major stationary source or major modification, including meteorological and topographical data necessary to estimate ~~such~~ **the** impact.

(B) The air quality impact and the nature and extent of any or all general commercial, residential, industrial, and other growth that has occurred since the baseline date in the area that the major stationary source or major modification would affect.

*(Air Pollution Control Board; 326 IAC 2-2-10; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2425; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3905)*

SECTION 10. 326 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-3-1 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 regulated NSR 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 consecutive twenty-four (24) month period ~~which~~ **that:**

**(A)** precedes the particular date; and ~~which~~

**(B)** is representative of normal source operation.

The commissioner 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 commissioner may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) The term shall not apply for calculating a significant emissions increase under section 2(c) of this rule or for establishing a PAL under 326 IAC 2-3.4. Instead, subsections (d) and ~~(mm)~~ **(kk)** shall apply for those purposes.

(c) "Allowable emissions" means the emissions rate of a source calculated using the maximum rated capacity of the source unless a source is subject to enforceable permit limits that restrict the operating rate or hours of operation, or both, and the most stringent of the following:

(1) The applicable standards as set forth in 40 CFR Part 60, New Source Performance Standards (NSPS)*, and 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS)*.

(2) The emissions limitation imposed by any rule in this title, including those with a future compliance date.

(3) The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

(d) "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined as follows:

(1) For any existing electric utility steam generating unit, ~~baseline actual emissions~~ **the term** means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the five (5) year period immediately preceding when the owner or operator begins actual construction of the project. The commissioner may allow the use of a different time period upon a determination that it is more representative of normal source operation. The baseline actual emissions shall be determined in accordance with the following:

(A) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions to the extent they are affected by the project.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive twenty-four (24) month period.

(C) For a regulated NSR pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period may be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated NSR pollutant.

(D) The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information available for determining annual emissions, in tons per year, and for adjusting this amount if required by clause (B).

(2) For an existing emissions unit, other than an electric utility steam generating unit, ~~baseline actual emissions~~ **the term** means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive twenty-four (24) month period selected by the owner or operator within the ten (10) year period immediately preceding either the date the owner or operator begins actual construction of the project or the date a complete permit application is received by the department for a permit required under 326 IAC 2-3, except that the ten (10) year period shall not include any period earlier than November 15, 1990. The baseline actual emissions shall be determined in accordance with the following:

(A) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions and to the extent they are affected by the project.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive twenty-four (24) month period.

(C) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply had the major stationary source been required to comply with the limitations during the consecutive twenty-four (24) month period. However, if an emission limitation is part of a maximum achievable control technology standard that the U.S. EPA proposed or promulgated under 40 CFR Part 63*, the baseline actual emissions need only be adjusted if the state has applied the emissions reduction to an attainment demonstration or maintenance plan

consistent with the requirements of section ~~3(b)(14)~~ **3(b)(12)** of this rule.

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, only one (1) consecutive twenty-four (24) month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated NSR pollutant.

(E) The average rate shall not be based on any consecutive twenty-four (24) month period for which there is inadequate information available for determining annual emissions, in tons per year, and for adjusting this amount if required by clauses (B) and (C).

(3) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of the unit shall equal zero (0) and thereafter, for all other purposes, shall equal the unit's potential to emit.

(4) For a PAL for a major stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subdivision (1), for other existing emissions units in accordance with the procedures contained in subdivision (2), and for a new emissions unit in accordance with the procedures contained in subdivision (3).

(e) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. These activities include, but are not limited to, the following:

(1) Installation of building supports and foundations.

(2) Laying underground pipework.

(3) Construction of permanent storage structures.

With respect to a change in method of operations, the term refers to those on-site activities, other than preparatory activities, that mark the initiation of the change.

(f) "Best available control technology" or "BACT" means an emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the commissioner, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for the 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 the pollutant. In no event shall application of ~~best available control technology~~ **BACT** result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Part 60* or 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 infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of ~~best available control technology.~~ **BACT.** The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

(g) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that 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. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group, that is, those that 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*.

(h) "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.

(i) "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 the 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.

~~(j) "Clean unit" means an emissions unit that meets one (1) of the following criteria:~~

~~(1) An emissions unit that:~~
~~(A) has been issued a major NSR permit that requires compliance with BACT or LAER;~~
~~(B) is complying with the BACT or LAER requirements; and~~
~~(C) qualifies as a clean unit under 326 IAC 2-3.2-1.~~
~~(2) An emissions unit that has been designated by the department as a clean unit based on the criteria in 326 IAC 2-3.2-2.~~
~~(3) An emissions unit that has been designated as a clean unit by the U.S. EPA in accordance with 40 CFR Part 52.21(y)(3)(i) through 40 CFR Part 52.21(y)(3)(iv)*.~~

~~(k)~~ **(j)** "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.

~~(l)~~ **(k)** "Complete", in reference to an application for a permit, means 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 commissioner from requesting or accepting additional information.

~~(m)~~ **(l)** "Construction" means any physical change or change in the method of operation, including:
(1) fabrication;
(2) erection;
(3) installation;
(4) demolition; or
(5) modification;
of an emissions unit, that would result in a change in actual emissions.

~~(n)~~ **(m)** "Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this rule to complete the following:
(1) Sample emissions on a continuous basis.
(2) If applicable, condition emissions.
(3) Analyze emissions on a continuous basis.
(4) Provide a record of emissions on a continuous basis.

~~(o)~~ **(n)** "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate in terms of mass per unit of time.

~~(p)~~ **(o)** "Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this rule to:
(1) monitor:
(A) process and control device operational parameters; and
(B) other information, such as gas flow rate, $O_2$ or $CO_2$ concentrations; and
(2) record average operational parameter values on a continuous basis.

~~(q)~~ **(p)** "De minimis", in reference to an emissions increase of ~~volatile organic compounds~~ **VOC** from a modification in a serious or severe ozone nonattainment area, means an increase that does not exceed twenty-five (25) tons per year when the net emissions increases from the proposed modification are aggregated on a pollutant specific basis with all other net emissions increases from the source over a five (5) consecutive calendar year period prior to, and including, the year of the modification.

~~(r)~~ **(q)** "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third (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.

~~(s)~~ **(r)** "Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant. For purposes of this rule, there are the following two (2) types of emissions units:

(1) A new emissions unit is any emissions unit that is, or will be, newly constructed and that has existed for less than two (2) years from the date the emissions unit first operated.

(2) An existing emissions unit is any emissions unit that does not meet the requirements in subdivision (1). A replacement unit is an existing emissions unit.

~~(t)~~ **(s)** "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over the lands.

~~(u)~~ **(t)** "Federally enforceable" means all limitations and conditions that are enforceable by the U.S. EPA, including:

(1) those requirements developed pursuant to 40 CFR Part 60* and 40 CFR Part 61*;

(2) requirements within the ~~state implementation plan;~~ **SIP;** and

(3) any permit requirements established pursuant to 40 CFR Part 52.21* or under regulations approved pursuant to 40 CFR Part 51, Subpart I*, including operating permits issued under an EPA-approved program that is incorporated into the ~~state implementation plan~~ **SIP** and expressly requires adherence to any permit issued under the program.

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

~~(w)~~ **(v)** "Incidental emissions reductions" means the reductions in emissions of a pollutant achieved as an indirect result of complying with another rule for another pollutant.

~~(x)~~ **(w)** "Internal offset" means to use net emissions decreases from within the source to compensate for an increase in emissions.

~~(y)~~ **(x)** "Lowest achievable emission rate" or "LAER" means, for any source, the more stringent rate of emissions based on the most stringent emissions limitation of the following:

(1) Contained in the implementation plan of any state for the class or category of stationary source unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable.

(2) Achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the ~~lowest achievable emissions rate~~ **LAER** for the new or modified emissions unit within the stationary source. In no event shall the application of the ~~lowest achievable emission rate~~ **LAER** allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

~~(z)~~ **(y)** "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 emissions increase and a significant net emissions increase of a regulated NSR pollutant from the major stationary source or, in an area that is classified as either a serious or severe ozone nonattainment area, an increase in VOC emissions that is not de minimis. The following provisions apply:

(1) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for ~~volatile organic compounds~~ **VOC** 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 under the Federal Power Act.

(C) Use of an alternative fuel by reason of an order or rule 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 that the source:

(i) was capable of accommodating before December 21, 1976, unless the change would be prohibited under any enforceable permit condition that was established after December 21, 1976, under 40 CFR Part 52.21* or regulations approved under 40 CFR Part 51.160 through 40 CFR Part 51.165* or 40 CFR Part 51.166*; or

(ii) is approved to use under any permit issued under this rule.

(F) An increase in the hours of operation or in the production rate unless the change would be prohibited under any enforceable permit condition that was established after December 21, 1976, under 40 CFR Part 52.21* or regulations approved under 40 CFR Part 51.160 through 40 CFR Part 51.165* or 40 CFR Part 51.166*.

(G) Any change in ownership at a stationary source.

~~(H) The addition, replacement, or use of a pollution control project at an existing emissions unit meeting the requirements of 326 IAC 2-3.3. A replacement control technology must provide more effective emissions control than that of the replaced control technology to qualify for this exclusion.~~

~~(I)~~ **(H)** 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;~~ **SIP;** and

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

(3) The term shall not apply to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under 326 IAC 2-2.4 for a PAL for that pollutant. Instead, the definition at 326 IAC 2-2.4-2(g) shall apply.

~~(aa)~~ **(z)** "Major stationary source" means the following:

(1) Any stationary source of air pollutants, except for those subject to subdivision (2), that emits or has the potential to emit one hundred (100) tons per year or more of any regulated NSR pollutant.

(2) For ozone nonattainment areas, the term includes any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit ~~volatile organic compounds~~ **VOC** that would equal or exceed any of the following rates:

| Ozone Classification | Rate |
|---|---|
| Marginal | 100 tons per year |
| Moderate | 100 tons per year |
| Serious | 50 tons per year |
| Severe | 25 tons per year |

(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 smelter.

(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 subdivision (1) if the change would by itself qualify as a major stationary source under subdivision (1).

~~(bb)~~ **(aa)** "Necessary preconstruction approvals or permits" means those permits or approvals required under 326 IAC 2-2, 326 IAC 2-5.1, and 326 IAC 2-7.

~~(cc)~~ **(bb)** "Net emissions decrease" means the amount by which the sum of the creditable emissions increases and decreases from any source modification project is less than zero (0).

~~(dd)~~ **(cc)** "Net emissions increase", with respect to any regulated NSR pollutant emitted by a major stationary source, means the following:

(1) The amount by which the sum of the following exceeds zero (0):

(A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under section 2(c) and 2(d) of this rule.

(B) Any other increases and decreases in actual emissions at the major stationary source that are

contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this clause shall be determined as provided in subsection (d), except that subsection (d)(1)(C) and (d)(2)(D) shall not apply.

(2) For the purpose of determining de minimis in an area classified as serious or severe for ozone, the amount by which the sum of the emission increases and decreases from any source modification project exceeds zero (0).

(3) The following emissions increases and decreases are to be considered when determining net emissions increase:

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

(B) Any of the following increases and decreases in actual emissions that are contemporaneous with the particular change and are otherwise creditable:

(i) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs after January 16, 1979, and between the following:

(AA) The date five (5) years before construction of the particular change commences.

(BB) The date that the increase from the particular change occurs.

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

~~(iii) An increase or decrease in actual emissions is creditable only if the increase or decrease in emissions did not occur at a clean unit except as provided in 326 IAC 2-3.2-1(h) and 326 IAC 2-3.2-2(j).~~

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

~~(v)~~ **(iv)** A decrease in actual emissions is creditable only to the extent that:

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

(BB) it is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(CC) the commissioner has not relied on it in issuing any permit under regulations approved under 40 CFR Part 51, Subpart I* or the state has not relied on it in demonstrating attainment or reasonable further progress; **and**

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

~~(EE) the decrease in actual emissions did not result from the installation of add-on control technology or application of pollution prevention practices that were relied on in designating an emissions unit as a clean unit under 326 IAC 2-2.2-2 or 326 IAC 2-3.2-2. Once an emissions unit has been designated as a clean unit, the owner or operator cannot later use the emissions reduction from the air pollution control measures that the clean unit designation is based on in calculating the net emissions increase for another emissions unit. However, any new emissions reductions that were not relied upon in a PCP excluded under 326 IAC 2-3.3-1 or for a clean unit designation are creditable to the extent they meet the requirements in 326 IAC 2-3.3-1(g)(4) for the PCP and 326 IAC 2-3.2-1(h) and 326 IAC 2-3.2-2(j) for a clean unit.~~

~~(vi)~~ **(v)** 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.

~~(vii)~~ **(vi)** Subsection (b)(1) shall not apply for determining creditable increases and decreases or after a particular change or change in method of operation.

~~(ee)~~ **(dd)** "New", in reference to a:

**(1)** major stationary source; ~~a~~

**(2)** modified major stationary source; or ~~a~~

**(3)** major modification;

means one that commences construction after the effective date of this rule.

~~(ff)~~ **(ee)** "Nonattainment major new source review program" means a major source preconstruction permit program that has been approved by the U.S. EPA and incorporated into the ~~state implementation plan~~ **SIP** to implement the federal requirements of 40 CFR Part 51.165*, or a program that implements 40 CFR Part 51, Appendix S, Sections I through VI*. Any permit issued under the program is a major NSR permit.

~~(gg) "Pollution control project" or "PCP" means any activity, set of work practices, or project, including pollution prevention, undertaken at an existing emissions unit that reduces emissions of air pollutants from the unit. The qualifying activities or projects can include the replacement or upgrade of an existing emissions control technology with a more effective unit. Other changes that may occur at the source are not considered part of the PCP if they are not necessary to reduce emissions through the PCP. Projects not listed in this subsection may qualify for a case-specific PCP exclusion under 326 IAC 2-3.3-1(c) and 326 IAC 2-3.3-1(f). The following projects are presumed to be environmentally beneficial under 326 IAC 2-3.3-1(c)(1):~~

~~(1) Conventional or advanced flue gas desulfurization or sorbent injection for control of sulfur dioxide.~~

~~(2) Electrostatic precipitators, baghouses, high efficiency multiclones, or scrubbers for control of particulate matter or other pollutants.~~

~~(3) Flue gas recirculation, low $NO_x$ burners or combustors, selective noncatalytic reduction, selective catalytic reduction, low emission combustion for internal combustion engines, and oxidation/absorption catalyst for control of nitrogen oxides.~~

~~(4) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, hydrocarbon combustion flares, biofiltration, absorbers and adsorbers, and floating roofs for storage vessels for control of volatile organic compounds or hazardous air pollutants. For the purpose of this rule, "hydrocarbon combustion flare" means either a flare:~~

~~(A) used to comply with an applicable NSPS or MACT standard, including uses of flares during startup, shutdown, or malfunction permitted under the standard; or~~

~~(B) that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing no more than two hundred thirty (230) mg/dscm hydrogen sulfide.~~

~~(5) Activities or projects undertaken to accommodate switching, or partially switching, to an inherently less polluting fuel, to be limited to the following fuel switches:~~

~~(A) Switching from a heavier grade of fuel oil to a lighter fuel oil, or any grade of oil to five-hundredths percent (0.05%) sulfur diesel.~~

~~(B) Switching from coal, oil, or any solid fuel to natural gas, propane, or gasified coal.~~

~~(C) Switching from coal to wood, excluding construction or demolition waste, chemical or pesticide treated wood, and other forms of unclean wood.~~

~~(D) Switching from coal to No. 2 fuel oil with a five-tenths percent (0.5%) maximum sulfur content.~~

~~(E) Switching from high sulfur coal to low sulfur coal with a maximum one and two-tenths percent (1.2%) sulfur content.~~

~~(6) Activities or projects undertaken to accommodate switching from the use of one (1) ozone depleting substance (ODS) to the use of a substance with a lower or zero (0) ozone depletion potential (ODP), including changes to equipment needed to accommodate the activity or project, that meet the following requirements:~~

~~(A) The productive capacity of the equipment is not increased as a result of the activity or project.~~

~~(B) The projected usage of the new substance is lower, on an ODP-weighted basis, than the baseline usage of the replaced ODS. This determination shall be made using the following procedure:~~

~~(i) Determine the ODP of the substances by consulting 40 CFR Part 82, Subpart A, Appendices A and B*.~~

~~(ii) Calculate the replaced ODP-weighted amount by multiplying the baseline actual usage, using the annualized average of any twenty-four (24) consecutive months of usage within the past ten (10) years, by the ODP of the replaced ODS.~~

~~(iii) Calculate the projected ODP-weighted amount by multiplying the projected future annual usage of the new substance by its ODP.~~

~~(iv) If the value calculated in item (ii) is more than the value calculated in item (iii), then the projected use of the new substance is lower than the baseline usage of the replaced ODS, on an ODP-weighted basis.~~

~~(hh)~~ **(ff)** "Pollution prevention" means the following:

(1) Any activity that eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment prior to recycling, treatment, or disposal through:

(A) process changes;

(B) product reformulation or redesign; or

(C) substitution of less polluting raw materials.

