

Regulatory Analysis

TITLE 326 Indiana Department of Environmental Management LSA Document #26-113

I. Description of Rule

This section should include an overview of the proposed rulemaking, background, and high-level justification. Topics to address include (as applicable):

a. History and Background of the Rule – The Indiana Department of Environmental Management (IDEM) has initiated this rulemaking in response to legislative and executive actions that address the requirements for open burning for the purposes of fire training. Statutory changes enacted under House Enrolled Act 1637 (P.L.238-2025) during the 2025 Indiana General Assembly session added an exemption for open burning for fire training purposes at IC 13-17-9-1 and IC 13-17-9-3 that applied to certain fire departments and the Indiana Department of Homeland Security (IDHS). In addition, Executive Order 25-38 directed state agencies to identify unduly burdensome environmental regulations, and the report required by Executive Order 25-38 identified the requirement to obtain prior approval for open burning for fire training purposes as a requirement to revisit or remove. In response to these actions by the Indiana General Assembly and the governor's office, IDEM has decided to initiate a rulemaking that adds an exemption for open burning for fire training purposes for fire departments identified at IC 13-17-9-1(b) and IDHS.

b. Scope of the Rule – The primary scope of the proposed rule is to align the rule requirements with the statutory exemption for open burning conducted for fire training purposes by not requiring a permit or prior authorization for this type of open burning. The secondary scope of the proposed rule includes amendments to address outdated requirements, such as an open burning exemption for waste oil burning at 326 IAC 4-1-3(c)(3), and minor, non-substantive updates to rule language to comport with current administrative rules drafting standards.

c. Statement of Need – The proposed rule is needed to implement a statutorily required exemption for open burning conducted for the purposes of fire training, which was enacted under House Enrolled Act 1637 (P.L.238-2025) during the 2025 Indiana General Assembly session. The proposed rule will exempt certain fire departments and IDHS from the requirement to obtain prior approval to conduct this type of open burning. Additionally, the proposed rule is in response to Executive Order 25-38, which directed state agencies to identify and potentially remove unduly burdensome environmental regulations. The requirement for prior approval of open burning for fire training purposes was identified as an unduly burdensome requirement that should be considered for repeal. Lastly, the proposed rule will make necessary updates to outdated requirements and rule language in the included rule sections, which IDEM attempts to address with any rulemaking.

d. Statutory Authority for the Proposed Rule – Statutory authority for adoption of the proposed rule is established at IC 13-14-8 (general IDEM rulemaking authority), IC 13-15-2-1 (authority to issue permits), and IC 13-17-3-4 (authority to adopt rules to

implement the Clean Air Act and state air pollution control laws). Additionally, IC 13-17-9-1 exempts open burning for the purposes of fire training from a prior permit or other authorization and IC 13-17-9-3 includes specific conditions for the exemption.

e. Fees, Fines, and Civil Penalties – This rulemaking does not add or increase any fees, fines, or civil penalties because the proposed amendments do not include or address any requirement related to fees, fines, or civil penalties.

II. Fiscal Impact Analysis

This section should include a discussion of the impact of the proposed rulemaking on State and local government expenditures and revenues. Topics to address include (as applicable):

a. Anticipated Effective Date of the Rule – IDEM anticipates that the rule will be effective in the second half of 2026, depending upon when the first notice of comment period is approved to be published and if any comments or changes to the proposed rule prolong the rulemaking process.

b. Estimated Fiscal Impact on State and Local Government – The main fiscal impact on state and local government from the proposed rule is potential cost savings from the exemption for fire departments and IDHS that conduct open burning for fire training purposes. Over the past four years, IDEM has issued 13 to 23 approvals annually to conduct live fire training at stationary fire training facilities, along with the existing approval for the IDHS mobile trailers. The affected units of government will no longer be required to obtain a permit or prior authorization to conduct this type of open burning or comply with the additional open burning requirements under [326 IAC 4-1-4.1](#).

Subsequently, IDEM also will have fewer open burning applications to review for approval and may experience administrative cost savings. While inspection and enforcement of open burning requirements is still necessary, fewer administrative resources will be dedicated to processing applications. IDEM takes an average of 3.33 hours to review a single fire training open burning application request. With 13 to 23 annual open burning approvals, this results in 43.29 to 76.59 IDEM staff hours annually. The hourly salary of the main IDEM employee reviewing applications is \$31.06. Therefore, IDEM may have \$1,344.59 to \$2,378.89 of annual administrative cost savings based on fewer applications approvals for open burning for live fire training purposes. The addition of the exemption for U.S. military fire departments may further reduce IDEM administrative costs by \$413.72. However, IDEM's administrative time and cost savings can be repurposed to other open burning regulatory activities, such as responding more promptly to open burning complaints.

