ARTICLE 2. PERMIT REVIEW RULES

Rule 1.1. General Provisions

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 the person. For any public agency, the term means either a ranking elected official, the chief executive officer, or a designated representative of the person having responsibility for the overall operations of a principal geographic unit of the agency.

(2) "Direct $PM_{2.5}$" means solid particles emitted directly from an air emissions source or activity, or gaseous emissions or liquid droplets from an air emissions source or activity that condense to form $PM_{2.5}$ at ambient temperatures. Direct $PM_{2.5}$ emissions include elemental carbon, directly emitted organic carbon, directly emitted sulfate, directly emitted nitrate, and other inorganic particles, including, but not limited to, crustal material, metals, and sea salt.

(3) "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.

(4) "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.

(5) "New emissions unit" means an emissions unit for which construction commences on or after December 25, 1998.

(6) "New portable source" means any portable operation that:

(A) has not commenced construction as of December 25, 1998; or

(B) does not have a valid operating permit as of December 25, 1998.

(7) "New source" means a source for which construction commences on or after December 25, 1998, that will be constructed:

(A) on undeveloped land; or

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

(8) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(9) "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 clauses (A) through (C);

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

(10) "PM_{10}" has the meaning set forth at 326 IAC 1-2-52.4 and, for purposes of this article, includes gaseous emissions or liquid droplets from an air emissions source or activity that condense to form PM_{10} at ambient temperatures.

(11) "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.

(12) "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.

(13) "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 Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA; filed Feb 6, 2012, 2:54 p.m.: 20120307-IR-326090493FRA; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)

326 IAC 2-1.1-6 Public notice

Authority: IC 13-14-8; IC 13-15-2; IC 13-15-3-1; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15-5-3; IC 13-17

Sec. 6. (a) Registrations, permits, modification approvals, and operating permit revisions issued under this article shall be subject to the following public notice requirements, except as otherwise required in this article. The commissioner shall notify the public of the opportunity to comment on the proposed approval or denial of the registration, permit, modification approval, or operating permit revision as follows:

(1) The commissioner shall provide notice of the receipt of a permit or operating permit revision application to the following:

(A) The county executive of a county that is affected by the permit application.

(B) The executive of a city that is affected by the permit application.

(C) The executive of a town council of a town that is affected by the permit application.

The commissioner may require a person who submits an application to provide information on the application necessary for the commissioner to implement this subdivision.

(2) The commissioner shall publish a notice requesting comment on the proposed permit or permit revision approval or denial in a newspaper of general circulation in the area where the source or emissions unit is located.

(3) The commissioner shall provide a document supporting the proposed permit or permit revision for public inspection in the offices of the local air pollution control agency or the local health commissioner.

(4) The commissioner shall allow a period of at least thirty (30) calendar days opportunity for public comment.

(5) The commissioner may allow opportunity for a public hearing unless otherwise noted.

(6) The commissioner shall provide notice of the commissioner's issuance or denial to those parties listed in IC 13-15-5-3(c).

(b) The following approvals and operating permit revisions shall not be subject to the public notice requirements of this section:

(1) Registrations issued pursuant to 326 IAC 2-5.1-2.

(2) Notice-only operating permit revisions pursuant to 326 IAC 2-6.1-6(c).

(3) Administrative amendments pursuant to 326 IAC 2-7-11 and 326 IAC 2-8-10.

(4) A determination by the commissioner that a source is exempt from the requirements of this article.

(5) A minor permit revision or modification approval under the following: (A) 326 IAC 2-6.1-6(g).

(B) 326 IAC 2-7-10.5(d).

(C) 326 IAC 2-8-11.1(d).

(c) Within ten (10) days of the submission of an application, each applicant shall place a copy of the permit application or operating permit revision application for public review at a library in the county where the construction or modification is proposed. Each applicant shall notify the commissioner of the location of the library where the copy of the application was placed.

(d) Any person applying for a permit upon land that is either undeveloped or for which a valid existing permit has not been issued shall make, not more than ten (10) working days after submitting the permit application, a reasonable effort to provide notice to all owners or occupants of land adjoining the land which is the subject of the application. Each applicant shall pay the cost of compliance with this subsection. The notice shall be in writing and include the date on which the application was submitted and a brief description of the subject of the application.

(e) Upon written request to the commissioner, a person may be included on a list of persons to receive notification of public comment periods, issuances or denials, or both. *(Air Pollution Control Board; 326 IAC 2-1.1-6; filed Nov 25, 1998, 12:13 p.m.: 22 IR 990; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105)*

326 IAC 2-1.1-7 Fees

Authority: IC 13-14-8; IC 13-15-2; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-8

Affected: IC 13-15; IC 13-16-2; IC 13-17

Sec. 7. The applicant shall pay a fee based upon the cost to the commissioner of processing and reviewing the applicable registration, permit, or operating permit revision application and the cost of determining compliance with the terms and conditions of a permit. Except for sources identified in subdivision (5)(A), (5)(B), or (5)(E), sources subject to 326 IAC 2-7-19 are exempt from the fees established by subdivisions (1) and (4) through (6). Sources that have received a permit under 326 IAC 2-8 are exempt from the fees established by subdivisions (1) and (4) through (6), except to the extent provided in 326 IAC 2-8-16. Sources subject to 326 IAC 2-9 are exempt from the fees established by subdivision (1). The fees are established as follows:

(1) A basic filing fee of one hundred dollars ($100) shall be submitted with any application submitted to the commissioner for review in accordance with this article.

(2) A fee of five hundred dollars ($500) shall be submitted upon billing for:

(A) a registration under 326 IAC 2-5.1-2;

(B) a minor permit revision under 326 IAC 2-6.1-6(g) or 326 IAC 2-8-11.1(d); or

(C) a modification under 326 IAC 2-7-10.5(d).

(3) At the time the notice of a proposed permit, modification approval, or permit revision is published under 326 IAC 2-5.1-3, 326 IAC 2-6.1-6(i), 326 IAC 2-8-11.1(f), or a modification under 326 IAC 2-7-10.5(f), permit or significant permit revision fees shall be assessed as follows:

(A) A construction permit, modification approval, or significant permit revision approval fee of three thousand five hundred dollars ($3,500) shall be submitted upon billing for those sources subject to 326 IAC 2-5.1-3, 326 IAC 2-6.1- 6(i), 326 IAC 2-7-10.5(f), or 326 IAC 2-8-11.1(f). The fee assessed under subdivision (1) shall be credited toward this fee.

(B) A construction permit fee of six thousand dollars ($6,000) shall be submitted upon billing for those applications requiring review for PSD requirements under 326 IAC 2-2 or emission offset under 326 IAC 2-3. The fees assessed under subdivision (1) and clause (A) shall be credited toward this fee.

(C) Air quality analyses fees shall be assessed as follows:

(i) A fee of three thousand five hundred dollars ($3,500) shall be submitted upon billing if an air quality analysis is required under 326 IAC 2-2-4 or 326 IAC 2-3-3.

(ii) In lieu of the fee under item (i), a fee of six thousand dollars ($6,000) shall be submitted upon billing for an air quality analysis per pollutant performed by the commissioner upon request of the source owner or operator. The commissioner may deny a request to perform an air quality analysis.

(D) Fees for control technology analyses for best available control technology (BACT) under 326 IAC 2-2-3, lowest achievable emission rate (LAER) under 326 IAC 2-3-3, or comparison of control technology to BACT or LAER for purposes of a clean unit designation as described in 326 IAC 2-2.2-2 or 326 IAC 2-3.2-2 shall be assessed as follows per emissions unit or group of identical emissions units for which a control technology analysis is required:

(i) A fee of three thousand dollars ($3,000) shall be submitted upon billing if two (2) to five (5) control technology analyses are required.

(ii) A fee of six thousand dollars ($6,000) shall be submitted upon billing if six (6) to ten (10) control technology analyses are required.

(iii) A fee of ten thousand dollars ($10,000) shall be submitted upon billing if more than ten (10) control technology analyses are required.

(E) Miscellaneous fees to cover technical and administrative costs shall be assessed as follows:

(i) A fee of five hundred dollars ($500) shall be submitted upon billing for each review for an applicable national emission standard for hazardous air pollutants under 326 IAC 14 or 326 IAC 20 or an applicable new source performance standard under 326 IAC 12.

(ii) A fee of five hundred dollars ($500) shall be submitted upon billing for each public hearing conducted prior to issuance of the permit or modification approval.