(2) The term does not include:

(A) recycling, except certain in-process recycling practices;

(B) energy recovery;

(C) treatment; or

(D) disposal.

~~(ii)~~ **(gg)** "Potential to emit" means the maximum capacity of a stationary source 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 only if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions do not count in determining the potential to emit of a stationary source.

~~(jj)~~ **(hh)** "Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to:
(1) monitor:
(A) process and control device operational parameters; and
(B) other information, such as gas flow rate, $O_2$ or $CO_2$ concentrations; and
(2) calculate and record the mass emissions rate on a continuous basis.

~~(kk)~~ **(ii)** "Prevention of significant deterioration permit" or "PSD permit" means any permit that is issued under 326 IAC 2-2 or under the program in 40 CFR Part 52.21*.

~~(ll)~~ **(jj)** "Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

~~(mm)~~ **(kk)** "Projected actual emissions" means the following:
(1) The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any consecutive twelve (12) month period of the five (5) years following the date the unit resumes regular operation after the project, or in any consecutive twelve (12) month period of the ten (10) years following the date the unit resumes regular operation, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.
(2) In determining the projected actual emissions before beginning actual construction, the owner or operator of the major stationary source:
(A) shall:
(i) consider all relevant information, including, but not limited to:
(AA) historical operational data;
(BB) the company's own representations;
(CC) the company's expected business activity and the company's highest projections of business activity;
(DD) the company's filings with the state or federal regulatory authorities; and
(EE) compliance plans under the approved plan;
(ii) include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions to the extent they are affected by the project; and
(iii) exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive twenty-four (24) month period used to establish the baseline actual emissions under subsection (d) and that is also unrelated to the particular project, including any increased utilization due to product demand growth; or
(B) in lieu of using the method set out in clause (A), may elect to use the emissions unit's potential to emit, in tons per year, as defined under subsection ~~(ii).~~ **(gg).**

~~(nn)~~ **(ll)** "Reasonable further progress" or "RFP" means the annual incremental reductions in emissions of a pollutant that are sufficient in the judgment of the board to provide reasonable progress towards attainment of the applicable ambient air quality standards established by 326 IAC 1-3 by the dates set forth in the ~~Clean Air Act.~~ **CAA.**

~~(oo)~~ **(mm)** "Regulated NSR pollutant" means the following:
(1) Nitrogen oxides or any ~~volatile organic compounds.~~ **VOC.**
(2) Any pollutant for which a national ambient air quality standard has been promulgated.
(3) Any pollutant that is a constituent or precursor of a general pollutant listed under subdivision (1) or (2) provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant.

~~(pp)~~ **(nn)** "Secondary emission" 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. For the purpose of this rule, secondary emissions must be specific, well-defined, quantifiable, and impact the same general area as the stationary source or modification that causes the secondary emissions. Secondary emissions may include, but are not limited to, emissions from:

(1) ships or trains coming to or from the new or modified stationary source; and

(2) an off-site support facility that would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

~~(qq)~~ **(oo)** "Significant", in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, means a rate of emissions that would equal or exceed any of the following rates:

| | |
|---|---|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
| Particulate matter | 25 tpy |
| $PM_{10}$ | 15 tpy |
| Ozone (marginal and moderate areas) | 40 tpy of ~~volatile organic compound~~ VOC |
| Lead | 0.6 tpy |

~~(rr)~~ **(pp)** "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in subsection ~~(qq)~~ **(oo)** for that pollutant.

~~(ss)~~ **(qq)** "Source modification project" means all those physical changes or changes in the methods of operation at a source that are necessary to achieve a specific operational change.

~~(tt)~~ **(rr)** "Stationary source" means any building, structure, facility, or installation, including a stationary internal combustion engine, that emits or may emit a regulated NSR pollutant.

~~(uu)~~ **(ss)** "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five (5) years or less and that complies with the ~~state implementation plan~~ **SIP** and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it 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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-3-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1106; filed Nov 12, 1993, 4:00 p.m.: 17 IR 725; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1002; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Aug 17, 2001, 3:45 p.m.: 25 IR 6; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; errata filed Dec 12, 2002, 3:30 p.m.: 26 IR 1565; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3920)*

SECTION 11. 326 IAC 2-3-2 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-3-2 Applicability**

**Authority: IC 13-14-8; IC 13-17-3**
**Affected: IC 13-15; IC 13-17**

Sec. 2. (a) This rule applies to new major stationary sources or major modifications constructed in an area designated, as of the date of submittal of a complete application, as nonattainment in 326 IAC 1-4, for a pollutant for which the stationary source or modification is major.

(b) This rule applies to modifications of major stationary sources of ~~volatile organic compounds~~ VOC in serious and severe ozone nonattainment areas as follows:

(1) A modification of a major stationary source with a de minimis increase in emissions shall be exempt from section 3 of this rule.
(2) A modification having an increase in emissions that is not de minimis to an existing major stationary source that does not have the potential to emit one hundred (100) tons or more of ~~volatile organic compounds~~ VOC per year will not be subject to section 3(a) of this rule if the owner or operator of the source elects to internal offset the increase by a ratio of one and three-tenths (1.3) to one (1). If the owner or operator does not make the election or is unable to, section 3(a) of this rule applies, except that BACT shall be substituted for LAER required by section 3(a)(2) of this rule.
(3) A modification having an increase in emissions that is not de minimis to an existing major stationary source emitting or having the potential to emit one hundred (100) tons of ~~volatile organic compounds~~ VOC or more per year will be subject to the requirements of section 3(a) of this rule, except that the owner or operator may elect to internal offset the increase at a ratio of one and three-tenths (1.3) to one (1) as a substitute for LAER required by section 3(a)(2) of this rule.

(c) The requirements of this rule will be applied in accordance with the following:
(1) Except as otherwise provided in ~~subsections~~ **subsection** (k) ~~and (l)~~ and consistent with the definition of major modification in section ~~1(z)~~ **1(y)** of this rule, a project is a major modification for a regulated NSR pollutant if it causes a significant emissions increase and a significant net emissions increase except for VOC emissions in a severe or serious nonattainment area for ozone. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
(2) Prior to beginning actual construction, the procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified, in accordance with this subsection, except for VOC emissions in a severe or serious nonattainment area for ozone. The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source is contained in section ~~1(dd)~~ **1(cc)** of this rule. Regardless of any preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
(3) For an actual-to-projected-actual applicability test for projects that only involve existing emissions units, a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit equals or exceeds the significant amount for that pollutant.
(4) For an actual-to-potential applicability test for projects that only involve construction of new emissions units, a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
~~(5) For a project that will be constructed and operated at a clean unit without causing the emissions unit to lose its clean unit designation, no emissions increase is considered to occur.~~
~~(6)~~ **(5)** For projects that involve a combination of emission units using the tests in subdivisions (3) ~~through (5),~~ **and (4)**, a significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subdivisions (3) ~~through (5),~~ **and (4),** as applicable, with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

(d) At the time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation that was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then this rule applies to the source or modification as though construction had not yet commenced on the source or modification.

(e) In the case of an area that has been redesignated nonattainment, any source that would not have been required to submit a permit application under 326 IAC 2-2 concerning the prevention of significant deterioration will not be subject to this rule if construction commences within eighteen (18) months of the area's redesignation.

(f) Major stationary sources or major modifications that would locate in any area designated as attainment or unclassifiable in the state and would exceed the following significant impact levels at any locality, for any pollutant that is designated as nonattainment, must meet the requirements specified in section 3(a)(1) through 3(a)(3) of this rule. All values are expressed in micrograms per cubic meter ($\mu g/m^3$):

| Pollutant | Annual | 24-hour | 8-hour | 3-hour | 1-hour |
|---|---|---|---|---|---|
| Sulfur dioxide | 1 | 5 | X | 25 | X |
| Total suspended particulates | 1 | 5 | X | X | X |
| $PM_{10}$ | 1 | 5 | X | X | X |
| Nitrous oxides | 1 | X | X | X | X |
| Carbon monoxide | X | X | 500 | X | 2,000 |

(g) This rule does not apply to a source or modification, other than a source of ~~volatile organic compounds~~ **VOC** in a serious or severe ozone nonattainment area or a source of $PM_{10}$ in a serious $PM_{10}$ area, that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(1) Coal cleaning plants (with thermal driers).
(2) Kraft pulp mills.
(3) Portland cement plants.
(4) Primary zinc smelters.
(5) Iron and steel mill plants.
(6) Primary aluminum ore reduction plants.
(7) Primary copper smelters.
(8) Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day.
(9) Hydrofluoric, sulfuric, and nitric acid plants.
(10) Petroleum refineries.
(11) Lime plants.
(12) Phosphate rock processing plants.
(13) Coke oven batteries.
(14) Sulfur recovery plants.
(15) Carbon black plants (furnace process).
(16) Primary lead smelters.
(17) Fuel conversion plants.
(18) Sintering plants.
(19) Secondary metal production plants.
(20) Chemical process plants.
(21) Fossil-fuel boilers (or combinations thereof) totaling more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
(22) Petroleum storage and transfer unit with a storage capacity exceeding three hundred thousand (300,000) barrels.
(23) Taconite ore processing plants.
(24) Glass fiber processing plants.
(25) Charcoal production plants.
(26) Fossil fuel-fired steam electric plants of more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
(27) Any other stationary source category ~~which,~~ **that,** as of August 7, 1980, is being regulated under Section 111 or 112 of the ~~Clean Air Act.~~ **CAA.**

(h) For purposes of this rule, secondary emissions from a source need not be considered in determining whether the source would qualify as a major source. If a source is subject to this rule on the basis of the direct emissions from the source, the applicable conditions must also be met for secondary emissions. The secondary emissions may be exempt from the requirements specified in section 3(a)(2) through 3(a)(3) of this rule.

(i) ~~Hazardous air pollutants~~ **HAPs** listed in and regulated by 326 IAC 14-1 are not exempt from this rule.

(j) The installation, operation, cessation, or removal of temporary clean coal technology demonstration projects funded under the Department of Energy-Clean Coal Technology Appropriations may be exempt from the requirements of section 3 of this rule. To qualify for this exemption, the project must:

**(1)** be at an existing facility;
**(2)** operate for ~~no~~ **not** more than five (5) years; and
**(3)** comply with all other applicable rules for the area.

(k) For any major stationary source operating under a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under 326 IAC 2-3.4.

~~(l) An owner or operator undertaking a PCP shall comply with the requirements under 326 IAC 2-3.3.~~

~~(m)~~ **(l)** The following specific provisions apply **with respect** to **any regulated NSR pollutant emitted from** projects at existing emissions units at a major stationary source, other than projects ~~at a clean unit or~~ at a source with a PAL, in circumstances where there is a reasonable possibility, **within the meaning of this subsection,** that a project that is not a part of a major modification may result in a significant emissions increase **of a regulated NSR pollutant,** and the owner or operator elects to use the method specified in section ~~1(mm)(2)(A)~~ **1(kk)(2)(A)** of this rule for calculating projected actual emissions:

(1) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(A) A description of the project.

(B) Identification of the emissions units whose emissions of a regulated NSR pollutant could be affected by the project.

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including **the following:**

(i) The baseline actual emissions.

(ii) The projected actual emissions.

(iii) The amount of emissions excluded under section ~~1(mm)(2)(A)(3)~~ **1(kk)(2)(A)(iii)** of this rule and an explanation for why the amount was excluded. ~~and~~

(iv) Any netting calculations, if applicable.

(2) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subdivision (1) to the department. Nothing in this subdivision shall be construed to require the owner or operator of the unit to obtain any determination from the department before beginning actual construction.

(3) The owner or operator shall:

(A) monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in subdivision (1)(B); and

(B) calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (10) years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at the emissions unit.

(4) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the department within sixty (60) days after the end of each year during which records must be generated under subdivision (3) setting out the unit's annual emissions during the year that preceded submission of the report.

(5) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified in subdivision (1), exceed the baseline actual emissions, as documented and maintained under subdivision (1)(C), by a significant amount for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subdivision (1)(C). The report shall be submitted to the department within sixty (60) days after the end of the year. The report shall contain the following:

(A) The name, address, and telephone number of the major stationary source.

(B) The annual emissions as calculated under subdivision (3).

(C) The emissions calculated under the actual to projected actual test stated in subsection (c)(3).

(D) Any other information that the owner or operator wishes to include in the report.

**(6) A reasonable possibility under this subsection occurs when the owner or operator calculates the project to result in either:**

**(A) a projected actual emissions increase of at least fifty percent (50%) of the amount that is a significant emissions increase, as defined in section 1(pp) of this rule, without reference to the amount that is a significant net emissions increase, for the regulated NSR pollutant; or**

**(B) a projected actual emissions increase that, added to the amount of emissions excluded under section 1(kk)(2)(A)(iii), sums to at least fifty percent (50%) of the amount that is a significant emissions increase, as defined in section 1(pp) of this rule, without reference to the amount that is a significant net emissions increase, for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this clause, and not also within the meaning of clause (A), then subdivisions (2) through (5) do not apply to the project.**

~~(6)~~ **(7)** The owner or operator of the source shall make the information required to be documented and maintained under subdivisions (1) through (5) available for review upon a request for inspection by the department. The general public may request this information from the department under 326 IAC 17.1.

*(Air Pollution Control Board; 326 IAC 2-3-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2404; filed Nov 12, 1993, 4:00 p.m.: 17 IR 728; filed Aug 17, 2001, 3:45 p.m.: 25 IR 11; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3929)*

SECTION 12. 326 IAC 2-3-3 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-3-3 Applicable requirements**

**Authority: IC 13-14-8; IC 13-17-3**
**Affected: IC 13-15; IC 13-17**

Sec. 3. (a) Prior to the issuance of a construction permit to a source subject to this rule, the applicant shall comply with the following requirements:

(1) The proposed major new source or major modification shall demonstrate that the source will meet all applicable requirements of this title, any applicable new source performance standard in 40 CFR Part 60*, or any national emission standard for ~~hazardous air pollutants~~ **HAPs** in 40 CFR Part 61*. If the commissioner determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct will be denied.

(2) The applicant will apply emission limitation devices or techniques to the proposed construction or modification such that the LAER for the applicable pollutant will be achieved.

(3) The applicant shall either demonstrate that:

**(A)** all existing major sources owned or operated by the applicant in the state are in compliance with all applicable emission limitations and standards contained in the ~~Clean Air Act~~ **CAA** and in this title; or ~~demonstrate that~~

**(B)** they are in compliance with a federally enforceable compliance schedule requiring compliance as expeditiously as practicable.