For other state and local government agencies, the exact amount of the cost savings for the exemption from obtaining a permit or authorization is difficult to quantify because applying for open burning authorization is a discretionary activity for applicants. Obtaining the permit or authorization did not require local and state government entities to purchase new equipment, hire new staff, or incur ongoing compliance costs. The applications and notifications were completed with the available staff and resources of fire departments and government agencies. Ultimately, the proposed rule will provide

administrative cost savings for local and state government entities that conduct open burning for fire training purposes and review open burning applications.

c. Sources of Expenditures or Revenues Affected by the Rule – The main expenditure affected by the proposed rule is administrative costs for local and state government entities that were required to apply for a permit or prior authorization for open burning for fire training purposes. The exemption will provide administrative cost savings for the IDHS, municipal fire departments, airport fire departments, and volunteer fire departments. The cost savings will be ongoing since the exemption will be adopted into the rules permanently.

No sources of revenue are affected because the open burning application and approval process does not have any fees for application, operation, or compliance.

III. Impacted Parties

The parties mainly impacted by this rulemaking are the IDHS, municipal fire departments, airport fire departments, and volunteer fire departments because they are entities explicitly included in the exemption at IC 13-17-9-1(b) for open burning for fire training purposes. This rulemaking adds a similar exemption for U.S. military fire departments. In addition, local units of government that host fire training might be impacted because fire training may occur on property owned or controlled by a local unit of government under IC 13-17-9-3(6).

IDEM has received information from the IDHS that there are about 840 individual fire departments throughout the state, of which five are commercial airport and military airport fire departments. Four additional U.S. military fire departments also may be impacted. Delineating between volunteer, part-time paid, and municipal career fire departments is difficult because no state agency collects information to this level on fire departments. Some volunteer departments may have some paid staff or receive stipends per fire run. Some municipal departments may have a mix of part-time and full-time employees. While the lines between the different types of local fire departments often are not clear, IDEM reviews open burning applications from any fire department that meets the statutory requirements.

IV. Changes in Proposed Rule

Table 1: Summary of Significant Proposed Changes

Change in proposed rule	Description of change	Required by other source
326 IAC 4-1-3 (a)(2) and (3)	Adds open burning for fire training purposes to list of certain types of exempt open burning.	Yes, IC 13-17-9-1 (b)
326 IAC 4-1-3 (a)(4)(B)	Exempts open burning conducted by the IDHS's mobile burn unit from the ban on burning during unfavorable meteorological conditions.	Yes, IC 13-17-9-3 (2)

326 IAC 4-1-3 (a)(4)(F) and (G)	Adds specific conditions for open burning for fire training purposes.	Yes, IC 13-17-9-3 (6)
326 IAC 4-1-3 (b)	Clarified the introductory sentence to refer to the allowed fires in subsection (c).	No, but this change simplifies the existing rule language and requirements to add clarity
326 IAC 4-1-3 (c)(3) [repealed]	Deletes an allowed type of open burning fire because the cross-referenced requirements were repealed.	Yes, 312 IAC 16-5-11 and 312 IAC 29-25-22
326 IAC 4-1-3 (c)(3) [proposed]	Amendments to reduce repetitiveness without substantive changes to the requirements.	The required conditions in 4-1-3(c)(3)(A) and (B) are listed elsewhere at 4-1-3(b)(1)-(5).
326 IAC 4-1-3 (c)(7) [proposed]	Exempts open burning for fire training purposes from certain requirements for fire extinguisher training.	Yes, IC 13-17-9-1 (b)

V. Benefit Analysis

a. Estimate of Primary and Direct Benefits of the Rule – The main primary benefit of the proposed rule is adding the open burning exemption for fire training purposes for IDHS and local fire departments. This amendment will relieve the affected entities from the requirement to obtain a permit or prior authorization before conducting open burning for fire training purposes. The application for the permit or authorization has administrative costs that could be burdensome for fire departments, especially smaller ones with few full-time staff members, if any at all. Overall, the exemption will improve efficiency and reduce unduly burdensome regulations for certain entities that conduct open burning for fire training purposes.

IDEM estimates that each application for open burning approval takes no more than one hour for an applicant to complete and submit. According to the U.S. Bureau of Labor, the average hourly pay for a firefighter in Indiana is \$29.74/hour. Therefore, with 13 to 23 annual applications, the approximate benefit is \$386.62 to \$684.02 in administrative cost savings for regulated entities, assuming firefighters fill out the applications. U.S. military fire departments should see a cost savings of approximately \$118.96. This benefit will lead to lower administrative costs for entities that previously were required to obtain an open burning approval.