(iii) A fee of six hundred dollars ($600) shall be submitted upon billing for each control technology analysis for BACT for volatile organic compounds under 326 IAC 8-1-6 and for maximum achievable control technology under 326 IAC 2-4.1.

(F) Fees for establishing a plantwide applicability limitation (PAL) in a PAL permit shall be assessed as follows:

(i) A separate fee shall be assessed for each PAL pollutant.

(ii) The fee for each PAL pollutant shall be assessed at forty dollars ($40) per ton of the allowable emissions for that PAL pollutant.

(iii) The maximum combined fee for all PAL pollutants shall not exceed forty thousand dollars ($40,000).

(4) Annual operating permit fees shall be assessed as follows:

(A) A basic permit fee of two hundred dollars ($200) shall be submitted upon billing for each operating permit required
under 326 IAC 2-6.1.

(B) A fee of six hundred dollars ($600) shall be submitted upon billing for each source with a potential to emit greater than five (5) tons per year of lead.

(C) A fee of one hundred dollars ($100) shall be submitted upon billing for a relocation approval for a portable source.

(5) In lieu of fees assessed under subdivision (4), annual operating permit fees shall be assessed for identified source categories as follows:

(A) During the years 1995 through 1999 inclusive, a fee of fifty thousand dollars ($50,000), less any amount credited under this clause, shall be charged to an electric power plant for a Phase I affected unit, as identified in Table A of Section 404 of the CAA, or for a substitution unit as determined by the U.S. EPA in accordance with Section 404 of the CAA. Any fees paid by that plant for non-Phase I units under 326 IAC 2-7-19 shall be credited toward this fee. Prior to 1995, a fee of three thousand dollars ($3,000) shall be submitted upon billing by the sources described in this clause. The existence of a Phase I unit at an electric power plant does not affect the plant's duty to pay fees for non-Phase I units at the plant.

(B) A fee for each coke plant equal to the costs to the commissioner associated with conducting the surveillance activities required to determine compliance with 40 CFR Part 63, Subpart L* shall be submitted upon billing. Any fee collected under this clause shall not exceed one hundred twenty-five thousand dollars ($125,000).

(C) A fee of six hundred dollars ($600) shall be submitted upon billing for each surface coal mining operation per mining area or pit.

(D) A fee of two hundred dollars ($200) shall be submitted upon billing for each grain terminal elevator as defined in 326 IAC 1-2-33.2.

(E) A fee of twenty-five thousand dollars ($25,000) shall be submitted upon billing for a municipal solid waste incinerator with capacity greater than two hundred fifty (250) tons per day.

(6) In addition to the fees assessed under subdivisions (1) through (5), miscellaneous fees to cover technical and administrative costs shall be assessed to sources subject to this section except for sources subject to fees established in subdivision (5)(A), (5)(B), or (5)(E) as follows:

(A) A fee of one thousand four hundred dollars ($1,400) shall be submitted upon billing for any air quality network required by permit.

(B) A fee of seven hundred dollars ($700) shall be paid for review under 326 IAC 3 of any source sampling test required by permit, per emissions unit. This fee shall be paid upon submittal of a protocol for the stack test as required by 326 IAC 3.

(C) A fee of two hundred dollars ($200) shall be submitted upon billing for each opacity or pollutant continuous emission monitor required by permit.

(7) Fees shall be paid by mail or in person and shall be paid upon billing by check or money order, payable to "Cashier, Indiana Department of Environmental Management" no later than thirty (30) days after receipt of billing. Nonpayment may result in denial of a permit application or revocation of the permit.

(8) If an annual fee is being paid under a fee payment schedule established under IC 13-16-2, the fee shall be paid in accordance with that schedule. Establishment of a fee payment schedule must be consistent with IC 13-16-2, including the determination that a single payment of the entire fee is an undue hardship on the person and that the commissioner is not required to assess installments separately. Failure to pay in accordance with the fee payment schedule that results in substantial nonpayment of the fee may result in revocation of the permit.

(9) Fees are nonrefundable. If the permit is denied or revoked or the source or emissions unit is shut down, the fees shall neither be refunded nor applied to any subsequent application or reapplication.

(10) If a permit becomes lost or damaged, a replacement may be requested.

(11) The commissioner may adjust all fees on January 1 of each calendar year by the Consumer Price Index (CPI) using revision of the CPI that is most consistent with the CPI for the calendar year 1995.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 2-1.1-7; filed Nov 25, 1998, 12:13 p.m.: 22 IR 991; filed May 21, 2002, 10:20 a.m.: 25 IR 3057; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3887)*

326 IAC 2-1.1-8 Time periods for determination on permit applications

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

Sec. 8. (a) The department shall approve or deny an application received by the department within the following number of calendar days from receipt of such application:

(1) Two hundred seventy (270) days for an application concerning an air pollution construction permit for a major source or major modification, modification approval, a significant permit revision under 326 IAC 2-6.1-6(i)(1)(A), 326 IAC 2-7- 10.5(f)(1), or 326 IAC 2-8-11.1(f)(1)(A), or a federally enforceable state operating permit (FESOP) under 326 IAC 2-8. For FESOP applications submitted before July 1, 1995, the two hundred seventy (270) days shall commence July 1, 1995.

(2) One hundred twenty (120) days for an application concerning an air pollution construction permit for a minor source required under 326 IAC 2-5.1-3 or a significant permit revision required under 326 IAC 2-6.1-6(i)(1)(B) through 326 IAC 2- 6.1-6(i)(1)(J), 326 IAC 2-7-10.5(f)(2) through 326 IAC 2-7-10.5(f)(9), or 326 IAC 2-8-11.1(f)(1)(B) through 326 IAC 2-8- 11.1(f)(1)(J).

(3) Sixty (60) days for an application concerning an air pollution registration required under 326 IAC 2-5.1-2 or a source specific operating agreement under 326 IAC 2-9.

(4) Forty-five (45) days for an application concerning a minor permit revision described under 326 IAC 2-6.1-6(g), 326 IAC 2-7-10.5(d), or 326 IAC 2-8-11.1(d)(1).

(5) Forty-five (45) days shall be added to the time period established in this subsection if the department determines that a public hearing should be held under section 6 of this rule.

(b) The department shall approve or deny an application filed with the department within the time period described under subsection (a) unless:

(1) the general assembly enacts a statute that imposes a new requirement on permit applications that makes it infeasible for the department to approve or deny the application within the applicable time period specified in subsection (a); or

(2) the department and an applicant, in regard to a particular permit application, agree in writing to extend the time period allowed under subsection (a).

(c) The time period described under subsection (a) shall begin and end as follows:

(1) The time period begins on:

(A) the date an application and a required fee is received and stamped received by the department; or

(B) the date marked by the department on a certified mail return receipt accompanying an application and a required fee;

whichever is earlier.

(2) The time period ends on the date that the department's decision to approve or deny an application is issued.

(d) The time period described under subsection (a) may be suspended if:

(1) the department receives a written request from an applicant to suspend processing of the application so that an issue related to an application can be resolved or additional information concerning an application can be provided; or

(2) the department mails a request for additional information to the applicant describing the reasons the application is not complete after determining that any of the following apply:

(A) An application does not contain all of the information or documents, required by rules adopted by the board, that the department needs to process the application.

(B) An application contains provisions that are not consistent with an applicable rule or law.

(C) An applicant fails to pay the required fee or submits a check that is not covered with sufficient funds.

(e) The time period described under subsection (a) shall be suspended on the day the applicant receives the department's request for additional information.

(f) The department may request, as part of a request for additional information, that an applicant conduct tests or sampling to provide information, consistent with requirements in rules adopted by the board, that is necessary for the department to process the application.

(g) The time period described under subsection (a) shall resume:

(1) on the date the department receives, and stamps as received, the information or payment completing the application; or

(2) on the date marked on the certified mail return receipt that accompanied information or payment completing the application; whichever is earlier.

(h) If an applicant's response does not provide all information requested in the request for additional information, the department shall notify the applicant within forty-five (45) calendar days after receiving the response. If the department finds an application to be incomplete after reviewing an applicant's response to a second or subsequent request for additional information, the department shall:

(1) deny the application pursuant to subsection (j); or

(2) choose to issue a further request for additional information;

however, the time period described in subsection (a) may not be suspended unless the applicant agrees in writing to defer processing of the application pending the applicant's response to the request for additional information.