(4) The applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for the proposed source that demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(5) Emissions resulting from the proposed construction or modification shall be offset by a reduction in actual emissions of the same pollutant from an existing source or combination of existing sources. The emission offset shall be such that there will be reasonable further progress toward attainment of the applicable ambient air quality standards as follows:

(A) Greater than one-for-one unless otherwise specified.

(B) For ozone nonattainment areas, the following table shall determine the minimum offset ratio requirements for major stationary sources of ~~volatile organic compounds:~~ **VOC:**

| Ozone Classification | Minimum Offset Requirements |
|---|---|
| Marginal | 1.1 to 1 |
| Moderate | 1.15 to 1 |
| Serious | 1.2 to 1 |
| Severe | 1.3 to 1 |

(6) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with Section 173 of the CAA shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.

(7) The applicant shall obtain the necessary preconstruction approvals and shall meet all the permit requirements specified in 326 IAC 2-5.1 or 326 IAC 2-7, as applicable.

(8) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with an applicable provision of the ~~state implementation plan~~ **SIP** and any other requirements under local, state, or federal law.

(b) The following provisions shall apply to all emission offset evaluations:

(1) Emission offsets shall be determined on a tons per year and, whenever possible, a pounds per hour basis when all facilities requiring offset involved in the emission offset calculations are operating at their maximum

potential or allowed production rate. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets shall be calculated using the allowed or actual annual operating hours, whichever is less.

(2) The baseline for determining credit for emission offsets will be the emission limitations or actual emissions, whichever is lower, in effect at the time the application to construct or modify a source is filed. Credit for emission offset purposes may be allowable for existing control that goes beyond that required by source-specific emission limitations contained in this title.

(3) In cases where the applicable rule under this title does not contain an emission limitation for a source or source category, the emission offset baseline involving the sources shall be the actual emissions determined at their maximum expected or allowable production rate.

(4) In cases where emission limitations for existing sources allow greater emissions than the potential to emit of the source, emission offset credit shall only be allowed for emissions controlled below the potential to emit.

(5) A source may receive offset credit from emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels if the reductions are permanent, quantifiable, and federally enforceable.

(A) If the area has an attainment plan approved by **the** U.S. EPA, the shutdown or curtailment is creditable only if it occurred on or after the date of the most recent emissions inventory or attainment demonstration. However, in no event may credit be given for shutdowns that occurred prior to August 7, 1977. For ~~the~~ purposes of this clause, the department may choose to consider a prior shutdown or curtailment to have occurred after the date of its most recent emissions inventory if the inventory explicitly includes, as current existing emissions, the emissions from ~~such~~ **the** previously shutdown or curtailed sources.

(B) The reductions may be credited in the absence of an approved attainment demonstration only if **the:**

(i) ~~the~~ shutdown or curtailment occurred on or after the date the new source permit application is filed; or

(ii) ~~the~~ applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source and the cutoff date provisions in clause (A) are observed.

(6) Emission offset credit involving an existing fuel combustion source will be based on the allowable emissions under other rules of this title for the type of fuel being burned at the time the new source application is filed. If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is acceptable, provided the permit is conditioned to require the use of a specific alternative control measure that would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The commissioner will grant emission offset credit for fuel switching only after ensuring that adequate supplies of the new fuel are available at least for the next ten (10) years.

(7) In the case of ~~volatile organic compound~~ **VOC** emissions, no emission offset credit may be allowed for replacing one (1) hydrocarbon compound with another of lesser reactivity, except for those compounds defined as nonphotochemically reactive hydrocarbons in 326 IAC 1-2-48.

(8) No emission reduction may be approved to offset emissions that cannot be federally enforced. Offsetting emissions shall be considered federally enforceable if the reduction is included as a condition in the applicable permit as specified in 326 IAC 2-5.1 or 326 IAC 2-7 if issued under a federally-approved air permit program.

(9) Emission reductions required under any other rule adopted by the board shall not be creditable as emission reductions and therefore cannot be used for emission offsets.

(10) Incidental emission reductions that are not otherwise required by any other rule adopted by the board shall be creditable as emission reductions for emission offsets if the emission reductions meet all of the other requirements for offsets.

(11) A source may offset by alternative or innovative means emission increases from rocket engine or motor firing and cleaning related to the firing at an existing or modified major source that tests rocket engines or motors under the following conditions:

(A) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test the engines on November 15, 1990.

(B) The source demonstrates to the satisfaction of the department that:

(i) it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels;

(ii) all available offsets are being used; and

(iii) sufficient offsets are not available to the source.

(C) The source has obtained a written finding from:

(i) the Department of Defense;

(ii) the Department of Transportation;

(iii) the National Aeronautics and Space Administration; or

(iv) other appropriate federal agency;

that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

(D) The source will comply with an alternative measure, imposed by the department, designed to offset any emission increases beyond permitted levels not directly offset by the source.

~~(12) Decreases in actual emissions resulting from the installation of add-on control technology or application of pollution prevention measures that were relied upon in designating an emissions unit as a clean unit or a project as a PCP cannot be used as offsets.~~

~~(13) Decreases in actual emissions occurring at a clean unit cannot be used as offsets except as provided in 326 IAC 2-3.2-1(h) and 326 IAC 2-3.2-2(j). Decreases in actual emissions occurring at a PCP cannot be used as offsets except as provided in 326 IAC 2-3.3-1(g)(4).~~

~~(14)~~ **(12)** Credit for an emissions reduction can be claimed to the extent that the department has not relied on ~~it~~ **the emission reduction credit** in:

(A) issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I*; or

(B) a demonstration for attainment or reasonable further progress.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-3-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2406; filed Nov 12, 1993, 4:00 p.m.: 17 IR 730; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1005; filed Aug 17, 2001, 3:45 p.m.: 25 IR 12; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3931)*

SECTION 13. 326 IAC 2-5.1-2 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-5.1-2 Registrations**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**
**Affected: IC 4-21.5-3-4; IC 13-15-4-9; IC 13-17**

Sec. 2. (a) On and after ~~the effective date of this rule,~~ **December 25, 1998,** this section applies to the following new sources:

(1) Sources with a potential to emit within the following ranges:

(A) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of either particulate matter (PM) or particulate matter less than ten (10) microns ($PM_{10}$).

(B) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of the following pollutants:

(i) Sulfur dioxide ($SO_2$).

(ii) Nitrogen oxides ($NO_x$).

(C) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of ~~volatile organic compounds~~ VOC for sources not described in clause (D).

(D) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of ~~volatile organic compounds~~ VOC for sources that require the use of air pollution control equipment to comply with the applicable provisions of 326 IAC 8.

(E) Less than one hundred (100) tons per year and equal to or greater than twenty-five (25) tons per year of carbon monoxide (CO).

(F) Less than five (5) tons per year and equal to or greater than two-tenths (0.2) ton per year of lead (Pb).

(G) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of the following regulated air pollutants:

(i) Hydrogen sulfide ($H_2S$).

(ii) Total reduced sulfur (TRS).

(iii) Reduced sulfur compounds.

(iv) Fluorides.

(2) Any source that:

(A) is subject to 326 IAC 20-8; and

(B) consists of only decorative chromium electroplating tanks that use a trivalent chromium process that incorporates a wetting agent.

(b) No person subject to subsection (a) shall construct or operate any new source subject to this section without registering the new source with the commissioner.

(c) The registrant shall submit an application in accordance with this rule to the commissioner. The application shall include the following information:
(1) **The** company name and address.
(2) Descriptive information as follows:
(A) A description of the nature and location of the proposed construction or modification.
(B) The design capacity and typical operating schedule of the proposed construction or modification.
(C) A description of the source and the emissions unit or units comprising the source.
(D) A description of any emission control equipment, including design specifications.
(3) A schedule for construction or modification of the source.
(4) Information on the nature and amount of pollutants to be emitted and any other information determined by the commissioner as necessary to demonstrate compliance with the ambient air quality standards.
(5) Each application shall be signed by an authorized individual, unless otherwise noted, whose signature constitutes an acknowledgement that the applicant assumes the responsibility of assuring that the source, emissions unit or units, or emission control equipment will be constructed and will operate in compliance with all applicable state air pollution control rules and the requirements of the CAA. ~~Such~~ **The** signature shall:
**(A)** constitute affirmation that the statements in the application are true and complete, as known at the time of completion of the application; and ~~shall~~
**(B)** subject the applicant to liability under state laws forbidding false or misleading statements.

(d) Upon receipt of the information requested, the commissioner shall make a final determination within the time period described under 326 IAC 2-1.1-8.

(e) If the commissioner finds an application submitted in accordance with this rule to be incomplete, the commissioner shall mail a notice of deficiency to the applicant that specifies the portions of the application that:
(1) do not contain adequate information for the commissioner to process the application; or
(2) are not consistent with applicable law or rules.
The applicant shall forward the required additional information to the commissioner, or request additional time for providing the information, within sixty (60) days of receipt of the notice of deficiency. If the additional information is not submitted within sixty (60) days, or the additional time provided by the commissioner, the application may be denied in accordance with IC 13-15-4-9.

(f) A registration issued by the commissioner shall include terms and conditions that include all of the following:
(1) Identification of any and all applicable requirements.
(2) A physical description of the emissions unit or units and operating information consistent with the application information.
(3) A requirement that an authorized individual provide an annual notice to the department that the source is in operation and in compliance with the registration.
(4) An approval to operate in accordance with 326 IAC 2-5.5.

(g) A registration issued by the commissioner may include terms and conditions that require monitoring, record keeping, and reporting as necessary to assure compliance with all applicable requirements.

(h) The issuance of a registration shall not be subject to the public notice requirements under 326 IAC 2-1.1-6, but the commissioner shall provide for public notice ~~pursuant to~~ **under** IC 4-21.5-3-4.

(i) The commissioner shall not issue a registration that limits a source's potential to emit.

*(Air Pollution Control Board; 326 IAC 2-5.1-2; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1008; readopted filed Oct 22, 2004, 10:35 a.m.: 28 IR 791)*

SECTION 14. 326 IAC 2-5.1-3 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-5.1-3 Permits**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**
**Affected: IC 13-15-4-9; IC 13-17**

Sec. 3. (a) On and after ~~the effective date of this rule,~~ **December 25, 1998**, a new source must obtain a construction permit prior to beginning construction of an emissions unit under either of the following conditions:

(1) The potential to emit is equal to or greater than the following:

(A) One (1) ton or more per year of lead or lead compounds measured as elemental lead and the source is one (1) of the following:

(i) A primary lead smelter.
(ii) A secondary lead smelter.
(iii) A primary copper smelter.
(iv) A lead gasoline additive plant.
(v) A lead-acid storage battery manufacturing plant that produces two thousand (2,000) or more batteries per day.

(B) Five (5) tons or more per year of lead or lead compounds measured as elemental lead and the source is not listed in clause (A).

(C) One hundred (100) tons per year of carbon monoxide (CO).

(D) Ten (10) tons per year of any single ~~hazardous air pollutant~~ **HAP** or twenty-five (25) tons per year of any combination of ~~hazardous air pollutants~~ **HAPs** listed pursuant to Section 112(b) of the CAA.

(E) Twenty-five (25) tons per year of the following regulated air pollutants:

(i) Particulate matter (PM) or particulate matter less than ten (10) microns ($PM_{10}$).
(ii) Sulfur dioxide ($SO_2$).
(iii) Nitrogen oxides ($NO_x$).
(iv) ~~Volatile organic compounds~~ VOC.
(v) Hydrogen sulfide ($H_2S$).
(vi) Total reduced sulfur (TRS).
(vii) Reduced sulfur compounds.
(viii) Fluorides.

(2) The source belongs to any of the following source categories:

(A) A source consisting of a chromium electroplating tank, chromium anodizing tank, or an operation subject to 326 IAC 20-8. Sources consisting only of decorative chromium electroplating tanks that use a trivalent chromium process that incorporates a wetting agent that are subject to section 2 of this rule are not included.

(B) A source that includes medical waste incinerators subject to 40 CFR 60, Subpart Ec*.

(C) Area or minor sources that include an emission unit or units that require a Part 70 operating permit under 326 IAC 2-7.

(b) Any person proposing the construction of a new source and required to obtain a construction permit under subsection (a), including any source or emissions unit that is subject to 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-4.1, shall prepare and submit a permit application to the commissioner in accordance with subsection (c).

(c) At a minimum, an application shall include the following information:

(1) The company name and address.

(2) The following descriptive information:

(A) A description of the nature and location of the proposed construction or modification.

(B) The design capacity and typical operating schedule of the proposed construction or modification.

(C) A description of the source and the emissions unit or units comprising the source.

(D) A description of any emission control equipment, including design specifications.

(3) A schedule for construction or modification of the source.

(4) The following information as needed to assure all reasonable information is provided to evaluate compliance consistent with the permit terms and conditions, the underlying requirements of this title and the CAA, the ambient air quality standards set forth in 326 IAC 1-3, or the prevention of significant deterioration maximum allowable increase under 326 IAC 2-2:

(A) Information on the nature and amount of the pollutants to be emitted, including an estimate of the potential to emit any regulated air pollutants.

(B) Estimates of offset credits as required under 326 IAC 2-3, for sources to be constructed in nonattainment areas.

(C) Monitoring, testing, reporting, and record keeping requirements.

(D) Any other information (including, but not limited to, the air quality impact) determined by the commissioner to be necessary to demonstrate compliance with the requirements of this title and the requirements of the CAA, whichever are applicable.

(5) Each application shall be signed by an authorized individual, unless otherwise noted, whose signature

constitutes an acknowledgement that the applicant assumes the responsibility of assuring that the source, emissions unit or units, or emission control equipment will be constructed and will operate in compliance with all applicable Indiana air pollution control rules and the requirements of the CAA. ~~Such~~ **The** signature shall:

**(A)** constitute affirmation that the statements in the application are true and complete, as known at the time of completion of the application; and ~~shall~~

**(B)** subject the applicant to liability under state laws forbidding false or misleading statements.

(d) If the commissioner finds an application submitted in accordance with this rule to be incomplete, the commissioner shall mail a notice of deficiency to the applicant that specifies the portions of the application that:

(1) do not contain adequate information for the commissioner to process the application; or

(2) are not consistent with applicable law or rules.

The applicant shall forward the required additional information to the commissioner, or request additional time for providing the information, within sixty (60) calendar days of receipt of the notice of deficiency. If the additional information is not submitted within sixty (60) calendar days, or the additional time provided by the commissioner, the application may be denied in accordance with IC 13-15-4-9.

(e) Permits issued under this article 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~~ **The** 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 326 IAC 2-6.1-6, 326 IAC 2-7-12, or 326 IAC 2-8-11.1.

(4) The following requirements with respect to compliance:

(A) The commissioner may require stack testing, monitoring, or reporting at any time to assure compliance with all applicable requirements. Any monitoring or testing shall be performed in accordance with 326 IAC 3 or other methods approved by the commissioner.

(B) 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:

(i) Enter upon the premises where:

**(AA)** a permitted source is located or emissions related activity is conducted; or ~~where~~

**(BB)** records required by a permit term or condition are kept.

(ii) Have access to and copy any records that must be kept under this title or the conditions of a permit or permit revision.

(iii) Inspect any:

**(AA)** operations;

**(BB)** processes;

**(CC)** emissions units (including monitoring and air pollution control equipment); or

**(DD)** practices;

regulated or required under a permit or permit revision.

(iv) 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.

(v) Document alleged violations using cameras or video equipment. ~~Such~~ **The** documentation may be subject to a claim of confidentiality under ~~326 IAC 17.~~ **326 IAC 17.1.**

(5) For sources that will operate pursuant to an operating permit under 326 IAC 2-6.1, 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. The commissioner may request that the source provide an identification of all emissions 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.