Another primary benefit of the proposed rule is aligning the rule requirements with the intent of both recent statutory changes to [IC 13-17-9](#) and Executive Order 25-38. By proposing to add this exemption to the rules, IDEM is making the rules consistent with the statutory changes and executive order and reducing any confusion over the requirements that apply to this open burning activity.

This benefit does not have a large cost savings, but it may save an affected entity from filling out an application for approval when they are not required to do so. Given the absence of any costs from the rule, IDEM believes the benefit is significant.

b. Estimate of Secondary or Indirect Benefits of the Rule - The proposed rule may have secondary benefits from adding the exemption for open burning conducted for fire training purposes. By removing requirements to obtain a permit or prior authorization to conduct open burning for fire training purposes, affected entities will have more time to conduct fire training activities rather than preparing and submitting applications for approval. The IDHS, fire departments, local government units, and U.S. military fire departments will be able to focus more on their mission of training for various emergency scenarios rather than complying with additional paperwork requirements.

Similarly, IDEM benefits from potentially reviewing fewer applications for open burning for fire training purposes. The agency will be able to focus more resources on compliance and enforcement of open burning activities rather than reviewing redundant applications.

c. Estimate of Any Cost Savings to Regulated Industries – The proposed rule will provide cost savings by exempting certain entities from the existing requirement to obtain a permit or prior authorization to conduct open burning for fire training purposes. The application process for approval has an administrative cost to prepare, submit, review, and approve. The IDHS and local fire departments will no longer need to submit a notification or application to receive approval to conduct certain types of open burning and may experience administrative cost savings. As mentioned previously, affected entities will be relieved of one hour of administrative time since they no longer need to obtain an open burning approval. With 13 to 23 approvals annually, this could result in 13 to 23 fewer administrative hours spent on open burning approvals for regulated entities. Therefore, the approximate benefit is \$386.62 to \$684.02 in administrative cost savings for regulated entities.

Affected entities also must meet compliance requirements when conducting authorized open burning activities. While IC 13-17-9-3 and 326 IAC 4-1-3 still includes basic conditions for this type of open burning, the conditions are less burdensome than the previously required approval and may have lower compliance costs. As a result, affected entities may experience cost savings compared to the previous application and authorization process.

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities – Estimate combined with the explanation below in “b. Estimate of Administrative Expenses Imposed by the Rules.”

b. Estimate of Administrative Expenses Imposed by the Rules – The proposed rule is not estimated to have any increased compliance costs or administrative expenses because the rule is implementing already enacted statutory changes that provide an exemption from the current requirement to obtain a permit or authorization for open burning for fire training purposes. First, because the exemption from obtaining a permit or prior authorization was already enacted under House Enrolled Act 1637 (P.L.238-2025), IDEM is implementing those changes rather than proposing new rule requirements. The burden of any compliance costs or administrative expenses will derive from statutory changes rather than rule changes.

Further, neither the statutory requirements nor rule requirements are anticipated to have any compliance costs or administrative expenses because they relieve affected entities of requirements to which they were previously subject. Affected entities are no longer required to

submit an application for approval or comply with the conditions of the approval required under 326 IAC 4-1-4.1. Additionally, while entities subject to the exemption must meet conditions at 326 IAC 4-1-3(a)(4)(F) and (G), these conditions are less burdensome than the current conditions of an open burning approval and may result in lower compliance costs. These changes represent less burdensome regulatory requirements and will likely result in beneficial cost savings, as described in more detail in the “V. Benefit Analysis” section of this rulemaking.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6 – This rulemaking does not add or increase any fees, fines, or civil penalties because the proposed amendments do not include or address any requirement related to fees, fines, or civil penalties.

d. If the implementation costs of the proposed rule are expected to exceed the threshold set in IC 4-22-2-22.7(c)(6) – The proposed rule will not exceed the implementation and compliance costs threshold set in IC 4-22-2-22.7(c)(6) because the rule is not anticipated to have any implementation or compliance costs. Affected entities will no longer be required to obtain a permit or prior authorization to do open burning for fire training purposes, which likely will create cost savings, as explained in elsewhere in this “VI. Cost Analysis” section.