(i) The department shall inform a source of the status of the department's review of the source's application or shall

issue a request for additional information:

(1) within thirty (30) calendar days of the day an application concerning an air pollution construction permit for a minor source or a minor modification was filed with the department; and

(2) within forty-five (45) calendar days of the day an application concerning an air pollution construction permit for a major source or major modification was filed with the department.

This rule does not establish a time frame for responding to air registration applications filed with the department other than that listed in subsection (a).

(j) The department may deny a permit application because the application is incomplete if an applicant:

(1) fails to submit, within sixty (60) calendar days of receipt of a request for additional information, the requested information or a schedule for providing the requested information;

(2) does not adhere to the schedule submitted under subdivision (1); or

(3) fails to submit, within thirty (30) calendar days of receipt of a request for payment, a required fee or submits a check that is not covered with sufficient funds.

(k) The department may deny a permit application because it contains provisions that are not consistent with applicable rules or laws.

(l) A permit application fee for renewal of an operating permit or an annual fee for an operating permit is nonrefundable.

(m) If the department does not issue or deny a construction permit, registration, or permit revision within the time period specified under subsection (a), the department shall automatically refund the permit, registration, or permit revision application fee paid by the applicant, except as described in subsection (n)(2).

(n) Upon expiration of the specified time period in subsection (a), the department shall do the following:

(1) Provide the applicant with a written determination of whether the time period specified under subsection (a) has expired.

(2) If the time period under subsection (a) has expired, the department shall refund the applicant's application fee within thirty

(30) calendar days of the expiration of the time period specified in subsection (a). The department shall not refund the application fee if, within thirty (30) calendar days of the expiration of the time period specified in subsection (a), the department determines:

(A) one (1) or more of the proposed emissions units is in operation without prior written authorization from the department; or

(B) construction has commenced on one (1) or more of the emissions units without prior written authorization from the department.

(3) If the applicant is eligible for a refund of the application fee, the department shall do the following:

(A) Continue to review the application.

(B) Approve or deny the application as soon as practicable.

(C) Not bill the applicant for additional charges related to the application.

(D) Issue a schedule to the applicant for making a final determination on the pending application.

(o) The department shall present a report to the air pollution control board by October 15 of each calendar year, beginning in 1993. The report shall contain an evaluation of the actions taken by the department to improve the process of issuing air permits. The report shall include the following information for permits subject to the permit schedules in subsection (a) and for permit renewal applications:

(1) The number of permit applications received and the number of permits issued or denied in the previous calendar year and the number of pending applications.

(2) A description of the reduction or increase in the number of permit applications in the air permit program during the preceding calendar year.

(3) The median review time spent on applications and renewals.

(4) The number of public hearings requested and conducted.

(5) The amount of air program permit fees collected and air program fee revenue spent during the preceding calendar year and the amount of fees refunded.

(6) A discussion of possible increases or decreases in the operating costs of the department's air program permit and inspection activities.

(7) A discussion of the measures that have been taken by the department to improve the operating efficiency of the air permit and inspection programs.

(8) The amount of time the department spent conducting hearings on appeal and objections hearings under IC 4-21.5 regarding air permits.

(9) The number of requests for additional information issued by the department under subsection (d).

(10) A discussion of the department's operational goals for the air program in the next twelve (12) months. The goals shall include processing at least ninety-five percent (95%) of the permit applications within the time frames listed under subsection (a).

(p) The remedies provided in subsections (m) and (n) are not the only remedies available to a permit applicant. A permit applicant is not prohibited from seeking other remedies available at law or in equity. *(Air Pollution Control Board; 326 IAC 2-1.1-8; filed Nov 25, 1998, 12:13 p.m.: 22 IR 993; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105)*

326 IAC 2-1.1-9.5 General provisions; term of permit

Authority: IC 13-14-8; IC 13-15-3-2; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-11-2; IC 13-15-3-6; IC 13-17

Sec. 9.5. (a) Except as provided in IC 13-15-3-6(a) and subsection (b), the following are effective for a term not to exceed five
(5) years:

(1) A permit to construct.
(2) A permit to operate.
(3) A permit modification.

(b) In accordance with IC 13-15-3-2, the following permit renewals are effective for a term not to exceed ten (10) years:

(1) A minor source operating permit renewal under 326 IAC 2-6.1.
(2) A federally enforceable state operating permit renewal under 326 IAC 2-8.

(c) Notwithstanding the permit terms in subsections (a) and (b), any condition established in a permit issued pursuant to a permitting program approved into the state implementation plan shall remain in effect until the:

(1) condition is modified in a subsequent permit action; or
(2) emission unit to which the condition pertains permanently ceases operation.

(Air Pollution Control Board; 326 IAC 2-1.1-9.5; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1557; filed Nov 16, 2007, 1:42 p.m.: 20071212-IR-326060487FRA)

Rule 2. Prevention of Significant Deterioration (PSD) Requirements

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 new source review (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 (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) 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, 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, 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)(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 for the pollutant for which the baseline date is established:

(A) equal to or greater than one (1) microgram per cubic meter (μg/m3) (annual average) for sulfur dioxide

(SO2),
nitrogen dioxide (NO2), or PM10; or
(B) equal to or greater than three-tenths (0.3) microgram per cubic meter (µg/m3) (annual average) for PM2.5.
(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)

(2) Area redesignations under 326 IAC 1-4 and Section 107(d)(1)(D) or 107(d)(1)(E) of the 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 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 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) "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.

(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.

(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.

(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.

(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.

(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.

(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.

(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.

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

(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 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 SIP and expressly requires adherence to any permit issued under the program.

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

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

(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.

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

(1) treaty;
(2) agreement;
(3) executive order; or
(4) act of Congress.

(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.

(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 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 LAER for the new or modified emissions unit within the stationary source. In no event shall the application of the 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.

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

(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 VOC or NO_x shall be considered significant for ozone. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*.

(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 installation, operation, cessation, or removal of a temporary clean coal technology demonstration project provided that the project complies with:

(i) the 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.

(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.

(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. (ee) (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.

(3) In the case of $PM_{2.5}$, October 20, 2010. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

(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, excluding ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 for Ethyl Alcohol Manufacturing or 312140 for Distilleries, as revised in 2007**.

(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 VOC or NO_x shall be considered major for ozone. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

(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.

(C) In the case of $PM_{2.5}$, October 20, 2011. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

(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.

(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 SIP.

(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 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.

(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.

(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.

(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.

(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.

(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.

(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.

(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 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.

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

(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 not less than eighty-five percent (85%) and a removal efficiency for particulates of 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.

(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. (ss) "Regulated NSR pollutant" means any of the following:

(1) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified as a constituent or precursor to the pollutant. For purposes of NSR, in all attainment and unclassifiable areas:

(A) VOC and nitrogen oxides are precursors to ozone;

(B) sulfur dioxide and nitrogen oxides are precursors to $PM_{2.5}$; and

(C) VOC and ammonia are not precursors to $PM_{2.5}$.

(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)

(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 as defined in subsection (zz).

(5) Notwithstanding subdivisions (1) through (4), any or all 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 HAP is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the CAA.

(6) Notwithstanding subdivision (5), any pollutant listed in subsection (ww)(1)(A) through (ww)(1)(U).

(tt) "Replacement unit" means an emissions unit for which all the criteria listed in subdivisions (1) through (4) are met. No creditable emission reductions shall be generated from shutting down the existing emission unit that is replaced. The following applies:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1)*, or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(3) The replacement does not alter the basic design parameters, as discussed in 40 CFR 51.165(h)(2), of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(uu) "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.

(vv) "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. 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.

(ww) "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) $PM_{2.5}$: ten (10) tons per year direct $PM_{2.5}$; forty (40) tons per year of sulfur dioxide; forty (40) tons per year of nitrogen oxides. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*
(G) Ozone: forty (40) tons per year of VOC or nitrogen oxides. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*
(H) Lead: six-tenths (0.6) ton per year.
(I) Asbestos: seven one-thousandths (0.007) ton per year.
(J) Beryllium: four ten-thousandths (0.0004) ton per year.
(K) Mercury: one-tenth (0.1) ton per year.
(L) Vinyl chloride: one (1) ton per year.
(M) Fluorides: three (3) tons per year.
(N) Sulfuric acid mist: seven (7) tons per year.
(O) Hydrogen sulfide (H_2S): ten (10) tons per year.
(P) Total reduced sulfur (including H_2S): ten (10) tons per year.
(Q) Reduced sulfur compounds (including H_2S): ten (10) tons per year.
(R) Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): thirty-five ten-millionths (0.0000035) or 3.5×10^{-6} ton per year.
(S) Municipal waste combustor metals (measured as particulate matter): fifteen (15) tons per year.
(T) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): forty (40) tons per year.
(U) Municipal solid waste landfills emissions (measured as nonmethane organic compounds): fifty (50) tons per year.
(V) Ozone-depleting substances (ODS): one hundred (100) tons per year.
(W) Pollutant greenhouse gases (GHGs): as specified in subsection (zz).
(X) 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).