(f) Any permit issued under this section shall conform to the permit content requirements under subsection (e), except for the following:

(1) Any permit that includes limitations on the potential to emit of a source must conform with the federally enforceable state operating permit (FESOP) permit content and compliance requirements under 326 IAC 2-8-4 and 326 IAC 2-8-5.
(2) An applicant may request that the permit content and compliance requirements conform with the Part 70 requirements under 326 IAC 2-7-5 and 326 IAC 2-7-6 if the applicant is also requesting that the Part 70 permit issuance requirements under 326 IAC 2-7 apply.

(g) The commissioner shall provide for public notice and comment in accordance with 326 IAC 2-1.1-6 prior to issuing a construction permit.

(h) After receiving an approval to construct and prior to receiving approval to operate, a source shall prepare an affidavit of construction as follows:
(1) The affidavit shall include the following:
(A) **The** name and title of the authorized individual.
(B) **The** company name.
(C) An affirmation that the source was constructed in conformance with the requirements and intent of the construction permit application.
(D) Identification of any changes to the source not included in the construction permit application or any amendment thereof.
(E) **The** signature of the authorized individual.
(2) The affidavit shall be notarized.
(3) A source shall submit the affidavit to the commissioner after construction has been completed.

(i) A source may not operate any air pollutant emitting source or emissions unit prior to receiving a validation letter issued by the commissioner, except as provided in the following:
(1) A source may operate upon submission of an affidavit of construction that affirms that the source is described by, and will comply with, the construction permit as issued or previously amended.
(2) The commissioner shall issue a validation letter within five (5) working days of receipt of the affidavit of construction.
(3) The validation letter may authorize the operation of all or part of the source.
(4) The validation letter may include amendments to the permit if the amendments are requested by the source and if ~~such~~ **the** amendment does not constitute a modification and require public notice and comment under 326 IAC 2-1.1-6.
(5) A validation letter may not approve the operation of any emissions unit if an amendment requested by the source would constitute a modification and require public notice and comment under 326 IAC 2-1.1-6.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-5.1-3; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1009; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106; filed May 21, 2002, 10:20 a.m.: 25 IR 3059)*

SECTION 15. 326 IAC 2-5.5-2 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-5.5-2 Compliance schedule**

**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) Any chrome electroplating source that meets the applicability criteria under section 1(b)(2) of this rule shall apply for approval under this rule ~~no~~ **not** later than ~~twelve (12) months from the effective date of this rule.~~ **December 25, 1999.**

(b) Any existing source not described by subsection (a) that has a valid air registration shall apply for approval under this rule ~~no~~ **not** later than ~~twenty-four (24) months from the effective date of this rule.~~ **December 25, 2000.**

(c) Any existing source not described by subsection (a) that does not have a valid air registration shall apply for approval under this rule ~~no~~ **not** later than ~~twelve (12) months from the effective date of this rule.~~ **December 25, 1999.**

*(Air Pollution Control Board; 326 IAC 2-5.5-2; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1012; readopted filed Oct 22, 2004, 10:35 a.m.: 28 IR 793)*

SECTION 16. 326 IAC 2-6.1-3 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-6.1-3 Compliance schedule**

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

Sec. 3. (a) Any chrome electroplating source that meets the applicability criteria under 326 IAC 2-5.1-3 or medical waste incinerator subject to 40 CFR 60, Subpart Ce*, shall apply for approval under this rule ~~no~~ **not** later than ~~twelve (12) months from the effective date of this rule.~~ **December 25, 1999.**

(b) Any existing source not described by subsection (a) that has a valid air operating permit must apply for approval under this rule ~~no~~ **not** later than ninety (90) days prior to the expiration date of that permit, except for the following:
(1) A source subject to the Part 70 Operating Permit Program under 326 IAC 2-7.
(2) A source subject to the FESOP program under 326 IAC 2-8.
(3) A source subject to source specific operating agreement requirements under 326 IAC 2-9.
(4) A source subject to the requirements under 326 IAC 2-10 or 326 IAC 2-11.

(c) Any existing source not described by subsection (a) that does not have a valid air operating permit shall apply for approval under this rule ~~no~~ **not** later than ~~twelve (12) months from the effective date of this rule.~~ **December 25, 1999.**

(d) Submittal of a complete Part 70 operating permit application under 326 IAC 2-7-3 and 326 IAC 2-7-4, whether before or after the effective date of this rule, shall satisfy the requirements of this rule.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-6.1-3; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1015; filed May 21, 2002, 10:20 a.m.: 25 IR 3062; readopted filed Oct 22, 2004, 10:35 a.m.: 28 IR 795)*

SECTION 17. 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, **and 326 IAC 2-1.1,** the following definitions apply throughout this rule unless expressly stated otherwise or unless the context clearly implies otherwise:
(1) "Acid rain program" means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with Title IV of the CAA, 40 CFR 72*, and 40 CFR 75* through 40 CFR 78*, 58 FR 3590*, and regulations implementing Sections 407 and 410 of the CAA.
(2) "Actual emissions" means the actual rate of emissions in tons per year of any regulated pollutant emitted

from a Part 70 source over the preceding calendar year or any other period determined by the commissioner to be representative of normal source operation.

(3) "Affected source" shall have the meaning given to it in the regulations promulgated under Title IV of the CAA.

(4) "Affected states" means all states:

(A) whose air quality may be affected and are contiguous to the state of Indiana; or

(B) that are within fifty (50) miles of the permitted source.

(5) "Affected unit" shall have the meaning given to it in the regulations promulgated under Title IV of the CAA.

(6) "Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source (including requirements that have been promulgated or approved by the U.S. EPA through rulemaking at the time of permit issuance but have future effective compliance dates):

(A) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the U.S. EPA through rulemaking under Title I of the CAA that implements the relevant requirements of the CAA, including any revisions to that plan promulgated in 40 CFR 52*.

(B) Any term or condition of any preconstruction permits issued under regulations approved or promulgated through rulemaking under Title I, including Part C or D of the CAA.

(C) Any standard or other requirement under Section 111 of the CAA, including Section 111(d) of the CAA.

(D) Any standard or other requirement under Section 112 of the CAA, including any requirement concerning accident prevention under Section 112(r)(7) of the CAA.

(E) Any standard or other requirement of the acid rain program under Title IV of the CAA or the regulations promulgated thereunder.

(F) Any requirements established under Section 504(b) or 114(a)(3) of the CAA.

**(G) Any standard or other requirement under Section 126(a)(1) and 126(c) of the CAA.**

~~(G)~~ **(H)** Any standard or other requirement governing solid waste incineration under Section 129 of the CAA.

~~(H)~~ **(I)** Any standard or other requirement for consumer and commercial products under Section 183(e) of the CAA.

~~(I)~~ **(J)** Any standard or other requirement for tank vessels under Section 183(f) of the CAA.

~~(J)~~ **(K)** Any standard or other requirement of the Code of Federal Regulations promulgated to protect stratospheric ozone under Title VI of the CAA, unless the U.S. EPA has determined that ~~such~~ **the** requirements need not be contained in a Part 70 permit.

~~(K)~~ **(L)** Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the CAA, but only as it would apply to temporary sources permitted under Section 504(e) of the CAA.

(7) "Area source" means any stationary source of ~~hazardous air pollutants~~ **HAPs** that is not a major source. ~~This~~ **The** term does not include motor vehicles or nonroad vehicles subject to regulation under Title II of the CAA.

(8) "Clean Air Act" or "CAA" means the Clean Air Act, as amended (including the Clean Air Act Amendments of 1990 (P.L.101-549)), 42 U.S.C. 7401, et seq.

(9) "Code of Federal Regulations" or "CFR", unless otherwise provided, means **the following:**

(A) With respect to 40 CFR **, generally, the July 1, 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:~~ **that:**

(A) requires immediate corrective action to restore normal operation; and

(B) causes the source to exceed an emission limit under a Part 70 permit due to unavoidable increases in emissions attributable to the emergency.

~~An emergency~~ **The term** shall not include noncompliance to the extent caused by improperly designed equipment, failure to implement an adequate preventive maintenance plan, careless or improper operation, or operator error.

(13) "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 ($SO_2$) per hour, pounds of sulfur dioxide ($SO_2$) 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 $SO_2$). 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~~ **The** 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~~ **that** 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~~ **HAPs** promulgated under 40 CFR 61*, including 326 IAC 14;

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

(C) limits relied upon in a formal attainment demonstration supporting a ~~state implementation plan~~ **SIP** 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**, subject to clauses (A) through (D),** specified in clauses ~~(A)~~ **(E)** through ~~(G)~~ **(K)** as follows:

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

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

**(i) major source status;**

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

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

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

**(C) Notwithstanding any other provision of this rule or 326 IAC 2-6, emissions from activities defined as insignificant in this subdivision or trivial in subdivision (40) need not be included in a source's annual emission statement required by 326 IAC 2-6.**

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

**(i) meets the definition of insignificant activity of this subdivision or trivial activity of subdivision (40);**

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

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

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

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

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

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

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

(iv) For ~~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)~~ **(F)** 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 ($PM_{10}$), the exemption level is either five (5) pounds per hour or twenty-five (25) pounds per day.

~~(C)~~ **(G)** For units with potential uncontrolled emissions of HAPs, that are not listed as insignificant in clauses ~~(D)~~ **(H)** through ~~(G)~~ **(L)** 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)~~ **(H)** 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)~~ **(I)** 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)~~ **(J)** 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)~~ **(K)** Any of the following listed activities:

(i) Combustion related activities, ~~including the following:~~ **as follows:**

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

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

(bb) Propane or 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 start-up.
(ii) Fuel dispensing activities, ~~including the following:~~ **as follows**:
(AA) A gasoline fuel transfer dispensing operation handling less than or equal to one thousand three hundred (1,300) gallons per day and filling storage tanks having a capacity equal to or less than ten thousand five hundred (10,500) gallons. Such storage tanks may be in a fixed location or on mobile equipment.
(BB) A petroleum fuel other than gasoline dispensing facility, having a storage tank capacity less than or equal to ten thousand five hundred (10,500) gallons, and dispensing three thousand five hundred (3,500) gallons per day or less.
(iii) The following VOC and HAP storage containers:
(AA) Storage tanks with capacity less than or equal to one thousand (1,000) gallons and annual throughputs equal to or less than twelve thousand (12,000) gallons.
(BB) Vessels storing the following:
(aa) Lubricating oils.
(bb) Hydraulic oils.
(cc) Machining oils.
(dd) Machining fluids.
(iv) Refractory storage not requiring air pollution control equipment.
(v) Equipment used exclusively for the following:
(AA) Packaging the following:
(aa) Lubricants.
(bb) Greases.
(BB) Filling drums, pails, or other packaging containers with the following:
(aa) Lubricating oils.
(bb) Waxes.
(cc) Greases.
(vi) Production related activities, including the following:
(AA) Application of:
(aa) oils;
(bb) greases;
(cc) lubricants; and
(dd) nonvolatile material;
as temporary protective coatings.
(BB) Machining where an aqueous cutting coolant continuously floods the machining interface.
(CC) Degreasing operations that do not exceed one hundred forty-five (145) gallons per twelve (12) months, except if subject to 326 IAC 20-6.
(DD) Cleaners and solvents characterized as **having a vapor pressure equal to or less than:**
(aa) ~~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 **per year.**
(bb) Using eighty (80) tons or less of welding consumables **per year.**
(vii) Activities associated with the following recovery systems:
(AA) Rolling oil recovery systems.
(BB) Ground water oil recovery wells.
(viii) Solvent recycling systems with batch capacity less than or equal to one hundred (100) gallons.
(ix) Water based activities, including the following:
(AA) Activities associated with the treatment of wastewater streams with an oil and grease content less than or equal to one percent (1%) by volume.
(BB) Water run-off ponds for petroleum coke-cutting and coke storage piles.
(CC) Activities associated with the transportation and treatment of sanitary sewage, provided discharge to the treatment plant is under the control of the owner or operator, that is, an on-site sewage treatment facility. **This does not include sanitary sludge incineration.**
(DD) Any operation using aqueous solutions containing less than or equal to one percent (1%) by weight of VOCs excluding HAPs.
(EE) Water based adhesives that are less than or equal to five percent (5%) by volume of VOCs excluding HAPs.
(FF) Noncontact cooling tower systems with either of the following:
(aa) Natural draft cooling towers not regulated under a NESHAP.
(bb) Forced and induced draft cooling tower systems not regulated under a NESHAP.
(GG) Quenching operations used with heat treating processes.
Oil, grease, or VOC content shall be determined by a test method acceptable to the department and the U.S. EPA.
(x) Repair activities, including the following:
(AA) Replacement or repair of electrostatic precipitators, bags in baghouses, and filters in other air filtration equipment.
(BB) Heat exchanger cleaning and repair.
(CC) Process vessel degassing and cleaning to prepare for internal repairs.
(xi) Trimmers that:
**(AA)** do not produce fugitive emissions; and ~~that~~
**(BB)** are equipped with a dust collection or trim material recovery device, such as a bag filter or cyclone.
(xii) Stockpiled soils from soil remediation activities that are covered and waiting transport for disposal.
(xiii) Paved and unpaved roads and parking lots with public access.
(xiv) Conveyors as follows:
(AA) Covered conveyors for solid raw material, including the following:
(aa) Coal or coke conveying of less than or equal to three hundred sixty (360) tons per day.
(bb) Limestone conveying of less than or equal to seven thousand two hundred (7,200) tons per day for sources other than mineral processing plants constructed after August 31, 1983.
(BB) Uncovered coal or coke conveying of less than or equal to one hundred twenty (120) tons per day.
(CC) Underground conveyors.
(DD) Enclosed systems for conveying plastic raw material and plastic finished goods.
(xv) Coal bunker and coal scale exhausts and associated dust collector vents.
(xvi) Asbestos abatement projects regulated by 326 IAC 14-10.
(xvii) Routine maintenance and repair of buildings, structures, or vehicles at the source where air emissions from those activities would not be associated with any production process, including the following:
(AA) Purging of gas lines.
(BB) Purging of vessels.
(xviii) Flue gas conditioning systems and associated chemicals, such as the following:
(AA) Sodium sulfate.
(BB) Ammonia.
(CC) Sulfur trioxide.
(xix) Equipment used to collect any material that might be released during a malfunction, process upset, or spill cleanup, including the following:
(AA) Catch tanks.
(BB) Temporary liquid separators.
(CC) Tanks.
(DD) Fluid handling equipment.
(xx) Blowdown for the following:

(AA) Sight glass.
(BB) Boiler.
(CC) Cooling tower.
(DD) Compressors.
(EE) Pumps.
(xxi) Furnaces used for melting metals other than beryllium with a brim full capacity equal to or less than four hundred fifty (450) cubic inches by volume.
(xxii) Activities associated with emergencies, including the following:
(AA) On-site fire training approved by the department.
(BB) Emergency generators as follows:
(aa) Gasoline generators not exceeding one hundred ten (110) horsepower.
(bb) Diesel generators not exceeding one thousand six hundred (1,600) horsepower.
(cc) Natural gas turbines or reciprocating engines not exceeding sixteen thousand (16,000) horsepower.
(CC) Stationary fire pump engines.
(xxiii) Grinding and machining operations controlled with fabric filters, scrubbers, mist collectors, wet collectors, and electrostatic precipitators with a design grain loading of less than or equal to three one-hundredths (0.03) grains per actual cubic foot and a gas flow rate less than or equal to four thousand (4,000) actual cubic feet per minute, including the following:
(AA) Deburring.
(BB) Buffing.
(CC) Polishing.
(DD) Abrasive blasting.
(EE) Pneumatic conveying.
(FF) Woodworking operations.
(xxiv) Purge double block and bleed valves.
(xxv) Filter or coalescer media changeout.
(xxvi) Vents from ash transport systems not operated at positive pressure.
(xxvii) Mold release agents using low volatile products (vapor pressure less than or equal to two (2) kilo Pascals measured at thirty-eight (38) degrees Centigrade).
(xxviii) Farm operations**, except concentrated animal feeding operations as defined in 40 CFR 122.23**.
(xxix) Woodworking equipment controlled by a baghouse provided that the following criteria are met:
(AA) The baghouse does not exhaust to the atmosphere greater than one hundred twenty-five thousand (125,000) cubic feet per minute.
(BB) The baghouse does not emit 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) has all applicable requirements and associated monitoring in the current permit; and~~

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

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

(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~~ **the** source or group of stationary sources on contiguous or adjacent properties belong to the same major group ~~(i.e.,~~ **(that is,** all have the same two (2) digit code) as described in the Standard Industrial Classification Manual, 1987*. For purposes of clauses (B) and (C), any stationary source (or group of stationary sources) that supports another source, where both are under common control of the same person (or persons under common control) and are located on contiguous or adjacent properties, shall be considered a support facility and part of the same source regardless of the two (2) digit SIC code for that support facility. A stationary source (or group of stationary sources) is considered a support facility to a source if at least fifty percent (50%) of the output of the support facility is dedicated to the source. ~~This~~ **The** term includes the following:

(A) A major source under Section 112 of the CAA, which is defined as follows:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate:

(AA) ten (10) tons per year (tpy) or more of any ~~hazardous air pollutant~~ **HAP** 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;~~ **HAPs;** or

(CC) such lesser quantity as the U.S. EPA may establish by rule.

