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**TITLE 326 AIR POLLUTION CONTROL BOARD**

LSA Document #00-42(F)

**DIGEST**

Amends 326 IAC 2-2-1 concerning definitions for the prevention of significant deterioration rules. Amends 326 IAC 2-7-10.5 concerning modification procedures for Part 70 operating permits. Effective 30 days after filing with the secretary of state.

**HISTORY**

First Notice of Comment Period: July 1, 1997, Indiana Register (20 IR 2865).

Second Notice of Comment Period and Notice of First Hearing: November 1, 1999, Indiana Register (23 IR 406).

Date of First Hearing: February 2, 2000.

Proposed Rule, Third Notice of Comment Period, and Notice of Second Hearing: March 1, 2000 (23 IR 1440)

Date of Second Hearing: June 7, 2000.

**326 IAC 2-2-1**

**326 IAC 2-7-10.5**

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

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

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

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

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

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

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

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

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

(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 which restrict the operating rate or hours of operation, or both) and the most stringent of:

(1) the applicable standards as set forth in 40 CFR 60 and 40 CFR 61\*;

(2) the state implementation plan emissions limitation, including those with a future compliance date; or

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

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

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

- (1) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in subdivision (3).
- (2) The allowable emissions of major PSD sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.
- (3) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):
  - (A) Actual emissions from any major PSD source on which the construction commenced after the major source baseline date.
  - (B) Actual emissions increases and decreases at any source occurring after the minor source baseline date.

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

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

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

(i) "Commence", as applied to construction of a major PSD source or major PSD 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 ~~cancelled~~ **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.

(j) "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.

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

(l) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant regulated under the provisions of the Clean Air Act.

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

(n) “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.

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

- (1) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.
  - (2) A physical change or change in the method of operation shall not include the following:
    - (A) Routine maintenance, repair, and replacement.
    - (B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.
    - (C) Use of an alternative fuel by reason of an order under Section 125 of the Clean Air Act.
    - (D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
    - (E) Use of an alternative fuel or raw material by a source which:
      - (i) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21\* or under this rule or 326 IAC 2-3; or
      - (ii) the source is approved to use under any permit issued under 40 CFR 52.21\* or under this rule.
    - (F) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21\* or under this rule or 326 IAC 2-3.
    - (G) Any change in ownership at a source.
    - (H) The addition, replacement, or use of a pollution control project as defined in 326 IAC 2-1.1-1(13) at an existing source unless the department determines that:
      - (i) such addition, replacement, or use is not environmentally beneficial; or**
      - (ii) the pollution control project would result in a significant net emissions increase that will cause or contribute to a violation of any national ambient air quality standard (NAAQS) or PSD increment.****
- A pollution control project that is exempt under this clause shall be considered a significant source modification under 326 IAC 2-7-10.5(f)(8).**

(p) “Major PSD source” means the following:

- (1) Any of the following stationary sources of air pollutants which are located or may be located in an attainment or unclassifiable area as designated in 326 IAC 1-4 and which emit or have the potential to emit one hundred (100) tons per year or more of any pollutant subject to regulation under the Clean Air Act:
  - (A) Fossil fuel-fired steam electric plants of more than two hundred fifty (250) million 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 two hundred fifty (250) 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 (250) million 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 potential PSD emissions of two hundred fifty (250) tons per year or more of any air pollutant subject to regulation under the Clean Air Act.

(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 major PSD modification as defined in this rule.

(6) Any physical change occurring at a stationary source not qualifying under subdivisions (1) through (5) and this subdivision, if the change would by itself qualify as a major PSD source under subdivisions (1) through (5).

(7) Notwithstanding subdivisions (1) through (6), the following sources shall not be considered a major PSD source:

(A) A source or modification of a source where it would qualify under subdivisions (1) through (6) only if fugitive emissions, to the extent quantifiable, are considered in calculating potential to emit of the stationary source or modification and such source does not belong to any of the categories listed in subdivision (1) or any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act (42 U.S.C. 7411 or 42 U.S.C. 7412).

(B) A source or modification of a source which is a portable stationary source which has previously received a permit complying with 326 IAC 2-5.1-3 or 326 IAC 2-7 and section 3 of this rule if:

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

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

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

(iv) ten (10) days advance notice is given to the board prior to the relocation identifying the proposed new location and probable duration of the operation at the new location.

(8) A major PSD source that is major for volatile organic compounds shall be considered major for ozone.

(q) "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.

(r) "Minor source baseline date" means the earliest date after the trigger date on which a major PSD source or major PSD modification subject to the requirements of this rule or to 40 CFR 52.21\* submits a complete application under the relevant regulations. The trigger date is 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.

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

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

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

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

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

- (i) the date five (5) years before construction on the particular change commences; and
- (ii) the date that the increase from the particular change occurs.

(B) An increase or decrease in actual emissions is creditable only if the board has not relied on said 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.

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

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

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

- (i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
- (ii) it is enforceable at and after the time that actual construction on the particular change begins; and
- (iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

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

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

(v) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major PSD source or major PSD modification, but do not come from the major PSD source or major PSD modification itself. For the purpose of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

- (1) emissions from ships or trains coming to or from the new or modified source; and
- (2) emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major PSD source or major PSD modification.