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

(yy) "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.

(zz) "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally applicable regulation codified by the U.S. EPA in 40 CFR, Chapter I, Subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that the control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from that regulated activity, except as follows:

(1) Greenhouse gases (GHGs), the air pollutant defined in 40 CFR 86.1818-12(a)*, as added by 75 FR 25686 (May 7, 2010), as the aggregate group of six (6) greenhouse gases shall not be subject to regulation except as provided in subdivisions (4) and (5). Pollutant GHGs includes the following:
(A) Carbon dioxide.
(B) Nitrous oxide.
(C) Methane.
(D) Hydrofluorocarbons.
(E) Perfluorocarbons.
(F) Sulfur hexafluoride.

(2) For purposes of subdivisions (3) through (5), "tons per year (tpy) CO_2 equivalent emissions (CO_2e)" shall represent an amount of GHGs emitted and shall be calculated as follows:
(A) Multiply the mass amount of emissions in tpy for each of the six (6) greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in 40 CFR 98, Subpart A, Table A-1 (Global Warming Potentials)*, as added by 74 FR 56395 (October 30, 2009).
(B) Sum the resultant value from clause (A) for each gas to compute a tpy CO_2e.

(3) "Emissions increase", as used in subdivisions (4) and (5), means that both a significant emissions increase as calculated using the procedures in 40 CFR 51.166(a)(7)(iv)* and a significant net emissions increase as defined in

subsections (ii) and (ww) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as seventy-five thousand (75,000) tpy CO_2e instead of applying the value in subsection (ww)(1)(W).

(4) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if the stationary source is:

(A) a new major stationary source for a regulated NSR pollutant that is not GHGs and will emit or will have the potential to emit seventy-five thousand (75,000) tpy CO_2e or more; or

(B) an existing major stationary source for a regulated NSR pollutant that is not GHGs and will have an emissions increase of a regulated NSR pollutant, and an emissions increase of seventy-five thousand (75,000) tpy CO_2e or more.

(5) Beginning July 1, 2011, in addition to the provisions in subdivision (4), the pollutant GHGs shall be subject to regulation at:

(A) a new stationary source that will emit or will have the potential to emit one hundred thousand (100,000) tpy CO_2e or more; or

(B) an existing stationary source that emits or has the potential to emit one hundred thousand (100,000) tpy CO_2e or more, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of seventy-five thousand (75,000) tpy CO_2e or more.

(aaa) "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 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, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**These documents are incorporated by reference. Copies may be obtained through the U.S. Census Bureau website at: www.census.gov/eos/www/naics or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 2-2-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2391; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3022; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1102; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2020; filed Nov 25, 1998, 12:13 p.m.: 22 IR 997; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Oct 23, 2000, 9:47 a.m.: 24 IR 668; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2412; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1557; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2216; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3889; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA; filed Feb 14, 2011, 11:20 a.m.: 20110316-IR-326100505FRA; errata filed Feb 16, 2011, 2:28 p.m.: 20110316-IR-326110089ACA; filed Jul 21, 2011, 10:45 a.m.: 20110817-IR-326110099FRA)*

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 subsection (e), and consistent with the definition of major modification contained in section 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 (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(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 projects that involve a combination of emission units using the tests in subdivisions (3) 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) 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) 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.

(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.

(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, Indiana Government Center North, Tenth 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)*

326 IAC 2-2-3 Control technology review; requirements

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

Affected: IC 13-11; IC 13-15; IC 13-17

Sec. 3. Any owner or operator of a major stationary source or major modification shall comply with the following requirements:

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the state implementation plan and each applicable emissions standard and standard of performance under 40 CFR Part 60* and 40 CFR Part 61*.

(2) A new, major stationary source shall apply best available control technology for each regulated NSR pollutant for which the source has the potential to emit in significant amounts as defined in section 1 of this rule.

(3) A major modification shall apply best available control technology for each regulated NSR pollutant for which the modification would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase of the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time, which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At this time, the owner or operator of the applicable source may be required to demonstrate the adequacy of any previous determination of best available control technology for that source.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of

Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 2-2-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2395; 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 3901)*

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 shall contain an analysis of ambient air quality in the area that the major stationary source or major modification 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.

(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 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 would cause, in any area, air quality impacts less than the following:

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

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

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

(iv) Sulfur dioxide: 13 :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 VOC subject to PSD would be required to provide ozone ambient air quality data.

(vi) Lead: 0.1 µg/m3, 3-month average. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

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

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

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

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

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

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

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

(B) The concentrations of the pollutant in the area affected by the source or modification are less than the concentrations listed in clause (A) or the pollutant is not listed in clause (A).

(3) The requirements of this section shall not apply to a major stationary source or major modification with respect to pollutant GHGs.

(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 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 VOC or nitrogen oxides 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. *(filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

(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 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, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 2-2-4; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2396; filed Apr 13, 1988, 3:35 p.m.: 11 IR 3026; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1099; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2420; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1565; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3901; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA; filed Feb 14, 2011, 11:20 a.m.: 20110316-IR-326100505FRA)*

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 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.

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

(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, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)*

326 IAC 2-2-6 Increment consumption; requirements

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 6. (a) Any demonstration under section 5 of this rule shall demonstrate that increased emissions caused by the proposed major stationary source or major modification will not exceed eighty percent (80%) of the available maximum allowable increases (MAI) over the baseline concentrations for sulfur dioxide, PM, and nitrogen dioxide indicated in subsection (b)(1). Available maximum allowable increases are determined by adjusting the MAI to include impacts from actual emissions:

(1) from any major stationary source or major modification on which construction commenced after the major source baseline date; and

(2) increases and decreases at any source occurring after the minor source baseline date.

On a case-by-case basis, a source may petition the commissioner to use in excess of this eighty percent (80%). The commissioner may authorize such use provided the source adequately demonstrates the need for the same.

(b) Increment consumption shall be in accordance with the following:

(1) The following allowable increments reflect the PSD increments for a Class II area (as defined in the CAA). Indiana has no Class I or Class III areas; however, should some areas of the state be classified as Class I or III, the PSD increments pursuant to 40 CFR Part 52.21* to which it must be adhered. New permits issued after January 1, 1995, shall use PM_{10} as the indicator for PM. The allowable increments are as follows:

Pollutants	Allowable Increments (Micrograms per Cubic Meter, $\mu g/m^3$ Limits)
(A) PM:	
(PM_{10}):	
Annual arithmetic mean	17
24-hour maximum	30
($PM_{2.5}$):	
Annual arithmetic mean	4
24-hour maximum	9
(B) Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
(C) Nitrogen dioxide:	
Annual arithmetic mean	25

(2) For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location.

(3) When an applicant proposes to construct a major stationary source or major modification in an area designated as attainment or unclassified and the increments listed in subdivision (1) have been consumed, the increased emissions from the source or modification may be permitted to be offset by reducing emissions in the affected areas by an equal amount of the pollutant for which the area was designated as attainment or unclassified.

(4) The following pollutant concentrations shall be excluded when determining compliance with a maximum allowable increase:

(A) Concentrations attributable to the increase in emissions from sources that have converted from the use of petroleum products or natural gas, or both, by reason of an order in effect under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from the sources before the effective date of the order.

(B) Concentrations attributable to the increase in emissions from sources that have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from the sources before the effective date of the plan.

(C) Concentrations of PM attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources.

(D) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, PM, or nitrogen oxides from stationary sources that are affected by state implementation plan revisions approved by U.S. EPA are excluded provided the following criteria is met:

(i) The exclusion shall not exceed two (2) years in duration unless a longer time is approved by the commissioner and the U.S. EPA.

(ii) The exclusion is not renewable.

(iii) The exclusion shall allow no emissions increase that would impact a Class I area or an area where an applicable increment is known to be violated, or cause or contribute to a violation of an ambient air quality standard as designated in 326 IAC 1-3.