(ii) Notwithstanding item (i):

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

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

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

(B) A major stationary source of air pollutants, as defined in Section 302 of the CAA, that directly emits or has the potential to emit, one hundred (100) tpy or more of any 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~~ **VOC** or oxides of nitrogen in areas classified as marginal or moderate;
(BB) fifty (50) tpy or more of ~~volatile organic compounds~~ **VOC** or oxides of nitrogen in areas classified as serious;
(CC) twenty-five (25) tpy or more of ~~volatile organic compounds~~ **VOC** or oxides of nitrogen in areas classified as severe; or
(DD) ten (10) tpy or more of ~~volatile organic compounds~~ **VOC** 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.~~ **VOC.**
(iii) For carbon monoxide nonattainment areas:
(AA) that are classified as serious; and
(BB) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the U.S. EPA;
sources with the potential to emit fifty (50) tpy or more of carbon monoxide.
(iv) For particulate matter $PM_{10}$ nonattainment areas classified as serious, sources with the potential to emit seventy (70) tpy or more of $PM_{10}$.

(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~~ **the** costs are incurred by the commissioner or other state or local agencies that do not issue Part 70 permits directly, but that support Part 70 permit issuance or administration).

(26) "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.~~ **VOC.**

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

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

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

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

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

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

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

(A) Carbon monoxide.

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

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

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

(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 **the:**

(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~~ **the** representative is approved in advance by the commissioner.

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

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

(D) For affected sources:

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

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

(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~~ **the** meaning is clear from the context. For purposes of the acid rain program, the term shall be limited to authorities within the forty-eight (48) contiguous states and the District of Columbia as provided in Section 402(14) of the CAA.

(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 man-made 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~~ **SIP** approved by the U.S. EPA under Section 110(a)(2)(K) of the CAA.

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

**(A) A change in a source's trivial activities or the addition of a trivial activity shall not constitute a modification for purposes of section 12 of this rule, if the new activity or modified activity:**

**(i) meets the definition of trivial activity of this subdivision;**

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

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

**(B) Trivial activities do not need to be included in a permit application required under this rule or 326 IAC 2-8, provided that the applicant documents applicable requirements and compliance status as required by section 4 of this rule. Upon request, the applicant shall submit any information necessary to fulfill the requirements of this rule or 326 IAC 2-8.**

~~(A)~~ **(C)** Any activity or emission unit:

(i) not regulated by a NESHAP, with potential uncontrolled emissions that are equal to or less than one (1) pound per day on an emission unit basis for any single HAP or combination of HAPs; and

(ii) for which the potential uncontrolled emissions meet the exemption levels specified in the following:

(AA) For lead or lead compounds measured as elemental lead, potential uncontrolled emissions that are equal to or less than one (1) pound per day.

(BB) For carbon monoxide (CO), potential uncontrolled emissions that are equal to or less than one (1) pound per day.

(CC) For sulfur dioxide, potential uncontrolled emissions that are equal to or less than one (1) pound per day.

(DD) For ~~volatile organic compounds~~ VOC, potential uncontrolled emissions that are equal to or less than one (1) pound per day.

(EE) For nitrogen oxides ($NO_x$), potential uncontrolled emissions that are equal to or less than one (1) pound per day.

(FF) For particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers ($PM_{10}$), potential uncontrolled emissions that are equal to or less than one (1) pound per day.

~~(B)~~ **(D)** Water related activities, including the following:

(i) Production of hot water for on-site personal use not related to any industrial or production process.

(ii) Water treatment activities used to provide potable and process water for the plant, excluding any activities associated with wastewater treatment.

(iii) Steam traps, vents, leaks, and safety relief valves.

(iv) Cooling ponds.

(v) Laundry operations using only water solutions of bleach or detergents.

(vi) Demineralized water tanks and demineralizer vents.

(vii) Boiler water treatment operations, not including cooling towers.

(viii) Oxygen scavenging (deaeration) of water.

(ix) Steam cleaning operations and steam sterilizers.

(x) Pressure washing of equipment.

(xi) Water jet cutting operations.

~~(C)~~ **(E)** Combustion activities, including the following:

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

(ii) Combustion emissions from propulsion of mobile sources.

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

(iv) Tobacco smoking rooms and areas.

(v) Blacksmith forges.

(vi) Indoor and outdoor kerosene heaters.

~~(D)~~ **(F)** Activities related to ventilation, venting equipment, and refrigeration, including the following:

(i) Ventilation exhaust, central chiller water systems, refrigeration, and air conditioning equipment, not related to any industrial or production process, including natural draft hoods or ventilating systems that do not remove air pollutants.

(ii) Stack and vents from plumbing traps used to prevent the discharge of sewer gases, handling domestic sewage only, excluding those at wastewater treatment plants or those handling any industrial waste.

(iii) Vents from continuous emissions monitors and other analyzers.

(iv) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities.

(v) Air vents from air compressors.

(vi) Vents for air cooling of electric motors provided the air does not commingle with regulated air pollutants.

(vii) Vents from equipment used to air blow water from cooled plastics strands or sheets.

~~(E)~~ **(G)** Activities related to routine fabrication, maintenance, and repair of buildings, structures, equipment, or vehicles at the source where air emissions from those activities would not be associated with any commercial production process, including the following:

(i) Activities associated with the repair and maintenance of paved and unpaved roads, including paving or sealing, or both, of parking lots and roadways.

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

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

(iv) Portable blast-cleaning equipment with enclosures.

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

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

(vii) Lubrication, including the following:

(AA) Hand-held spray can lubrication.

(BB) Dipping metal parts into lubricating oil.

(CC) Manual or automated addition of cutting oil in machining operations.

(viii) Nonasbestos insulation installation or removal.

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

(x) Bead blasting of heater tubes.

(xi) Instrument air dryer and filter maintenance.

(xii) Manual tank gauging.

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

~~(F)~~ **(H)** Activities performed using hand-held equipment, including the following:

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

(ii) Buffing.

(iii) Carving.

(iv) Cutting, excluding cutting torches.

(v) Drilling.

(vi) Grinding.

(vii) Machining wood, metal, or plastic.

(viii) Polishing.

(ix) Routing.

(x) Sanding.

(xi) Sawing.

(xii) Surface grinding.

(xiii) Turning wood, metal, or plastic.

~~(G)~~ **(I)** Housekeeping and janitorial activities and supplies, including the following:

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

(ii) Steam cleaning activities.

(iii) Restrooms and associated cleanup operations and supplies.

(iv) Alkaline or phosphate cleaners and associated equipment.
(v) Mobile floor sweepers and floor scrubbers.
(vi) Pest control fumigation.

~~(H)~~ **(J)** Office related activities, including the following:
(i) Office supplies and equipment.
(ii) Photocopying equipment and associated supplies.
(iii) Paper shredding.
(iv) Blueprint machines, photographic equipment, and associated supplies.

~~(I)~~ **(K)** Lawn care and landscape maintenance activities and equipment, including the storage, spraying, or application of insecticides, pesticides, and herbicides.

~~(J)~~ **(L)** Storage equipment and activities, including the following:
(i) Pressurized storage tanks and associated piping for the following:
(AA) Acetylene.
(BB) Anhydrous ammonia.
(CC) Carbon monoxide.
(DD) Chlorine.
(EE) Inorganic compounds.
(FF) Liquid petroleum gas (LPG).
(GG) Liquid natural gas (LNG) (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:
**(AA)** soap;
**(BB)** vegetable oil;
**(CC)** grease;
**(DD)** wax;
**(EE)** animal fat; and
**(FF)** nonvolatile aqueous salt solutions;
provided appropriate lids and covers are utilized.
(iv) Storage of drums containing maintenance raw materials.
(v) Storage of the following:
(AA) Castings.
(BB) Lance rods.
(CC) Any non-HAP containing material in solid form stored in a sealed or covered container.
(vi) Portable containers used for the collection, storage, or disposal of materials provided the container capacity is equal to or less than forty-six hundredths (0.46) cubic meters and the container is closed, except when the material is added or removed.

~~(K)~~ **(M)** Emergency and standby equipment, including the following:
(i) Emergency (backup) electrical generators at residential locations, such as dormitories, prisons, and hospitals.
(ii) Safety and emergency equipment except engine driven fire pumps, including fire suppression systems and emergency road flares.
(iii) Process safety relief devices installed solely for the purpose of minimizing injury to persons or damage to equipment that could result from abnormal process operating conditions, including the following:
(AA) Explosion relief vents, diaphragms, or panels.
(BB) Rupture discs.
(CC) Safety relief valves.
(iv) Activities and equipment associated with on-site medical care not otherwise specifically regulated.
(v) Vacuum-producing devices for the purpose of removing potential accidental releases.

~~(L)~~ **(N)** Sampling and testing equipment and activities, including the following:
(i) Equipment used for quality control/assurance or inspection purposes, including sampling equipment used to withdraw materials for analysis.
(ii) Hydraulic and hydrostatic testing equipment.
(iii) Ground water monitoring wells and associated sample collection equipment.
(iv) Environmental chambers not using HAP gases.
(v) Shock chambers.
(vi) Humidity chambers.
(vii) Solar simulators.

(viii) Sampling activities, including the following:
(AA) Sampling of waste.
(BB) Glove box sampling, charging, and packaging.
(ix) Instrument air dryers and distribution.

~~(M)~~ **(O)** Use of consumer products and equipment where the product or equipment is:
**(i)** used at a source in the same manner as normal consumer use; and ~~is~~
**(ii)** not associated with any production process.

~~(N)~~ **(P)** Equipment and activities related to the handling, treating, and processing of animals, including the following:
(i) Equipment used exclusively to slaughter animals, but not including the following:
(AA) Rendering cookers.
(BB) Boilers.
(CC) Heating plants.
(DD) Incinerators.
(EE) Electrical power generating equipment.
(ii) Veterinary operating rooms.

~~(O)~~ **(Q)** Activities generating limited amounts of fugitive dust, including the following:
(i) Fugitive emissions related to movement of passenger vehicles, provided the emissions are not counted for applicability purposes under subdivision (22)(B), and any required fugitive dust control plan or its equivalent is submitted.
(ii) Soil boring.
(iii) Road salting and sanding.

~~(P)~~ **(R)** Activities associated with production, including the following:
(i) Closed, nonvented tumblers used for cleaning or deburring metal products without abrasive blasting.
(ii) Electrical resistance welding.
(iii) $CO_2$ lasers, used only on metals and other materials that do not emit HAPs in the process.
(iv) Laser trimmers that:
**(AA)** do not produce fugitive emissions; and
**(BB)** are equipped with a dust collection device, such as a bag filter, cyclone, or equivalent device.
(v) Application equipment for hot melt adhesives with no VOC in the adhesive formulation.
(vi) Drop hammers or hydraulic presses for forging or metalworking.
(vii) Air compressors and pneumatically operated equipment, including hand tools.
(viii) Compressor or pump lubrication and seal oil systems.
(ix) Equipment used to mix and package:
**(AA)** soaps;
**(BB)** vegetable oil;
**(CC)** grease;
**(DD)** animal fat; and
**(EE)** nonvolatile aqueous salt solutions;
provided appropriate lids and covers are utilized.
(x) Equipment for washing or drying fabricated glass or metal products, if no:
**(AA)** VOCs or HAPs are used in the process; and ~~no~~
**(BB)** gas, oil, or solid fuel is burned.
(xi) Handling of solid steel, including coils and slabs, excluding scrap burning, scarfing, and charging into steelmaking furnaces and vessels.

~~(Q)~~ **(S)** Miscellaneous equipment, but not emissions associated with the process for which the equipment is used, and activities, including the following:
(i) Equipment used for surface coating, painting, dipping, or spraying operation, except those that will emit VOCs or HAPs.
(ii) Condensate drains for natural gas and landfill gas.
(iii) Electric or steam heated drying ovens and autoclaves, including only the heating emissions and not any associated process emissions.
(iv) Salt baths using nonvolatile salts, including caustic solutions that do not result in emissions of any regulated air pollutants.
(v) Ozone generators.
(vi) Portable dust collectors.
(vii) Scrubber systems circulating water based solutions of inorganic salts or bases that are installed to be available for response to emergency situations.
(viii) Soil borrow pits.
(ix) Manual loading and unloading operations.
(x) Purging of refrigeration devices using a combination of nitrogen and CFC-22 (R-22) as pressure test

media.
(xi) Construction and demolition operations.
(xii) Mechanical equipment gear boxes and vents that are isolated from process materials.
(xiii) Nonvolatile mold release waxes and agents.
~~(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) has all applicable requirements and associated monitoring in the current permit; and~~
~~(iii) is not a modification under any provision of Title I of the CAA.~~
~~Trivial activities do not need to be included in a permit application required under this rule or 326 IAC 2-8, provided that the applicant documents applicable requirements and compliance status as required by 326 IAC 2-7-4. Upon request, the applicant shall submit any information necessary to fulfill the requirements of 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.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**Copies of these documents 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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 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 2326; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1020; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3106; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1573)*

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~~ **the** 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~~ **The** schedule shall provide that an application shall be due ~~no~~ **not** more than twelve (12) months after **the** 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~~ **the** 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:

**(i)** request ~~such~~ **the** information in writing; and

**(ii)** 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~~, **326 IAC 17.1,** the commissioner may also require the source to submit a copy of ~~such~~ **the** 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~~ **the** failure or incorrect submittal, promptly submit ~~such~~ **the** 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) **The** company name and address (or **the** plant name and address if different from the company name).

(B) **The** owner's name and agent.

(C) **The** telephone numbers and names of **the** 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~~ **the** 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) **An** identification and **a** 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) **A** 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 326 IAC 8-1-5 or 326 IAC 10-1-3(3)(A).

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

(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~~ **the** alternative scenarios under sections 5(9) and 20(d) of this rule.

(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~~ **the** permit terms and conditions, the applicant shall include proposed replicable procedures and permit terms that ensure that emission trades conducted under ~~such~~ **the** provisions are quantifiable and enforceable.

~~(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).~~

~~(9)~~ **(8)** 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.

~~(10)~~ **(9)** 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 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~~ **the** requirements.
(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the source will meet ~~such~~ **the** 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~~ **the** requirements.
(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~~ **the** requirements.
(ii) For applicable requirements that will become effective during the Part 70 permit term, a statement that the source will meet ~~such~~ **the** 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~~ **not** 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.

~~(11)~~ **(10)** Requirements for compliance certification, including the following:

(A) A certification of compliance with all 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~~ **not** 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.

~~(12)~~ **(11)** 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.