VII. Sources of Information

a. Independent Verifications or Studies – None.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits – Because the proposed rule is simply implementing statutory requirements enacted by the legislative branch and responding to executive orders from the governor's office, IDEM did not find it necessary to consult independent verifications or studies or use outside sources to determine the costs and benefits. The cost savings from the rulemaking were clearly represented by the exemption from existing requirements. The following government sources of information were used to make the determinations in this regulatory analysis:

1. Indiana General Assembly House Enrolled Act 1367 (Public Law 238-2025).
2. Indiana Code 13-17-9, amended as of July 1, 2025.
3. Executive Order 25-38, Creating Opportunity Through Reduction of Excessive Environmental Regulation.
4. IDEM Regulatory Review Report for Executive Order 25-38.
5. [326 IAC 4-1](#), amended as of October 18, 2024.
6. Information provided by IDEM Office of Air Quality staff regarding approvals for open burning for live fire training.
7. Information provided by IDHS regarding the number of fire departments in Indiana.
8. U.S. Bureau of Labor Statistics Occupational Employment and Wage Statistics Query System: <https://data.bls.gov/oes/#/home>

VIII. Regulatory Analysis

The benefits of the proposed rule are likely to outweigh the costs due to the exemption from having to obtain a permit or prior authorization for open burning for fire training purposes for IDHS and certain fire departments. The exemption relieves the IDHS and fire departments, both civilian and military, of burdensome application and compliance requirements and likely will result in cost savings. While IC 13-17-9-3(6) and 326 IAC 4-1-3(a)(4)(F) and (G) still include

basic conditions for this type of open burning activity, the conditions are less burdensome than the compliance requirements under the previous approval process. The exact amount of these cost savings and benefits is difficult to quantify due to the discretionary nature and variety of open burning activities, but IDEM can estimate that 17 to 27 entities annually will save up to one hour of administrative cost savings each, for a total cost savings between \$505.58 to \$802.98. Additionally, IDEM may experience between \$1,758.31 to \$2,792.61 administrative cost savings from reviewing 13 to 23 fewer open burning applications annually. Overall, affected entities will be able to reduce costs and focus more resources on fire training activities instead of complying with additional administrative and compliance requirements. Accordingly, IDEM believes the benefits of the rule outweigh any costs. Table 2 below includes a more detailed analysis of these costs and benefits.

Table 2: Summary of Benefits and Costs

	Description	Amount	Number Affected	Total Hours	Hourly Rate	Total Amount
Potential Benefits	Exempt certain fire departments from the requirement to obtain approval for open burning for fire training purposes	1.0 hour administrative time	17-27 entities annually	17-27 administrative hours	\$29.74	\$505.58 to \$802.98
	Relieves IDEM from review and approval of open burning for fire training applications	3.33 hours of staff time	17-27 applications annually	56.61-89.91 IDEM staff hours	\$31.06	\$1,758.31 to \$2,792.61
Potential Costs	None	n/a	n/a	n/a	n/a	n/a
Net Benefit/Costs		n/a	n/a	17-27 total administrative hours and 56.61-89.91 IDEM staff hours	n/a	2,263.89 to 3,595.59

IX. Contact Information of Staff to Answer Substantive Questions

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Additional Information for OMB and SBA Review

The following information is required for OMB and State Budget Agency (SBA) review but will not be published along with the regulatory analysis.

X. Redline Draft of Proposed Rules

Please provide a link or attachment to the proposed rule that includes a redline of the changes made by the proposed rule from existing regulations, or an alternative form of identifying changes approved in advance by OMB. This draft can include annotations with other sources of requirements as discussed in Section IV above.

XI. Resubmission Information (if applicable)

Pursuant to IC 4-22-2-22.8(e), if an agency revises a proposed rule after it has been approved by OMB and SBA, the agency must submit the revised proposed rule and a revised regulatory analysis for review. If applicable, this section should include (1) a list of the changes in the revised rule from the previously approved version, (2) an explanation for the reason(s) for the changes, and (3) a description of how those changes impact the regulatory analysis previously submitted.

Table 3: Changes from previous regulatory analysis

Change from previously approved version	Reason for the change	Impact on cost-benefit analysis
326 IAC 4-1-3(a)(3) and 326 IAC 4-1-3(a)(4)(G).	Adds open burning for fire training purposes by U.S. military fire departments as an exempt burning activity that does not require an application, and also adds certain conditions related to that burning. This change was made in response to comments from the first comment period.	Four (4) additional entities may not need an application to conduct open burning, all of which have previously received open burning approvals. This change may further reduce those entities' administrative compliance costs by \$118.96 and state government administrative costs by \$413.72.
Various minor changes throughout 326 IAC 4-1-3	IDEM has decided to implement some recommended "green line" changes from LSA during their review of the first notice of comment period. They do not add or remove requirements but rather improve the rule language and consistency between requirements.	No impact.