(iv) An emission limitation shall be in effect at the end of the time period specified in accordance with item (i) that will ensure that the emissions levels will not exceed those levels occurring from

the source before the exclusion was granted.

(5) No exclusion of such a concentration under subdivision (4)(A) and (4)(B) shall apply more than five (5) years after the date the exclusion is granted under this rule. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the latter of the effective dates.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 2-2-6; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2398; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2025; filed Oct 3, 1995, 3:00 p.m.: 19 IR 185; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2422; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1567; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2222; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3903; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)*

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;

(B) is discontinued for a period of eighteen (18) months or more; or

(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 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 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(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(pp)(2)(A)(iii) of this rule.

(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(ww) 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(xx) 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(xx) 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 Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)*

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 shall submit all information necessary to perform any analysis or make any determination required under this rule as follows:

(1) With respect to a source or modification to which this rule applies, 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.

(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 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 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 Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)

326 IAC 2-2-11 Stack height provisions

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

Sec. 11. (a) The allowed emission rate for any regulated pollutant under this rule shall not be affected in any manner by the following:

(1) That portion of a stack height exceeding good engineering practice, as established in 326 IAC 1-7, that was not in existence by December 31, 1970.

(2) Any other dispersion technique not implemented before December 31, 1970.

(b) Subsection (a) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented prior to that date. *(Air Pollution Control Division; 326 IAC 2-2-11; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2425)*

326 IAC 2-2-12 Permit rescission

Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15-6; IC 13-15-7; IC 13-17

Sec. 12. Any permit issued under this rule shall remain in effect unless and until it is rescinded, modified, revoked, or it expires in accordance with 326 IAC 2-1.1-9.5 or section 8 of this rule. The following apply to rescission:

(1) Any owner or operator of a major stationary source or major modification who holds a permit for the source or modification that was issued under 40 CFR 52.21* or this rule prior to January 19, 2002, may request the commissioner to rescind the permit or a particular portion of the permit.

(2) The commissioner shall grant an application for rescission if the application shows that this rule would not apply to the major stationary source or major modification.

(3) If the commissioner rescinds a permit under this section, the public shall be given adequate notice of the rescission. Publication of an announcement of the rescission in the affected region within sixty (60) days of the rescission shall be considered adequate notice.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 2-2-12; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2425; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1569; filed Mar 9, 2004, 3:45 p.m.: 27 IR 2223)*

326 IAC 2-2-13 Area designation and redesignation

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

Sec. 13. (a) All of the following areas that were in existence on August 7, 1977, shall be Class I areas and shall not be redesignated:

(1) International parks.

(2) National wilderness areas that exceed five thousand (5,000) acres in size.

(3) National memorial parks that exceed five thousand (5,000) acres in size.

(4) National parks that exceed six thousand (6,000) acres in size.

(b) The following shall apply to area designations:

(1) Areas that were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

(2) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this section.

(3) The following areas may be redesignated only as Class I or II:

(A) An area that as of August 7, 1977, exceeded ten thousand (10,000) acres in size and was a:

(i) national monument;

(ii) national primitive area;

(iii) national preserve;

(iv) national recreational area;

(v) national wild and scenic river;

(vi) national wildlife refuge; or

(vii) national lakeshore or seashore.

(B) A national park or national wilderness area established after August 7, 1977, that exceeds ten thousand (10,000) acres in size.

(c) The following shall apply to area redesignations:

(1) All areas, except as otherwise provided under subsection (a), are designated Class II as of December 5, 1974. Redesignation, except as otherwise precluded by subsection (a), may be proposed by the department or Indian governing bodies, as provided in this section, subject to approval by U.S. EPA as a revision to the applicable state implementation plan.

(2) The department may submit to U.S. EPA a proposal to redesignate areas of the state Class I or Class II provided the following:

(A) At least one (1) public hearing has been held in accordance with procedures established in 40 CFR 51.102*.

(B) Other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least thirty (30) days prior to the public hearing.

(C) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the:

(i) health;

(ii) environmental;

(iii) economic;

(iv) social; and

(v) energy effects;

of the proposed redesignation, was prepared and made available for public inspection at least thirty (30) days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion.

(D) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the department has provided written notice to the appropriate federal land manager and afforded adequate opportunity, not in excess of sixty (60) days, to confer with the department respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the department shall have published a list of any inconsistencies between such redesignation and such comments and recommendations, together with the reasons for making such redesignation against the recommendation of the federal land manager.

(E) The department has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area under subsection (a) may be redesignated as Class III if the following occurs:

(A) The redesignation would meet the requirements of subdivision (2).

(B) The redesignation, except a redesignation established by an Indian governing body, has been specifically approved by the governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation.

(C) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard.

(D) Any permit application for any major stationary source or major modification, subject to review under section 5(c) of this rule, that could receive a permit under this rule only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body. The appropriate Indian governing body may submit to U.S. EPA a proposal to redesignate areas Class I, Class II, or Class III provided the following:

(A) The Indian governing body has followed procedures equivalent to those required of the department under subdivisions (2), (3)(C), and (3)(D).

(B) Such redesignation is proposed after consultation with the state or states in which the Indian reservation is located and that border the Indian reservation.

(5) If U.S. EPA disapproves a proposed redesignation, the classification of the area shall be that which was in effect prior to the redesignation that was disapproved.

(6) If U.S. EPA disapproves any proposed redesignation, the department or Indian governing body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by U.S. EPA.

*Copies of the Code of Federal Regulations (CFR) 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 2-2-13; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2426)*

326 IAC 2-2-14 Sources impacting federal Class I areas: additional requirements

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

Sec. 14. (a) The department shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within the Class I area. The notification shall be given within thirty (30) days of receipt of a permit application and at least sixty (60) days prior to any public hearing on the application for a permit to construct and shall include the following:

(1) A copy of all information relevant to the permit application.

(2) An analysis of the proposed source's anticipated impacts on visibility in the federal Class I area.

The department shall also provide the federal land manager and the federal officials with a copy of the preliminary determination required under this section, and shall make available to them any materials used in making that determination, promptly after the department makes the determination. The department shall also notify all affected federal land managers within thirty (30) days of receipt of any advance notification of any permit application that may affect a Class I area.

(b) The federal land manager and the federal official charged with direct responsibility for management of the Class I area have an affirmative responsibility to protect the air quality related values, including visibility, of the Class I area and to consider, in consultation with U.S. EPA, whether a proposed source or modification will have an adverse impact on the values.

(c) The department shall consider any analysis performed by the federal land manager, provided to the department within thirty (30) days of the notification required by subsection (a), that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal Class I area. Where the department finds that the analysis does not demonstrate to the satisfaction of the department that an adverse impact on visibility will result in the federal Class I area, the department must, in the notice of public hearing on the permit application, either explain the decision or give notice as to where the explanation may be obtained.

(d) The federal land manager of any Class I area may demonstrate to the department that the emissions from a proposed major stationary source or major modification would have an adverse impact on the air quality-related values, including visibility, of a Class I area, notwithstanding that the change in air quality resulting from emissions from the major stationary source or major modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the department concurs with the demonstration, then the department shall not issue the permit.

(e) The owner or operator of a proposed major stationary source or major modification may demonstrate to the federal land manager that the emissions from the source or modification would have no adverse impact on the air quality related values of any Class I areas, including visibility, notwithstanding that the change in air quality resulting from emissions from the major stationary source or major modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with the demonstration and the federal land manager so certifies, the department may issue the permit provided that the applicable requirements of this section are otherwise met, to issue the permit with emission limitations as may be necessary to assure that emissions of sulfur dioxide, PM, and nitrogen oxides shall not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

Pollutant	Maximum Allowable Increase Micrograms Per Cubic Meter (µg/m3)
PM:	
PM_{10}, annual arithmetic mean	17
PM_{10}, 24-hour maximum	30
$PM_{2.5}$, annual arithmetic mean	4
$PM_{2.5}$, 24-hour maximum	9
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(f) The owner or operator of a proposed major stationary source or major modification that cannot be approved

under subsection (e) may demonstrate to the department that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that an exemption under this subsection would not adversely affect the air quality related values of the area, including visibility. The department, after consideration of the federal land manager's recommendation, if any, and subject to the federal land manager's concurrence, may, after notice and public hearing, grant an exemption from the maximum allowable increase. If the exemption is granted, the department shall issue a permit to the major stationary source or major modification pursuant to the requirements under subsection (h) provided that the applicable requirements of this section are otherwise met.