~~(13)~~ **(12)** Identification of terms, conditions, or requirements under this title that are state enforceable and not enforceable by **the** 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~~ **the** information.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1585)*

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:

**(i)** specify and reference the origin of and authority for each term or condition; and

**(ii)** identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

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

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

**(i)** incorporated into the Part 70 permit; and ~~shall be~~

**(ii)** described in the permit as enforceable by the commissioner and the U.S. EPA.

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

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

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

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

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

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

(i) All ~~emissions~~ monitoring and analysis procedures or test methods required under the applicable requirements, including **40 CFR 64 and** any **other** procedures and methods promulgated under Section 504(b) or 114(a)(3) of the CAA.

(ii) Where an applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), such periodic monitoring specifications sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the Part 70 permit as reported under clause (C). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of this item.

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

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

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

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

(BB) The dates analyses were performed.

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

(DD) The analytical techniques or methods used.

(EE) The results of ~~such~~ **the** analyses.

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

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

(AA) All calibration and maintenance records.

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

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

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

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

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

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

(i) Submittal of reports of any required monitoring at least every six (6) months. All instances of deviations

from Part 70 permit requirements must be clearly identified in ~~such~~ **the** reports. All required reports must be certified by a responsible official consistent with section 4(f) of this rule.

(ii) The reporting of deviations from Part 70 permit requirements, including those attributable to upset conditions as defined in a Part 70 permit, the probable cause of ~~such~~ **the** 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~~ **the** increases do not require a Part 70 permit revision under any other applicable requirement.

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

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

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

(6) Provisions stating the following:

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

(i) enforcement action;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(13)~~ **(12)** A provision that requires the source to do all of the following:

(A) Maintain on-site the preventive maintenance plan required under section 4(c)(9) of this rule.

(B) Implement the preventive maintenance plan.

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

~~(14)~~ **(13)** Except as otherwise provided in section 15 or 20 of this rule, a provision providing the Part 70 permit shield described in section 15 of this rule.

~~(15)~~ **(14)** Descriptive information.

~~(16)~~ **(15)** Terms and conditions, if requested by the permit applicant, that, notwithstanding the modification approval requirements under section 10.5 of this rule or the permit modification or revision requirements under section 12 of this rule, allow the source to make specifically identified **Part 70 permit** modifications without review, provided the **Part 70** operating permit includes terms and conditions that prescribe emissions limitations and standards applicable to specifically identified modifications or types of modifications ~~which~~ **that** may occur during the term of the permit. ~~Such~~ **The** permit conditions shall include the following:

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

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

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of ~~Air Quality,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1588)*

SECTION 20. 326 IAC 2-7-6 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-7-6 Compliance requirements**

**Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11**
**Affected: IC 13-15-5; IC 13-17**

Sec. 6. Each Part 70 permit issued under this rule shall contain the following requirements with respect to compliance:

(1) Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of a Part 70 permit consistent with section 5(3) of this rule. Any document (including reports) required by a Part 70 permit shall contain a certification by a responsible official that meets the requirements of section 4(f) of this rule.

(2) Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the commissioner, an authorized representative of the commissioner, or the U.S. EPA to perform the following:

(A) Enter upon the permittee's premises where:

**(i)** a Part 70 source is located or emissions related activity is conducted; or ~~where~~

**(ii)** records must be kept under the conditions of a Part 70 permit.

(B) Have access to and copy any records that must be kept under the conditions of a Part 70 permit.

(C) Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under a Part 70 permit.

(D) As authorized by the CAA, sample or monitor substances or parameters for the purpose of assuring compliance with a Part 70 permit or applicable requirements.

(3) A compliance schedule consistent with section 4(c)(10) of this rule.

(4) Progress reports consistent with an applicable schedule of compliance and section 4(c)(10) of this rule shall be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the commissioner. ~~Such~~ **The** progress reports shall contain the following:

(A) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance and dates when ~~such~~ **the** activities, milestones, or compliance were achieved.

(B) An explanation of why any dates in the schedule of compliance were not or will not be met and any preventive or corrective measures adopted.

(5) Requirements for compliance certification with terms and conditions contained in a Part 70 permit, including emission limitations, standards, or work practices. Part 70 permits shall include each of the following:

(A) The frequency (not less than annually or such more frequent periods as specified in the applicable requirements or by the commissioner) of submissions of compliance certifications.

(B) In accordance with section 5(3) of this rule, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices.

(C) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of a Part 70 permit that is the basis of the certification.

(ii) The **identification of the method or other means used by the permittee for determining the** compliance status **with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods and means required under section 5(3) of this rule.**

(iii) ~~Whether~~ **The status of** compliance **with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period** was continuous or intermittent, **based on the method or means designated in item (ii). The certification shall identify the following:**

**(AA) Each deviation and take it into account in the compliance certification.**

**(BB) As possible exceptions to compliance, any periods during which compliance is required and in which an excursion or exceedance as defined in 40 CFR 64 occurred.**

~~(iv) The methods used for determining the compliance status of the source, currently and over the reporting period consistent with section 5(3) of this rule.~~

~~(v)~~ **(iv)** Such other facts as the commissioner may require to determine the compliance status of the source.

(D) A requirement that all compliance certifications be submitted to the U.S. EPA as well as to the commissioner.
(E) Such additional requirements as may be specified under Sections 114(a)(3) and 504(b) of the CAA.
(6) Such other provisions as the commissioner may require.

*(Air Pollution Control Board; 326 IAC 2-7-6; filed May 25, 1994, 11:00 a.m.: 17 IR 2259)*

SECTION 21. 326 IAC 2-7-10.5 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-7-10.5 Part 70 permits; source modifications**

**Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11**
**Affected: IC 13-15-5; IC 13-17**

Sec. 10.5. (a) An owner or operator of a Part 70 source proposing to:
(1) construct new emission units;
(2) modify existing emission units; or
(3) otherwise modify the source as described in this section;
shall submit a request for a modification approval in accordance with this section.

(b) Notwithstanding any other provision of this rule, the owner or operator of a source may repair or replace an emissions unit or air pollution control equipment or components thereof without prior approval if the repair or replacement:
(1) results in a potential to emit for each regulated pollutant that is less than or equal to the potential to emit of the equipment or the affected emissions unit that was repaired or replaced;
(2) is not a major modification under 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-4.1; and
(3) returns the emissions unit, process, or control equipment to normal operation after an upset, malfunction, or mechanical failure or prevents impending and imminent failure of the emissions unit, process, or control equipment.
If the repair or replacement qualifies as a reconstruction or is a complete replacement of an emissions unit or air pollution control equipment and would require a modification approval or operating permit revision under a provision of this rule, the owner or operator of the source must submit an application for a permit or permit revision to the commissioner ~~no~~ **not** later than thirty (30) calendar days after initiating the repair or replacement.

(c) Any person proposing to make a modification described in subsection (d) or (f) shall submit an application to the commissioner concerning the modification as follows:
(1) If only preconstruction approval is requested, the application shall contain the following information:
(A) The company name and address.
(B) The following descriptive information:
(i) A description of the nature and location of the proposed construction or modification.
(ii) The design capacity and typical operating schedule of the proposed construction or modification.
(iii) A description of **the following:**
**(AA)** The source and the emissions unit or units comprising the source.
~~(iv) A description of~~ **(BB)** Any proposed emission control equipment, including design specifications.
(C) A schedule for proposed construction or modification of the source.
(D) The following information as needed to assure all reasonable information is provided to evaluate compliance consistent with the permit terms and conditions, the underlying requirements of this title and the ~~Clean Air Act~~ CAA, the ambient air quality standards set forth in 326 IAC 1-3, or the prevention of significant deterioration maximum allowable increase under 326 IAC 2-2:
(i) Information on the nature and amount of the pollutant to be emitted, including an estimate of the potential to emit any regulated air pollutants.
(ii) Estimates of offset credits, as required under 326 IAC 2-3, for sources to be constructed in nonattainment areas.
(iii) Any other information, including, but not limited to, the air quality impact, determined by the commissioner to be necessary to reasonably demonstrate compliance with the requirements of this title and the requirements of the CAA, whichever are applicable.
(E) Each application shall be signed by an authorized individual, unless otherwise noted, whose signature constitutes **the following:**
**(i)** An acknowledgement that the applicant assumes the responsibility of assuring that the source,

emissions unit or units, or emission control equipment will be constructed and will operate in compliance with all applicable Indiana air pollution control rules and the requirements of the CAA. ~~The signature shall constitute~~

**(ii)** Affirmation that the statements in the application are true and complete, as known at the time of completion of the application, and shall subject the applicant to liability under state laws forbidding false or misleading statements.

(2) If the source requests that the preconstruction approval and operating permit revision be combined, the application shall contain the information in subdivision (1) and the following information consistent with section 4(c) of this rule:

(A) An identification of the applicable requirements to which the source will be subject as a result of the modification, including the applicable emission limits and standards, applicable monitoring and test methods, and applicable record keeping and reporting requirements.

(B) A description of the Part 70 permit terms and conditions that will apply to the modification and that are consistent with sections 5 and 6 of this rule.

(C) A schedule of compliance, if applicable.

(D) A statement describing what the compliance status of the modification will be after construction has been completed consistent with section 4(c)(10) of this rule.

(E) A certification consistent with section 4(f) of this rule.

(d) The following modifications shall be processed in accordance with subsection (e):

(1) Modifications that would reduce the frequency of any monitoring or reporting required by a permit condition or applicable requirement.

(2) The addition of a portable source or relocation of a portable source to an existing source if the addition or relocation would require a change to any permit terms or conditions.

(3) Modifications that would have a potential to emit within any of the following ranges:

(A) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of either particulate matter (PM) or particulate matter less than ten (10) microns ($PM_{10}$).

(B) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of the following pollutants:

(i) Sulfur dioxide ($SO_2$).

(ii) Nitrogen oxides ($NO_x$).

(iii) ~~Volatile organic compounds~~ VOC for modifications that are not described in clause (C).

(C) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of ~~volatile organic compounds~~ VOC for modifications that require the use of air pollution control equipment to comply with the applicable provisions of 326 IAC 8.

(D) Less than one hundred (100) tons per year and equal to or greater than twenty-five (25) tons per year of carbon monoxide (CO).

(E) Less than five (5) tons per year and equal to or greater than two-tenths (0.2) ton per year of lead (Pb).

(F) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of the following regulated air pollutants:

(i) Hydrogen sulfide ($H_2S$).

(ii) Total reduced sulfur (TRS).

(iii) Reduced sulfur compounds.

(iv) Fluorides.

(4) Modifications for which the potential to emit is limited to less than twenty-five (25) tons per year of any regulated pollutant other than ~~hazardous air pollutants,~~ **HAPs,** ten (10) tons per year of any single ~~hazardous air pollutant~~ **HAP** as defined under Section 112(b) of the CAA, or twenty-five (25) tons per year of any combination of ~~hazardous air pollutants~~ **HAPs** by complying with one (1) of the following constraints:

(A) Limiting total annual solvent usage or maximum ~~volatile organic compound~~ **VOC** content, or both.

(B) Limiting annual hours of operation of the process or business.

(C) Using a particulate air pollution control device as follows:

(i) Achieving and maintaining ninety-nine percent (99%) efficiency.

(ii) Complying with a no visible emission standard.

(iii) The potential to emit before controls does not exceed major source thresholds for federal permitting programs.

(iv) Certifying to the commissioner that the control device supplier guarantees that a specific outlet concentration, in conjunction with design air flow, will result in actual emissions less than twenty-five (25) tons of particulate matter (PM) or fifteen (15) tons per year of particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers ($PM_{10}$).

(D) Limiting individual fuel usage and fuel type for a combustion source.

(E) Limiting raw material throughput or sulfur content of raw materials, or both.

(5) A modification that is subject to a ~~reasonably available control technology~~ RACT, a new source performance standard (NSPS), or a national emission standard for hazardous air pollutants (NESHAP) and the RACT, NSPS, or NESHAP is the most stringent applicable requirement, except for those modifications that would be subject to the provisions of 40 CFR Part 63, Subpart B, Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources*. As part of the application required under subsection (c), the applicant shall acknowledge the requirement to comply with the RACT, NSPS, or NESHAP.

(6) A change for which a source requests an emission limit to avoid 326 IAC 8-1-6.

(7) A modification of an existing source that has a potential to emit greater than the thresholds under subdivision (3) if the modification will replace or repair a part or piece of equipment in an existing process unless the modification:

(A) results in the replacement or repair of an entire process;

(B) qualifies as a reconstruction of an entire process;

(C) may result in an increase of actual emissions; or

(D) would result in a net emissions increase greater than the significant levels in 326 IAC 2-2 or 326 IAC 2-3.

(8) A modification that has a potential to emit greater than the thresholds under subdivision (3) that adds an emissions unit or units of the same type that are already permitted and that will comply with the same applicable requirements and permit terms and conditions as the existing emission unit or units, except if the modification would result in a potential to emit greater than the thresholds in 326 IAC 2-2 or 326 IAC 2-3.

(9) For a source in Lake **County** or Porter County with the potential to emit twenty-five (25) tons per year of either VOC or $NO_x$, any modification that would result in an increase of either emissions greater than or equal to the following:

(A) Fifteen (15) pounds per day of VOCs.

(B) Twenty-five (25) pounds per day of $NO_x$.

(e) Modification approval procedures for modifications described under subsection (d) are as follows:

(1) Except as provided in 326 IAC 2-13, the source may not begin construction on any emissions unit that is necessary to implement the modification until the commissioner has approved the modification request.

(2) Within forty-five (45) calendar days from receipt of an application for a modification described under subsection (d), the commissioner shall do one (1) of the following:

(A) Approve the modification request.

(B) Deny the modification request.

(C) Determine that the minor permit revision request would cause or contribute to a violation of the National Ambient Air Quality Standard (NAAQS) or prevention of significant deterioration (PSD) standards would allow for an increase in emissions greater than the thresholds in subsection (f) or would not provide for compliance monitoring consistent with this rule and should be processed under subsection (g).

(3) The source may begin construction as follows:

(A) If the source has a final Part 70 permit and only requests preconstruction approval or if the source does not have a final Part 70 permit, the source may begin construction upon approval by the commissioner. Notwithstanding IC 13-15-5, the commissioner's approval shall become effective immediately. Operation of the modification shall be as follows:

(i) For a source that has a final Part 70 permit, operation of the modification may commence in accordance with section 12 of this rule.

(ii) For a source without a final Part 70 permit, operation may begin after construction is completed.

(B) If the source requests that the preconstruction approval and operating permit revision be combined, the source may begin construction upon approval and operation may begin in accordance with section 12 of this rule.

(f) The following modifications shall be processed in accordance with subsection (g):

(1) Any modification that would be subject to 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-4.1.

(2) A modification that is subject to 326 IAC 8-1-6.

(3) Any modification with a potential to emit lead at greater than or equal to one (1) ton per year.

(4) Any modification with a potential to emit greater than or equal to twenty-five (25) tons per year of any of the following pollutants:

(A) Particulate matter (PM) or particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers ($PM_{10}$).

(B) Sulfur dioxide ($SO_2$).

(C) Nitrogen oxides ($NO_x$).

(D) ~~Volatile organic compounds~~ VOC.

(E) Hydrogen sulfide ($H_2S$).
(F) Total reduced sulfur (TRS).
(G) Reduced sulfur compounds.
(H) Fluorides.

(5) For a source of lead with a potential to emit greater than or equal to five (5) tons per year, a modification that would increase the potential to emit greater than or equal to six-tenths (0.6) ton per year.

(6) Any modification with a potential to emit greater than or equal to ten (10) tons per year of a single ~~hazardous air pollutant~~ **HAP** as defined under Section 112(b) of the CAA or twenty-five (25) tons per year of any combination of ~~hazardous air pollutants.~~ **HAPs.**

(7) Any modification with a potential to emit greater than or equal to one hundred (100) tons per year of carbon monoxide (CO).