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

- (1) Carbon monoxide: one hundred (100) tons per year.
- (2) Nitrogen oxides: forty (40) tons per year.
- (3) Sulfur dioxide: forty (40) tons per year.
- (4) Particulate matter: twenty-five (25) tons per year.
- (5) PM<sub>10</sub>: fifteen (15) tons per year.
- (6) Ozone: forty (40) tons per year of volatile organic compounds.
- (7) Lead: six-tenths (0.6) ton per year.
- (8) Asbestos: seven one-thousandths (0.007) ton per year.
- (9) Beryllium: four ten-thousandths (0.0004) ton per year.
- (10) Mercury: one-tenth (0.1) ton per year.
- (11) Vinyl chloride: one (1) ton per year.
- (12) Fluorides: three (3) tons per year.
- (13) Sulfuric acid mist: seven (7) tons per year.
- (14) Hydrogen sulfide (H<sub>2</sub>S): ten (10) tons per year.
- (15) Total reduced sulfur (including H<sub>2</sub>S): ten (10) tons per year.
- (16) Reduced sulfur compounds (including H<sub>2</sub>S): ten (10) tons per year.

(x) "Significant", in reference to a net emissions increase or the potential of a source to emit, means a pollutant subject to regulation under the Clean Air Act, that subsection (w) does not list, any emissions rate.

\*Copies of the Code of Federal Regulations (CFR) and Federal Register (FR) referenced in this section may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. (*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*)

SECTION 2. 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 construct new emission units, modify existing emission units, or 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 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 source and the emissions unit or units comprising the source.
- (iv) A description of 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 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 signature shall constitute 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 involving a pollution control project or pollution prevention project as defined in ~~326 IAC 2-1.1-1~~ **326 IAC 2-1.1-1(13)** that do not increase the potential to emit **PM<sub>10</sub> greater than or equal to fifteen (15) tons per year** or any other regulated pollutant greater than the thresholds under subdivision (4), but require a significant change in the method or methods to demonstrate or monitor compliance.

(4) 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<sub>10</sub>).

(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<sub>2</sub>).

(ii) Nitrogen oxides (NO<sub>x</sub>).

(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<sub>2</sub>S).

(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, ten (10) tons per year of any single hazardous air pollutant as defined under Section 112(b) of the CAA, or twenty-five (25) tons per year of any combination of hazardous air pollutants by complying with one (1) of the following constraints:

(A) Limiting total annual solvent usage or maximum volatile organic compound 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<sub>10</sub>).

(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 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 63, Subpart B (61 FR 68384) December 27, 1996, Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources\*. As part of the application required under subsection (b), the applicant shall acknowledge the requirement to comply with the RACT, NSPS, or NESHAP.

(7) A change for which a source requests an emission limit to avoid 326 IAC 8-1-6.

(8) A modification of an existing source that has a potential to emit greater than the thresholds under subdivision (4) 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.

(9) A modification that has a potential to emit greater than the thresholds under subdivision (4) 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.

(10) For a source in Lake or Porter County with the potential to emit twenty-five (25) tons per year of either VOC or NO<sub>x</sub>, any modification that would result in an increase of either emissions as follows:

(A) Greater than or equal to fifteen (15) pounds per day of VOCs.

(B) Greater than or equal to twenty-five (25) pounds per day of NO<sub>x</sub>.

(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 11 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<sub>10</sub>).
- (B) Sulfur dioxide (SO<sub>2</sub>).
- (C) Nitrogen oxides (NO<sub>x</sub>).
- (D) Volatile organic compounds (VOC).
- (E) Hydrogen sulfide (H<sub>2</sub>S).
- (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 as defined under Section 112(b) of the CAA or twenty-five (25) tons per year of any combination of hazardous air pollutants.

(7) Any modification with a potential to emit greater than or equal to one hundred (100) tons per year of carbon monoxide (CO).

(8) ~~Modifications involving a pollution control project as defined in 326 IAC 2-1.1-1(13) that result in an increase in the potential to emit any regulated pollutant greater than the applicable thresholds under subdivisions (3) through (7) and require a significant change in the method or methods to demonstrate or monitor compliance.~~ **The addition, replacement, or use of a pollution control project as defined in 326 IAC 2-1.1-1(13) that is exempt under 326 IAC 2-2-1(o)(2)(H). The requirement to process such modifications in accordance with subsection (g) does not apply to pollution control projects that the department approved as an environmentally beneficial pollution control project through a permit issued prior to July 1, 2000.**

(9) ~~Modifications involving a pollution prevention project as defined in 326 IAC 2-1.1-1(13) that increase the potential to emit any regulated pollutant greater than the applicable thresholds under subdivisions (3) through (7).~~ **The requirement to process such 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.**

(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 submit an application concerning the modification and shall 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).

(B) Within two hundred seventy (270) calendar days from receipt of an application for a modification under subsection (f)(1).

(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 the requirements of 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 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 send this technical support document to the U.S. EPA, the applicant, and 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) Name and title of the authorized individual.

(ii) Company name.

(iii) Subject to item (iv), an affirmation that the emissions units described in the modification approval were constructed in conformance with the request for modification approval and that such emissions units 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) 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 such amendment is requested by the source and if such 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 modification application, draft modification approval, proposed modification approval, and 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 shall be deemed incorporated in the Part 70 permit application and will be included in the Part 70 permit when issued.

*(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)*

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