(g) In any case where the department recommends an exemption in which the federal land manager does not concur, the recommendations of the department and the federal land manager shall be transmitted to the President. The President may approve the department's recommendation if the President finds that the exemption is in the national interest. If the exemption is approved, the department shall issue a permit pursuant to the requirements under subsection (h) provided that the applicable requirements of this section are otherwise met.

(h) In the case of a permit issued under subsection (f) or (g), the major stationary source or major modification shall comply with the emission limitations as may be necessary to assure that emissions of sulfur dioxide from the major stationary source or major modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that the emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase
(Micrograms Per Cubic Meter) of Sulfur Dioxide

	Terrain Areas	
Period of Exposure	Low	
24-hour maximum	36	62
3-hour maximum	130	221

(i) The department shall transmit to the U.S. EPA a copy of each permit application relating to a major stationary source or major modification and provide notice to the U.S. EPA of the following actions related to consideration of the permit under this section:

(1) Receipt of an advanced notification of a permit application affected by this section.

(2) Any written notice provided to the federal land manager under this section.

(3) Public notice of a preliminary determination.

(4) Notices of public hearings.

(5) Decisions to grant or deny exemptions in accordance with this section.

(6) Any decision in accordance with subsection (c) that an analysis submitted by the federal land manager does not demonstrate to the satisfaction of the department that an adverse impact on visibility will result in the Class I area.

(7) Denial of a permit.

(8) Issuance of a permit.

(Air Pollution Control Division; 326 IAC 2-2-14; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2427; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2427; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1569; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA)

326 IAC 2-2-15 Public participation

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

Sec. 15. (a) An application submitted under this rule shall be processed in accordance with 326 IAC 2-1.1-8.

(b) In addition to the requirements under 326 IAC 2-1.1-6, the requirements in this subsection apply. When making a permit decision under this rule, the department shall do the following:

(1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(2) Include information concerning the degree of increment consumption that is expected from the source or modification with the public notice under 326 IAC 2-1.1-6(a)(2).

(3) Send a copy of the notice of public comment to the applicant, U.S. EPA, and officials and agencies having knowledge of the location where the proposed construction would occur as follows:

(A) Any other state or local air pollution control agencies.

(B) Any comprehensive regional land use planning agency.

(C) Any state, federal land manager, or Indian governing body whose lands may be affected by emissions

from the source or modification.

(4) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing or hearings in making a final decision on the approvability of the application. The department shall make all comments available for public inspection in the same locations where the department made available preconstruction information relating to the proposed source or modification.

(5) Make a final determination whether construction should be approved, approved with conditions, or disapproved.

(6) Make the notification of the final determination available for public inspection at the same location where the department made available preconstruction information and public comments relating to the source.

(Air Pollution Control Division; 326 IAC 2-2-15; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2428)

326 IAC 2-2-16 Ambient air ceilings

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

Sec. 16. No concentration of a pollutant under this rule shall exceed the concentration permitted under the national:

(1) secondary ambient air quality standard as listed under 40 CFR 50.5 through 40 CFR 50.7 and 40 CFR 50.9 through 40 CFR 50.12*; or

(2) primary ambient air quality standard as listed under 40 CFR 50.4, 40 CFR 50.6 through 40 CFR 50.9, and 40 CFR 50.11 through 40 CFR 50.12*;

whichever concentration is lowest for the pollutant for a period of exposure.

*Copies of the Code of Federal Regulations (CFR) 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 2-2-16; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2429)*

Rule 3. Emission Offset

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 that:

(A) precedes the particular date; and

(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 (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, 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, 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)(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 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 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) "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.

(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.

(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.

(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.

(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.

(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.

(p) "De minimis", in reference to an emissions increase of VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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.

(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.

(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.

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

(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 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 SIP and expressly requires adherence to any permit issued under the program.

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

(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.

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

(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 LAER for the new or modified emissions unit within the stationary source. In no event shall the application of the 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.

(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 or oxides of nitrogen (unless a NO_X waiver is in effect) 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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 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 installation, operation, cessation, or removal of a temporary clean coal technology demonstration project provided that the project complies with:

(i) the 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.

(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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 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 subdivision (1) if the change would by itself qualify as a major stationary source under subdivision (1).

(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.

(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).

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

(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.

(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.

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

(dd) "New", in reference to a:

(1) major stationary source;

(2) modified major stationary source; or

(3) major modification;

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

(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 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.

(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.

(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.

(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.

(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*.

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

(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 (gg).

(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 CAA.

(mm) "Regulated NSR pollutant" means the following:

(1) Nitrogen oxides or any 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.

(nn) "Replacement unit" means an emissions unit for which all the criteria listed in subdivisions (1) through (4) are met. No creditable emission reductions shall be generated from shutting down the existing emission unit that is replaced. The following applies:

(1) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1)*, or the emissions unit completely takes the place of an existing emissions unit.

(2) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(3) The replacement does not alter the basic design parameters, as discussed in 40 CFR 51.165(h)(2), of the process unit.

(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

(oo) "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.

(pp) "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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect)
Lead	0.6 tpy

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

(rr) "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.

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

(tt) "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 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, Indiana Government Center North, Tenth 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)*

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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 subsection (k) and consistent with the definition of major modification in section 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(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 projects that involve a combination of emission units using the tests in subdivisions (3) 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) 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 (: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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect) 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 that, as of August 7, 1980, is being regulated under Section 111 or 112 of the 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) 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 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) 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 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(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(kk)(2)(A)(iii) of this rule and an explanation for why the amount was excluded.

(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(qq) 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(qq) 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.

(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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR- 326070372FRA)

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 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 CAA and in this title; or

(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 VOC or oxides of nitrogen (unless a NO_X waiver is in effect):

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 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, as follows:

(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 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 the previously shutdown or curtailed sources.

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

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

(ii) 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 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) another 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) Credit for an emissions reduction can be claimed to the extent that the department has not relied on 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, Indiana Government Center North, Tenth 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA)*

326 IAC 2-3-4 Banking of emission offsets

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

Sec. 4. (a) For new sources obtaining permits by applying offsets after January 16, 1979, the commissioner may allow offsets that exceed the requirements of reasonable further progress toward attainment to be banked (i.e., saved to provide offsets for a source seeking a permit in the future) for use under this rule (326 IAC 2-3).

(b) An existing source that reduces its own emissions beyond those required by this title (326 IAC) may bank its excess emission reduction with the prior approval of the commissioner. The commissioner may allow these banked offsets to be used under the preconstruction review program as long as these banked emissions are identified and not used for in the control strategy submitted to EPA to demonstrate attainment and maintenance of ambient air quality standards.

(c) Banked emissions shall be the property of the person providing the offset and shall be identified and registered by the commissioner and shall be incorporated into an enforceable permit.

(d) Decrease in emissions may be credited for offset purposes only if it occurs between the date five (5) years before construction commences on a proposed physical or operational change and the date the increase in actual emissions from that change occurs. In other words, emission reductions may be banked for five (5) years, plus time for construction.

(e) The commissioner may not approve the construction of a source using banked offsets if the new source would interfere with the attainment and maintenance of ambient air quality standards or if such use would violate any other condition set forth in this rule (326 IAC 2-3). *(Air Pollution Control Division; 326 IAC 2-3-4; filed Mar 10, 1988, 1:20 pm: 11 IR 2407)*

326 IAC 2-3-5 Location of offsetting emissions

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

Sec. 5. Emission offsets generally must be obtained by the same source or other existing sources in the same nonattainment area. However, the commissioner may allow offsets to be obtained in another nonattainment area under the following conditions:

(1) The other nonattainment area must have an equal or higher nonattainment classification than the nonattainment area in which the source would construct. This nonattainment classification must be for the same pollutant.

(2) The emissions from the other nonattainment area must contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source would construct.

However, it is desirable to obtain offset from sources located as close to the proposed new source site as possible. The applicant shall show that nearby offsets were investigated and reasonable alternatives were not available before offsets from sources at greater distances can be approved. In such cases, the commissioner may increase the ratio of the required offsets. *(Air Pollution Control Division; 326 IAC 2-3-5; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2407; filed Nov 12, 1993, 4:00 p.m.: 17 IR 732)*

Rule 3.4. Actuals Plantwide Applicability Limitations in Nonattainment Areas

326 IAC 2-3.4-1 Applicability

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

Sec. 1. (a) The department may approve the use of an actuals plantwide applicability limitation (PAL) for any existing major stationary source, except as provided in subsection (b), if the PAL meets the requirements in this rule. A source that is subject to P.L.231-2003, SECTION 6 shall comply with the requirements of 326 IAC 2-2.6.