~~(8) The addition, replacement, or use of a pollution control project, as defined in 326 IAC 2-2-1(ll) or 326 IAC 2-3-1(gg), that must obtain an exclusion under 326 IAC 2-2.3 or 326 IAC 2-3.3 and is not included in the presumptive list in 326 IAC 2-2-1(ll) or 326 IAC 2-3-1(gg).~~

~~(9)~~ **(8)** Modifications involving a pollution prevention project, as defined in ~~326 IAC 2-1.1-1(13),~~ **326 IAC 2-1.1-1(14)**, that increase the potential to emit any regulated pollutant greater than the applicable thresholds under subdivisions (3) through (7). The requirement to process the modifications in accordance with subsection (g) does not apply to pollution prevention projects that the department approved as an environmentally beneficial pollution prevention project through a permit issued prior to July 1, 2000.

~~(10) The designation of a clean unit that is using control technology comparable to BACT or LAER as defined in 326 IAC 2-2.2-2 or 326 IAC 2-3.2-2.~~

(g) The following shall apply to the modifications described in subsection (f):

(1) Any person proposing to make a modification described in subsection (f) shall:
**(A)** submit an application concerning the modification; and ~~shall~~
**(B)** include the information under subsection (c).

(2) Except as provided in 326 IAC 2-13, the source may not begin construction on any emissions unit that is necessary to implement the modification until the commissioner has issued a modification approval.

(3) The commissioner shall approve or deny the modification as follows:
(A) Within one hundred twenty (120) calendar days from receipt of an application for a modification in subsection (f) except subsection (f)(1). ~~and (f)(10).~~
(B) Within two hundred seventy (270) calendar days from receipt of an application for a modification under subsection (f)(1). ~~or (f)(10).~~

(4) A modification approval under this subsection may be issued only if all of the following conditions have been met:
(A) The commissioner has received a complete application for a modification.
(B) The commissioner has complied with the requirements for public notice as follows:
(i) For modifications for which a source is only requesting preconstruction approval, the commissioner has complied with the requirements under 326 IAC 2-1.1-6.
(ii) For modifications for which a source is requesting a combined preconstruction approval and operating permit revision, the commissioner has complied with the requirements under section 17 of this rule.
(C) The conditions of the modification approval provide for compliance with all applicable requirements and this rule.
(D) For modifications for which a source is requesting a combined preconstruction approval and operating permit revision, the U.S. EPA has received a copy of the proposed modification approval and any notices required and has not objected to the issuance of the modification approval within the time period specified in section 18 of this rule.

(5) The commissioner shall **do the following:**
**(A)** Provide a technical support document that sets forth the legal and factual basis for draft modification approval conditions, including references to the applicable statutory and regulatory provisions. ~~The commissioner shall~~
**(B)** Send this technical support document to:
**(i)** the U.S. EPA;
**(ii)** the applicant; and
**(iii)** any other person who requests it.

(h) The following shall apply to a modification approval described in subsection (f) for a source that has not received a final Part 70 permit:

(1) After receiving an approval to construct and prior to receiving approval to operate, a source shall prepare an affidavit of construction as follows:

(A) The affidavit shall include the following:
(i) **The** name and title of the authorized individual.
(ii) **The** company name.
(iii) Subject to item (iv), an affirmation that the emissions units described in the modification approval:
**(AA)** were constructed in conformance with the request for modification approval; and ~~that the emissions units~~
**(BB)** will comply with the modification approval.
(iv) Identification of any changes to emissions units not included in the request for modification approval, but which should have been included under subsection (a).
(v) **The** signature of the authorized individual.
(B) The affidavit shall be notarized.
(C) A source shall submit the affidavit to the commissioner either after construction of all the emission units described in the modification approval or after each phase of construction of the emission units described in the modification approval, as applicable, has been completed.
(2) A source may not operate any emissions units described in the modification approval prior to receiving a validation letter issued by the commissioner, except as provided in the following:
(A) A source may operate the emissions units covered by the affirmation in the affidavit of construction upon submission of the affidavit of construction.
(B) The commissioner shall issue a validation letter within five (5) working days of receipt of the affidavit of construction.
(C) The validation letter shall authorize the operation of all or part of each emissions unit covered by the affirmation in the affidavit of construction.
(D) Subject to clause (E), the validation letter shall include any amendments to the modification approval if the amendment is requested by the source and if the amendment does not constitute a modification and require public notice and comment under 326 IAC 2-1.1-6.
(E) A validation letter shall not approve the operation of any emissions unit if an amendment to the modification approval requested by the source would constitute a modification and require public notice and comment under 326 IAC 2-1.1-6.

(i) Each modification approval issued under this rule shall provide that construction must commence within eighteen (18) months of the issuance of the modification approval.

(j) All modification approval proceedings under this section shall provide adequate procedures for public notice, including offering an opportunity for public comment and a hearing on the draft modification approval as established in 326 IAC 2-1.1-6 or section 17 of this rule.

(k) The commissioner shall provide for review by the U.S. EPA and affected states of each:
(1) modification application;
(2) draft modification approval;
(3) proposed modification approval; and
(4) final modification approval;
in accordance with the procedures established in section 18 of this rule for modifications that a source is requesting a combined preconstruction approval and operating permit revision.

(l) A modification approval issued in accordance with this section shall be incorporated into the source's Part 70 permit or permit application as follows:
(1) For a source that has a final Part 70 permit and requested that the preconstruction approval and permit revision be combined, the modification approval shall be incorporated into the Part 70 permit as an administrative amendment in accordance with section 11 of this rule.
(2) For a source that has a final Part 70 permit and requested only a preconstruction approval, the source may begin operation in accordance with section 12 of this rule.
(3) For a source that has a complete Part 70 permit application on file, but does not have a final Part 70 permit and requested only preconstruction approval, the modification approval:
**(A)** shall be deemed incorporated in the Part 70 permit application; and
**(B)** will be included in the Part 70 permit when issued.

*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,~~ **Legal Counsel,** Indiana Government Center

North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-7-10.5; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1039; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107; filed Oct 23, 2000, 9:47 a.m.: 24 IR 672; filed May 21, 2002, 10:20 a.m.: 25 IR 3065; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3947; errata filed Jul 23, 2007, 4:19 p.m.: 20070815-IR-326070466ACA)*

SECTION 22. 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 limitation 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. The 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) The addition of a clean unit that was automatically designated as described in 326 IAC 2-2.2-1 or 326 IAC 2-3.2-1.~~
~~(G) The addition of a listed PCP as defined in 326 IAC 2-2-1(ll) or 326 IAC 2-3-1(gg).~~
~~(H)~~ **(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 the 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 the 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.
(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.

(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 **the** U.S. EPA has notified the commissioner that **the** 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:

**(i)** does not meet the minor Part 70 permit modification criteria; and

**(ii)** 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.

(7) The source may make the change proposed in its minor Part 70 permit modification application immediately after it files the application. After the source makes the change allowed by this subdivision, and until the commissioner takes any of the actions specified in subdivision (6)(A) through (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.

(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 that 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 the 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. The 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(c)(3) 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)(6) shall apply to modifications eligible for group processing, except that the commissioner shall take one (1) of the actions specified in subsection (b)(6) 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)(7) 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. The:
(A) addition;
(B) renewal;
(C) termination;
(D) revocation; and
(E) revision;
of PAL provisions in accordance with 326 IAC 2-2.4 or 326 IAC 2-3.4 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1591; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3952; errata filed Jul 23, 2007, 4:19 p.m.: 20070815-IR-326070466ACA)*

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) **or** (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~~ **that** 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~~ **that** document, on a rolling five (5) year basis, all such changes and emissions trading that are subject to subsection (b) **or** (c) ~~or (e),~~ and makes ~~such~~ **the** records available, upon reasonable request, to public review. ~~Such~~ **The** records shall consist of all information required to be submitted to the commission in the notices specified in subsections (b)(1) **and** (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 **the following:**
**(A)** A brief description of the change within the source.
**(B)** The date on which the change will occur.
**(C)** Any change in emissions. ~~and~~
**(D)** 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~~ **the** emission trades without requiring a permit revision, subject to the constraints of subsection (a) and the further conditions of this subsection. ~~Such~~ **The** changes may be made without a permit revision regardless of whether the permit fails to provide expressly for ~~such~~ **the** 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,~~ **modification,** subject to compliance with ~~such~~ **the** 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~~ **the** alternative scenarios in its application for the permit in accordance with section 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; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1594)*

SECTION 24. 326 IAC 2-8-1 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-1 Definitions**

**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. 1. In addition to the definitions provided in ~~IC 13-7-1, IC 13-1-1-2,~~ **IC 13-11-2,** 326 IAC 1-2, and 326 IAC 2-7, the following definitions apply throughout this rule:

(1) "FESOP" means a federally enforceable state operating permit issued in accordance with this section.

(2) "FESOP source" means a source that has been issued a permit by the commissioner under this rule.

*(Air Pollution Control Board; 326 IAC 2-8-1; filed May 25, 1994, 11:00 a.m.: 17 IR 2271; errata filed Jul 23, 2007, 4:19 p.m.: 20070815-IR-326070466ACA)*

SECTION 25. 326 IAC 2-8-3 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-3 Permit application**

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

Sec. 3. (a) The owner or operator of a source seeking a FESOP shall submit a complete application on such form or forms as the commissioner may establish, or in other application formats authorized by the commissioner. An application for a FESOP may be submitted at any time. Unless, within ninety (90) days of receipt of an application, the commissioner determines that an application is not complete, ~~such~~ **the** application shall be deemed to be complete.

(b) In order for an application to be deemed complete, it must contain the following:
(1) Substantive information required under subsection (c). Applications for a FESOP revision must supply substantive information required under subsection (c) only as it relates to the proposed change.
(2) Certification by an authorized individual that the submitted information is consistent with subsection (d).

(c) An application for a FESOP shall include the information specified in this subsection to the extent necessary to determine applicable requirements, compliance with applicable requirements and this rule, and compliance with the terms and conditions of a FESOP. The following information shall be included in the application for all emissions units at a FESOP source:
(1) Identifying information, including the following:
(A) **The** company name and address (or **the** plant name and address if different from the company name).
(B) **The** owner's name and agent.
(C) **The** telephone numbers and names of **the** plant site manager, authorized individual, 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 regulated air pollutants. A FESOP application shall describe all emissions of regulated air pollutants emitted from any emissions unit. 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.
(B) **An** identification and **a** description of all points of emissions described in clause (A) in sufficient detail to establish the applicability of requirements of this title.
(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) **An** identification and **a** description of air pollution control equipment and compliance monitoring devices or activities.
(F) Limitations on source operation affecting emissions or any work practice standards, as requested by the applicant, for all regulated pollutants at a FESOP 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.
(I) Insignificant activities shall be listed, but the emissions related information described in this subdivision need not be provided unless the commissioner determines that ~~such~~ **the** information is necessary to determine the applicability of 40 CFR 70*. Information concerning trivial activities as defined in 326 IAC 2-7-1(40) need not be included in permit applications submitted under this rule.
(4) Other specific information that may be necessary to:
**(A)** implement and enforce other applicable requirements of the CAA or of this rule; or ~~to~~
**(B)** determine the applicability of ~~such~~ **the** requirements.
(5) An explanation of any proposed exemptions from otherwise applicable requirements.

(6) 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 source will forward to **the** department the preventive maintenance plan.
~~(7) At the option of the applicant, a request that the permit provide terms and conditions allowing for the establishment of an emissions cap program or programs. The request for an emissions cap program or programs shall include the information under 326 IAC 2-1.1-12(d).~~

(d) Any application form or compliance certification submitted under this rule shall contain certification by an authorized individual 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.

(e) In the case where a source has submitted information to the commissioner under a claim of confidentiality under ~~326 IAC 17~~, **326 IAC 17.1,** the commissioner may also require the source to submit a copy of ~~such~~ **the** information directly to the U.S. EPA.

(f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a FESOP application shall, upon becoming aware of ~~such~~ **the** failure or incorrect submittal, promptly submit ~~such~~ **the** supplementary facts or corrected information. 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 FESOP. In addition, the applicant shall provide additional information as requested by the commissioner to determine the compliance status of the source in accordance with section 5(a) of this rule.

(g) If, while processing an application, the commissioner determines that additional information is necessary to evaluate or take final action on that application, the commissioner may:
**(1)** request ~~such~~ **the** information in writing; and
**(2)** set a reasonable deadline for a response.

(h) For purposes of a FESOP 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.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-8-3; filed May 25, 1994, 11:00 a.m.: 17 IR 2271; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2355; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1050; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1566; filed Aug 26, 2004, 11:30 a.m.: 28 IR 22)*

SECTION 26. 326 IAC 2-8-4 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-4 Permit content**

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

Sec. 4. The following shall be included in each FESOP issued under this rule:
(1) Emission limitations and standards, including those operational requirements and limitations that limit the source's capacity to emit any air pollutants such that it does not fall within any of the categories listed in 326 IAC 2-7-2(a) and that assure compliance with all applicable requirements at the time of FESOP issuance. The FESOP shall include the following:
(A) The FESOP shall:
(i) specify and reference the origin of and authority for each term or condition; and
(ii) identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(B) Where an applicable requirement of the CAA is more stringent than an applicable requirement of regulations promulgated under Title IV of the CAA, both provisions shall be:
(i) incorporated into the FESOP; and
(ii) described in the permit as enforceable by the commissioner and the U.S. EPA.
(C) If an applicable implementation plan allows a determination of an alternative emission limit for a FESOP 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~~ **the** process, any FESOP containing an alternative emission limit based on such an equivalency determination shall contain provisions to ensure that the emissions limit has been demonstrated to be:
(i) quantifiable;
(ii) accountable;
(iii) enforceable; and
(iv) based on replicable procedures.
(D) Emission limitations applicable to start-up, shutdown, and emergency bypasses shall be addressed on a case-by-case basis in the permit. The limitations shall be designed so as to minimize the:
(i) frequency of such events; and
(ii) excess emissions caused by these events;
to the extent feasible, taking into consideration available technologies, safety, cost, and other relevant factors.
(2) A permit term not to exceed the following:
(A) Five (5) years from the date of issuance for new permits.
(B) Ten (10) years from the date of issuance for permit renewals.
(3) Monitoring and related record keeping and reporting requirements that assure that all reasonable information is provided to evaluate continuous compliance with the applicable requirements. At a minimum, the following shall be contained in each FESOP:
(A) Each FESOP shall contain the following requirements with respect to monitoring:
(i) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, 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, periodic monitoring specifications sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the FESOP, as reported under clause (C). The 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 clause.
(iii) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
(B) With respect to record keeping, the FESOP shall incorporate all applicable record keeping requirements, including, where applicable, the following:
(i) Records of required monitoring information that include the following:
(AA) The date, place, as defined in the FESOP, and time of sampling or measurements.
(BB) The dates analyses were performed.
(CC) The company or entity that performed the analyses.
(DD) The analytical techniques or methods used.
(EE) The results of the analyses.
(FF) The operating conditions as existing at the time of sampling or measurement.
(ii) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes the following:
(AA) All calibration and maintenance records.
(BB) All original strip chart recordings for continuous monitoring instrumentation.
(CC) Copies of all reports required by a FESOP.
(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 FESOP shall incorporate all applicable reporting requirements and requirements for the following:
(i) Submittal of reports of any required monitoring at least every six (6) months. All instances of deviations from FESOP requirements must be clearly identified in the reports. All required reports must be certified by an authorized individual consistent with section 3(d) of this rule.
(ii) The reporting of deviations from FESOP requirements, including those attributable to upset conditions

as defined in a FESOP permit, the probable cause of ~~such~~ **the** deviations, and any corrective actions or preventive measures taken. Proper notice submittal under section 12 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.

(4) A severability clause to ensure the continued validity of the various FESOP requirements in the event that a portion of the FESOP is determined to be invalid.

(5) Provisions stating the following:

(A) The permittee must comply with all conditions of the FESOP. Noncompliance with any provision of a FESOP is grounds for the following:

(i) Enforcement action.

(ii) FESOP termination, revocation and reissuance, or modification.

(iii) Denial of a FESOP 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 FESOP.

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

(D) The FESOP 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 a FESOP or to determine compliance with a FESOP. Upon request, the permittee shall also furnish to the commissioner copies of records required to be kept by a FESOP, or, for information claimed to be confidential, the permittee may furnish the records directly to the U.S. EPA along with a claim of confidentiality.

(6) A provision to ensure that a FESOP source pays fees to the commissioner consistent with the fee schedule approved under section 16 of this rule.

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

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

(B) for each such alternative operating scenario, require compliance with all applicable requirements and the requirements of this rule.

(8) Terms and conditions, if a FESOP 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~~ **the** increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions shall:

(A) include all terms required under section 5 of this rule to determine compliance; and

(B) require compliance with all applicable requirements and requirements of this rule.

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

(A) Maintain on-site the preventive maintenance plan required under section 3(c)(6) of this rule.

(B) Implement the preventive maintenance plan.

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

(10) Descriptive information.

~~(11) Terms and conditions, if requested by the permit applicant, that 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 15(b) of this rule. The terms and conditions shall:~~

~~(A) include all terms required under subdivision (3) and section 5 of this rule to determine compliance with the emission cap limit, all associated applicable requirements, and all terms required under section 15(a) and 15(b) 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) 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, 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 5 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 under sections 13 and 14 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 in accordance with section 15(b) of this rule.~~

~~(12)~~ **(11)** Terms and conditions, if requested by the permit applicant, that, notwithstanding the permit revision requirements under section 11.1 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 that may occur during the term of the permit. The permit conditions shall include the following:
(A) Emission limitations and standards necessary to assure compliance with the permit terms and conditions and all applicable requirements.
(B) Monitoring, testing, reporting, and record keeping requirements that 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.

*(Air Pollution Control Board; 326 IAC 2-8-4; filed May 25, 1994, 11:00 a.m.: 17 IR 2272; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2356; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1051; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107; filed Nov 16, 2007, 1:42 p.m.: 20071212-IR-326060487FRA)*

SECTION 27. 326 IAC 2-8-11.1 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-11.1 Permit revisions**

**Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11**
**Affected: IC 13-15-5; IC 13-17**

Sec. 11.1. (a) Any person proposing to add additional emission units, modify existing emission units, or otherwise modify a FESOP source as described in this section shall submit a permit revision request in accordance with this section.

(b) Notwithstanding any other provision of this rule, the owner or operator of a source may repair or replace an emissions unit or air pollution control equipment, or components thereof, if the repair or replacement:
(1) results in a potential to emit for each regulated pollutant that is less than or equal to the potential to emit for the equipment or the affected emissions unit that was repaired or replaced;
(2) is not a major modification under 326 IAC 2-2-1, 326 IAC 2-3-1, or 326 IAC 2-4.1; and
(3) returns the emissions unit, process, or control equipment to normal operation after an upset, malfunction, or mechanical failure or prevents impending and imminent failure of the emissions unit, process, or control equipment.
If the repair or replacement qualifies as a reconstruction or is a complete replacement of an emissions unit or air pollution control equipment and would require a permit or operating permit revision under a provision of this rule, the owner or operator of the source must submit an application for a permit or permit revision to the commissioner ~~no~~ **not** later than thirty (30) calendar days after initiating the repair or replacement.

(c) An application required under this section shall meet the requirements of section 3(c) of this rule and include the following information:
(1) **The** company name and address.
(2) A description of the change and the emissions resulting from the change.
(3) An identification of the applicable requirements to which the source is newly subject as a result of the change, including the applicable emission limits and standards, applicable monitoring and test methods, and applicable record keeping and reporting requirements.
(4) Proposed permit terms and conditions required to implement the change, including limitations and methods to be used to comply with ~~such~~ **the** limitations for modifications described in subsection (d)(5).
(5) A schedule of compliance, if applicable.
(6) A certification consistent with section 3(d) of this rule.

(d) The following modifications shall require minor permit revisions and shall require approval prior to construction and operation:

(1) Modifications that reduce the frequency of any monitoring or reporting required by a permit condition or applicable requirement.
(2) The addition of a portable source or relocation of a portable source to an existing source, if the addition or relocation would require a change to any permit terms or conditions.
(3) Modifications **or revisions** involving a pollution control project or pollution prevention project as defined in 326 IAC 2-1.1-1 that do not increase the potential to emit any regulated pollutant greater than the thresholds under subsection (f)(1), but requires a significant change in the method or methods to demonstrate or monitor compliance.
(4) Modifications that would have a potential to emit within the following ranges:
(A) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of either particulate matter (PM) or particulate matter less than ten (10) microns ($PM_{10}$).
(B) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of sulfur dioxide ($SO_2$).
(C) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of nitrogen oxides ($NO_x$).
(D) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of ~~volatile organic compounds~~ VOC for modifications that are not described in clause (E).
(E) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of ~~volatile organic compounds~~ VOC for modifications that require the use of air pollution control equipment to comply with the applicable provisions of 326 IAC 8.
(F) Less than one hundred (100) tons per year and equal to or greater than twenty-five (25) tons per year of carbon monoxide (CO).
(G) Less than five (5) tons per year and equal to or greater than two-tenths (0.2) ton per year of lead (Pb).
(H) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of the following regulated air pollutants:
(i) Hydrogen sulfide ($H_2S$).
(ii) Total reduced sulfur (TRS).
(iii) Reduced sulfur compounds.
(iv) Fluorides.
(5) Modifications for which the potential to emit is limited to less than twenty-five (25) tons per year of any regulated pollutant other than ~~hazardous air pollutants,~~ **HAPs,** ten (10) tons per year of any single ~~hazardous air pollutant~~ **HAP** as defined under Section 112(b) of the CAA, or twenty-five (25) tons per year of any combination of ~~hazardous air pollutants~~ **HAPs** by complying with one (1) of the following constraints:
(A) Limiting total annual solvent usage or maximum ~~volatile organic compound~~ **VOC** content, or both.
(B) Limiting annual hours of operation of the process or business.
(C) Using a particulate air pollution control device as follows:
(i) Achieving and maintaining ninety-nine percent (99%) efficiency.
(ii) Complying with a no visible emission standard.
(iii) The potential to emit before air pollution controls does not exceed major source thresholds for federal permitting programs.
(iv) Certifying to the commissioner that the air pollution control device supplier guarantees that a specific outlet concentration, in conjunction with design air flow, will result in actual emissions less than twenty-five (25) tons of particulate matter (PM) or fifteen (15) tons per year of particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers ($PM_{10}$).
(D) Limiting individual fuel usage and fuel type for a combustion source.
(E) Limiting raw material throughput or sulfur content of raw materials, or both.
(6) A change that is not described under section 10(a)(15) or 10(a)(16) of this rule and is subject to a ~~reasonably available control technology~~ RACT, a new source performance standard (NSPS), or a national emission standard for hazardous air pollutants (NESHAP) and the RACT, NSPS, or NESHAP is the most stringent applicable requirement, except for those modifications that would be subject to the provisions of 40 CFR 63, Subpart B Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources*. As part of the application required under subsection (c), the applicant shall acknowledge the requirement to comply with the RACT, NSPS, or NESHAP.
(7) A modification for which a source requests an emission limit to avoid 326 IAC 8-1-6.

(e) Minor permit revision procedures shall be as follows:
(1) Any person proposing to make a change described in subsection (d) shall:
**(A)** submit an application concerning the change; and ~~shall~~
**(B)** include the information under subsection (c).
(2) Except as provided in 326 IAC 2-13, the source may not begin construction on any emissions unit that is

necessary to implement the change until the commissioner has revised the permit.

(3) Within forty-five (45) calendar days from receipt of an application for a minor permit revision, the commissioner shall either:

(A) approve the minor permit revision request;

(B) deny the minor permit revision; or

(C) determine that the minor permit revision request would cause or contribute to a violation of the National Ambient Air Quality Standard (NAAQS) or prevention of significant deterioration (PSD) standards, would allow for an increase in emissions greater than the thresholds in subsection (f), or would not provide for compliance monitoring consistent with this rule and should be processed as a significant permit revision.

(4) If approved, the permit shall be revised by incorporating the minor permit revision into the permit. The commissioner shall make any changes necessary to assure compliance with this title and the CAA prior to attaching the minor permit revision to the permit. The commissioner shall **do the following:**

**(A)** Notify the permittee upon incorporation of the minor permit revision to the permit. ~~and~~

**(B)** Provide a copy of the minor permit revision to the permittee.

Notwithstanding IC 13-15-5, the commissioner's decision shall become effective immediately.

(f) Significant permit revision procedures are as follows:

(1) A significant permit revision is a modification that is not an administrative amendment under section 10 of this rule or subject to subsection (d) and includes the following:

(A) Any modification that would be subject to 326 IAC 2-2, 326 IAC 2-3, or 326 IAC 2-4.1.

(B) Any modification that results in the source needing to obtain a Part 70 permit under 326 IAC 2-7.

(C) A modification that is subject to 326 IAC 8-1-6.

(D) Any modification with a potential to emit lead at greater than or equal to one (1) ton per year.

(E) Any modification with a potential to emit greater than or equal to twenty-five (25) tons per year of the following pollutants:

(i) Particulate matter (PM) or particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers ($PM_{10}$).

(ii) Sulfur dioxide ($SO_2$).

(iii) Nitrogen oxides ($NO_x$).

(iv) ~~Volatile organic compounds~~ VOC.

(v) Hydrogen sulfide ($H_2S$).

(vi) Total reduced sulfur (TRS).

(vii) Reduced sulfur compounds.

(viii) Fluorides.

(F) For a source of lead with a potential to emit greater than or equal to five (5) tons per year, a modification that would increase the potential to emit greater than or equal to six-tenths (0.6) ton per year.

(G) Any modification with a potential to emit greater than or equal to ten (10) tons per year of a single ~~hazardous air pollutant~~ **HAP** as defined under Section 112(b) of the CAA or twenty-five (25) tons per year of any combination of ~~hazardous air pollutants.~~ **HAPs.**

(H) Any modification with a potential to emit greater than or equal to one hundred (100) tons per year of carbon monoxide (CO).

(I) Any modification involving a pollution control project as defined in 326 IAC 2-1.1-1 that:

**(i)** results in an increase in the potential to emit any regulated pollutant greater than the thresholds under this section; and

**(ii)** requires a change in the method or methods to demonstrate or monitor compliance.

(J) Any modification involving a pollution prevention project as defined in 326 IAC 2-1.1-1 that:

**(i)** increases the potential to emit any regulated pollutant greater than the thresholds under this section; or ~~that~~

**(ii)** results in emissions of any regulated pollutant not previously emitted.

(2) The following conditions shall apply to significant permit revisions:

(A) Any person proposing to make a modification described in this subsection shall:

**(i)** submit an application concerning the modification; and ~~shall~~

**(ii)** include the information under subsection (c).

(B) The commissioner shall provide a copy of the significant permit revision application and draft and final operating permit revision to the U.S. EPA.

(C) Except as provided in 326 IAC 2-13, the source may not begin construction on any emissions unit that is necessary to implement the change until the commissioner has revised the permit.

(D) The commissioner shall provide for public notice and comment in accordance with section 13 of this rule.

(E) The commissioner shall approve or deny the significant permit revision as follows:

(i) Within one hundred twenty (120) calendar days from receipt of an application for a significant permit revision, except for a significant permit revision under subdivision (1)(A).
(ii) Within two hundred seventy (270) calendar days from receipt of an application for a significant permit revision under subdivision (1)(A).
(F) If approved, the permit shall be revised by incorporating the significant permit revision into the permit. The commissioner shall make any changes necessary to assure compliance with this title and the CAA prior to attaching the significant permit revision to the permit.

(g) Notwithstanding the existence of ~~an emissions cap,~~ **emission limitations to remain below major source thresholds under Part 70 or under PSD 326 IAC 2-2,** the following changes shall be required to be reviewed in accordance with the procedures in subsection (f):
(1) Any modifications that trigger any new applicable requirements for the units or processes ~~under~~ **in** the ~~cap.~~ **FESOP permit.**
(2) Any modifications that require an adjustment to the ~~emissions cap~~ **FESOP emission** limitations.
(3) Any modifications that change any existing requirements for the units or processes ~~under~~ **in** the ~~cap.~~ **FESOP permit**.

*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,~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; 326 IAC 2-8-11.1; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1055; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3107; filed May 21, 2002, 10:20 a.m.: 25 IR 3072; errata filed Jul 23, 2007, 4:19 p.m.: 20070815-IR-326070466ACA)*

SECTION 28. 326 IAC 2-8-15 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-8-15 Operational flexibility**

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

Sec. 15. (a) An owner or operator of a FESOP source may make any change or changes at the source that are described in subsection (b) **or** (c) ~~or (d),~~ 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~~ **that** 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 FESOP source notifies the commissioner and U.S. EPA in advance of the change, with the information described in subsections (b) ~~through (d),~~ **and (c),** by written notification given at least ten (10) days in advance of the proposed change.
(4) The commissioner and the owner or operator of a FESOP source each shall attach every such notice to their copy of the relevant permit.
(5) The owner or operator of the source:
**(A)** maintains records on-site ~~which~~ **that** document, on a rolling five (5) year basis, all such changes and emissions trading that are subject to subsections (b) ~~through (d)~~ **and (c);** and
**(B)** makes ~~such~~ **the** records available, upon reasonable request, for public review. ~~Such~~
**The** records shall consist of all information required to be submitted to the commissioner in the notices specified in ~~subsections (b)(2), (c)(1), and (d).~~ **subsection (b)(1).**

~~(b) An owner or operator of a FESOP source may make changes under an emissions cap included in a FESOP permit without a permit revision, subject to the constraints in subsection (a) and the following conditions:~~
~~(1) The emissions cap has been established in accordance with this rule and 326 IAC 2-1.1-12.~~
~~(2) The notification to the commissioner under subsection (a) shall include the information under 326 IAC 2-1.1-12(f).~~

~~(c)~~ **(b)** An owner or operator of a FESOP source may trade increases and decreases in emissions in the

FESOP source, where the applicable SIP provides for ~~such~~ **the** emission trades without requiring a permit revision, subject to the constraints of subsection (a) and the further conditions of this subsection. ~~Such~~ **The** changes may be made without a permit revision regardless of whether the permit fails to provide expressly for ~~such~~ **the** emissions trading under the following conditions:

(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) 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)~~ **(c)** An owner or operator of a FESOP source may make changes at the source within the range of alternative operating scenarios that are described in the terms and conditions of the FESOP for the source in accordance with section 4(7) of this rule, without a prior permit revision, subject to compliance with ~~such~~ **the** permit terms and conditions. To procure alternative operating scenarios for its FESOP, the owner or operator of a FESOP source must request ~~such~~ **the** alternative scenarios in its application for the permit. The owner or operator of a FESOP source may request that a valid FESOP permit be revised to include an alternative operating scenario in accordance with the significant permit revision requirements under section 11.1(f) of this rule. Notwithstanding the provisions of subsection (a), no advanced notice to the department is required prior to making such a change.

*(Air Pollution Control Board; 326 IAC 2-8-15; filed May 25, 1994, 11:00 a.m.: 17 IR 2278; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1058)*

SECTION 29. THE FOLLOWING ARE REPEALED: 326 IAC 2-1.1-12; 326 IAC 2-2.2; 326 IAC 2-2.3; 326 IAC 2-2.6; 326 IAC 2-3.2; 326 IAC 2-3.3.

Notice of Public Hearing

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