(b) The department shall not allow an actuals PAL for VOC or NO_x for any major stationary source located in an extreme ozone nonattainment area.

(c) Any physical change in or change in the method of operation of a major stationary source that maintains its total

source-wide emissions below the PAL, that level meets the requirements in this rule, and that complies with the PAL permit:

(1) is not a major modification for the PAL pollutant;

(2) does not have to be approved through 326 IAC 2-3; and

(3) is not subject to 326 IAC 2-3-2(d).

(d) Except as provided under subsection (c)(3), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL. *(Air Pollution Control Division; 326 IAC 2-3.4-1; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3939)*

326 IAC 2-3.4-2 Definitions

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

Affected: IC 13-15; IC 13-17

Sec. 2. (a) The definitions in this section apply throughout this rule. A term that is not defined in this section shall have the meaning set forth in 326 IAC 2-3-1 or in the CAA.

(b) "Actuals PAL", for a major stationary source, means a PAL based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.

(c) "Allowable emissions" means the following:

(1) The emissions rate of a stationary source calculated using the maximum rated capacity of the source unless the source is subject to federally enforceable limits that restrict the operating rate or hours of operation, or both, and the most stringent of the:

(A) applicable standards as set forth in 40 CFR Part 60* and 40 CFR Part 61*;

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

(C) emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(2) The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(3) An emissions unit's potential to emit shall be determined using the definition in 326 IAC 2-3-1.

(d) "Major emissions unit" means any emissions unit that emits or has the potential to emit:

(1) one hundred (100) tons per year or more of the PAL pollutant in an attainment area; or

(2) the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the CAA for nonattainment areas.

(e) "PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL under section 11 of this rule is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(f) "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.

(g) "PAL major modification" means, notwithstanding the definitions for major modification in 326 IAC 2-3-1(z) and net emissions increase in 326 IAC 2-3-1(dd), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(h) "PAL permit" means the permit issued by the department that contains PAL provisions for a major stationary source.

(i) "PAL pollutant" means the regulated NSR pollutant for which a PAL is established at a major stationary source.

(j) "Plantwide 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.

(k) "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level, as defined in 326 IAC 2-3-1 or in the CAA, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in subsection (d).

(l) "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in 326 IAC 2-3-1(qq) or in the CAA, whichever is lower.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 2-3.4-2; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3940)*

326 IAC 2-3.4-3 Permit application requirements

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

Affected: IC 13-15; IC 13-17

Sec. 3. As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the department for approval:

(1) A list of all emissions units at the source designated as small, significant, or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.

(2) Calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(3) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a twelve (12) month rolling total for each month as required by section 13(a) of this rule.

(Air Pollution Control Division; 326 IAC 2-3.4-3; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3941)

326 IAC 2-3.4-4 Establishing PALs; general requirements

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

Sec. 4. (a) The department may establish a PAL at a major stationary source provided that, at a minimum, the following requirements are met:

(1) The PAL shall impose an annual emission limitation in tons per year, which is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first twelve (12) months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous twelve (12) consecutive months is less than the PAL, on a twelve (12) month average, rolled monthly. For each month during the first eleven (11) months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in a PAL permit that meets the public participation requirements in section 5 of this rule.

(3) The PAL permit shall contain all the requirements of section 7 of this rule.

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(5) Each PAL shall regulate emissions of only one (1) pollutant.

(6) Each PAL shall have a PAL effective period of ten (10) years.

(7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, record keeping, and reporting requirements provided in sections 12 through 14 of this rule for each emissions unit under the PAL through the PAL effective period.

(b) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under 326 IAC 2-3-3 unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL. *(Air Pollution Control Division; 326 IAC 2-3.4-4; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3941)*

326 IAC 2-3.4-5 Public participation requirements for PALs

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

Sec. 5. PALs for existing major stationary sources shall be:

(1) established;
(2) renewed;
(3) increased;
(4) terminated; or
(5) revoked;

through a procedure that is consistent with 326 IAC 2-7-17. This includes the requirement that the department provide the public with notice of the proposed approval of a PAL permit and at least a thirty (30) day period for submittal of public comment. The department must address all material comments before taking final action on the permit. *(Air Pollution Control Division; 326 IAC 2-3.4-5; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3941)*

326 IAC 2-3.4-6 Establishing a 10 year actuals PAL level

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

Sec. 6. (a) The actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source plus an amount equal to the least of the following levels:

(1) The applicable significant level in 326 IAC 2-3-1(qq) for the PAL pollutant.

(2) The de minimis level in 326 IAC 2-3-1(q) in case of the PAL for VOC emissions for sources located in severe or serious nonattainment areas.

(3) The level specified under CAA.

(b) For establishing the actuals PAL level for a PAL pollutant, only one (1) consecutive twenty-four (24) month period shall be used to determine the baseline actual emissions for all existing emissions units. A different consecutive twenty-four (24) month period may be used for each different PAL pollutant.

(c) Emissions associated with units that were permanently shutdown after this twenty-four (24) month period must be subtracted from the PAL level.

(d) Emissions from units, except modifications to existing units, on which actual construction began after the twenty-four (24) month period must be added to the PAL level in an amount equal to the potential to emit of the units.

(e) The department shall specify a reduced PAL level, in tons per year, in the PAL permit to become effective on the future compliance date of any applicable federal or state regulatory requirement that the department is aware of prior to issuance of the PAL permit. *(Air Pollution Control Division; 326 IAC 2-3.4-6; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3941)*

326 IAC 2-3.4-7 Contents of the PAL permit

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

Sec. 7. The PAL permit must contain, at a minimum, the following information:

(1) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(2) The PAL permit effective date and the expiration date of the PAL.

(3) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with section 10 of this rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the department.

(4) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions.

(5) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of section 9 of this rule.

(6) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a twelve (12) month rolling total as required by section 13(a) of this rule.

(7) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with section 12 of this rule.

(8) A requirement to retain the records required under section 13 of this rule on site. The records may be retained in an electronic format.

(9) A requirement to submit the reports required under section 14 of this rule by the required deadlines.

(10) Any other requirements that the department deems necessary to implement and enforce the PAL.

(Air Pollution Control Division; 326 IAC 2-3.4-7; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3942)

326 IAC 2-3.4-8 PAL effective period and reopening of the PAL permit

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

Sec. 8. (a) The department shall specify a PAL effective period of ten (10) years.

(b) For reopening of the PAL permit, the following requirements must be met:

(1) During the PAL effective period, the department shall reopen the PAL permit to:

(A) correct typographical or calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

(B) reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 326 IAC 2-3-3; or

(C) revise the PAL to reflect an increase in the PAL as provided under section 11 of this rule.

(2) The department has discretion to reopen the PAL permit to reduce the PAL as follows:

(A) To reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B) Consistent with any other requirement that is enforceable as a practical matter and that the state may impose on the major stationary source under the state implementation plan.

(C) If the department determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation or to an adverse impact on an air quality related value that has been identified for a federal Class I area by a federal land manager and for which information is available to the general public.

(3) Except for the permit reopening in subdivision (1)(A) for the correction of typographical or calculation errors that do not increase the PAL level, all other reopenings shall be conducted in accordance with the public participation requirements of section 5 of this rule.

(Air Pollution Control Division; 326 IAC 2-3.4-8; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3942)

326 IAC 2-3.4-9 Expiration of a PAL

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

Sec. 9. (a) Any PAL that is not renewed in accordance with the procedures in section 10 of this rule shall expire at the end of the PAL effective period, and the requirements in this section shall apply.

(b) Each emissions unit or each group of emissions units that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures:

(1) Within the time frame specified for PAL renewals in section 10(b) of this rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit or each group of emissions units, if the distribution is more appropriate as decided by the department by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under section 10(e) of this rule, the distribution shall be made as if the PAL had been adjusted.

(2) The department shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the department determines is appropriate.

(c) Each emissions unit shall comply with the allowable emission limitation on a twelve (12) month rolling basis. The department may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(d) Until the department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (b)(1), the source shall continue to comply with a source-wide, multiunit emissions cap equivalent to the level of the PAL emission limitation.

(e) Any physical change or change in the method of operation at the major stationary source will be subject to the nonattainment major NSR requirements if the change meets the definition of major modification in 326 IAC 2-3-1.

(f) The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established under 326 IAC 2-3-2(d) but were eliminated by the PAL under section 1(c)(3) of this rule. *(Air Pollution Control Division; 326 IAC 2-3.4-9; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3943)*

326 IAC 2-3.4-10 Renewal of a PAL

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

Sec. 10. (a) The department shall follow the procedures specified in section 5 of this rule in approving any request to renew a PAL for a major stationary source and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During the public review, any person may propose a PAL level for the source for consideration by the department.

(b) A major stationary source owner or operator shall submit a timely application to the department to request renewal of a PAL. A timely application is one that is submitted at least six (6) months prior to, but not earlier than eighteen (18) months from, the date of PAL expiration. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(c) The application to renew a PAL permit shall contain the following information:

(1) The information required in section 3 of this rule.

(2) A proposed PAL level.

(3) The sum of the potential to emit of all emissions units under the PAL with supporting documentation.

(4) Any other information the owner or operator wishes the department to consider in determining the appropriate level for renewing the PAL.

(d) In determining whether and how to adjust the PAL, the department shall consider the options outlined in this subsection. However, in no case may any adjustment fail to comply with subdivision (3). The following provisions apply:

(1) If the emissions level calculated in accordance with section 6 of this rule is equal to or greater than eighty percent (80%) of the PAL level, the department may renew the PAL at the same level without considering the factors set forth in subdivision (2).

(2) The department may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions or that it determines to be appropriate considering:

(A) air quality needs;

(B) advances in control technology;

(C) anticipated economic growth in the area;

(D) desire to reward or encourage the source's voluntary emissions reductions; or

(E) other factors as specifically identified by the department.

(3) Notwithstanding subdivisions (1) and (2):

(A) if the potential to emit of the major stationary source is less than the PAL, the department shall adjust the PAL to a level no greater than the potential to emit of the source; and

(B) the department shall not approve a renewed PAL level higher than the current PAL unless the major stationary source has complied with section 11 of this rule.

(e) If the compliance date for a state or federal requirement that applies to the PAL source occurs during the PAL effective period and if the department has not already adjusted for the requirement, the PAL shall be adjusted at the time of PAL permit renewal or Part 70 permit renewal, whichever occurs first. *(Air Pollution Control Division; 326 IAC 2-3.4-10; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3943)*

326 IAC 2-3.4-11 Increasing a PAL during the PAL effective period

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

Affected: IC 13-15; IC 13-17

Sec. 11. (a) The department may increase a PAL emission limitation during the PAL effective period only if the major stationary source complies with the following provisions:

(1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding ten (10) years. In this case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(3) The owner or operator shall obtain a major NSR permit for all emissions units identified in subdivision (1) regardless of the magnitude of the emissions increase resulting from them. These emissions units shall comply with any emissions requirements resulting from the nonattainment major NSR process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(4) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b) The department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined in accordance with subsection (a)(2), plus the sum of the baseline actual emissions of the small emissions units.

(c) The PAL permit must be revised to reflect the increased PAL level under the public notice requirements of section 5 of this rule. *(Air Pollution Control Division; 326 IAC 2-3.4-11; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3944)*

326 IAC 2-3.4-12 Monitoring requirements for PALs

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

Affected: IC 13-15; IC 13-17

Sec. 12. (a) The following general requirements apply:

(1) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines

plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by the system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(2) The PAL monitoring system must employ one (1) or more of the four (4) general monitoring approaches meeting the minimum requirements set forth in subsection (b) and must be approved by the department.

(3) Notwithstanding subdivision (2), an alternative monitoring approach may be employed:

(A) that meets subdivision (1); and

(B) if it is approved by the department.

(4) Failure to use a monitoring system that meets the requirements of this section renders the PAL invalid.

(b) The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (c) through (i):

(1) Mass balance calculations for activities using coatings or solvents.

(2) CEMS.

(3) CPMS or PEMS.

(4) Emission factors.

(c) An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit.

(2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit if it cannot otherwise be accounted for in the process.

(3) Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from the material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d) An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B*.

(2) CEMS must sample, analyze, and record data at least every fifteen (15) minutes while the emissions unit is operating.

(e) An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(2) Each CPMS or PEMS must sample, analyze, and record data at least every fifteen (15) minutes, or at another less frequent interval approved by the department, while the emissions unit is operating.

(f) An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:

(1) All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development.

(2) The emissions unit shall operate within the designated range of use for the emission factor, if applicable.

(3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six (6) months of PAL permit issuance unless the department determines that testing is not required.

(g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data unless another method for determining emissions during the periods is specified in the PAL permit.

(h) Notwithstanding the requirements in subsections (c) through (g), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the department shall, at the time of permit issuance:

(1) establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at the operating points; or

(2) determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

(i) All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the department. The testing must occur at least once every five (5) years after issuance of the PAL.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of

Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 2-3.4-12; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3944)*

326 IAC 2-3.4-13 Record keeping requirements

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

Sec. 13. (a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this rule and of the PAL, including a determination of each emissions unit's twelve (12) month rolling total emissions, for five (5) years from the date of the record.

(b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five (5) years:

(1) A copy of the PAL permit application and any applications for revisions to the PAL.

(2) Each annual certification of compliance pursuant to 40 CFR Part 70* and the data relied on in certifying the compliance.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Division; 326 IAC 2-3.4-13; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3945)*

326 IAC 2-3.4-14 Reporting and notification requirements

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

Sec. 14. (a) The owner or operator shall submit semiannual monitoring reports and deviation reports to the department in accordance with 326 IAC 2-7. The reports shall meet the requirements of this section.

(b) A semiannual report shall be submitted to the department within thirty (30) days of the end of each reporting period. This report shall contain the following information:

(1) The identification of owner and operator and the permit number.

(2) Total annual emissions in tons per year based on a twelve (12) month rolling total for each month in the reporting period recorded under section 13(a) of this rule.

(3) All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(4) A list of any emissions units modified or added to the major stationary source during the preceding six (6) month period.

(5) The number, duration, and cause of any deviations or monitoring malfunctions, other than the time associated with zero (0) and span calibration checks, and any corrective action taken.

(6) Information about monitoring system shutdowns including the following:

(A) Notification to the department of the shutdown of any monitoring system.

(B) Whether the shutdown was permanent or temporary.

(C) The reason for the shutdown.

(D) The anticipated date that the monitoring system will be fully operational or replaced with another monitoring system.

(E) Whether the emissions unit monitored by the monitoring system continued to operate.

(F) If the emissions unit monitored by the monitoring system continued to operate, the calculation of the:

(i) emissions of the pollutant; or

(ii) number determined by method included in the permit, as provided by section 12(g) of this rule.

(7) A signed statement by the responsible official, as defined in 326 IAC 2-7-1, certifying the truth, accuracy, and completeness of the information provided in the report.

(c) The major stationary source owner or operator shall promptly submit reports to the department of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted under 326 IAC 2-7-5(3)(C)(ii) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by 326 IAC 2-7-5(3)(C)(ii). The reports shall contain the following information:

(1) The identification of owner and operator and the permit number.

(2) The PAL requirement that experienced the deviation or that was exceeded.

(3) Emissions resulting from the deviation or the exceedance.

(4) A signed statement by the responsible official, as defined in 326 IAC 2-7-1, certifying the truth, accuracy, and

completeness of the information provided in the report.

(d) The owner or operator shall submit to the department the results of any revalidation test or method within three (3) months after completion of the test or method. *(Air Pollution Control Division; 326 IAC 2-3.4-14; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3946; errata filed Jan 2, 2013, 2:19 p.m.: 20130123-IR-326130002ACA)*

326 IAC 2-3.4-15 Termination and revocation of a PAL

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

Sec. 15. (a) This section applies to any PAL that is terminated or revoked prior to the PAL expiration date.

(b) A major stationary source owner or operator may at any time submit a written request to the department to terminate or revoke a PAL prior to the expiration or renewal of the PAL.

(c) Each emissions unit or each group of emissions units that existed under the PAL shall be in compliance with an allowable emission limitation under a revised permit established according to the following procedures:

(1) The major stationary source owner or operator may submit a proposed allowable emission limitation for each emissions unit or each group of emissions units by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under section 10(e) of this rule, such distribution shall be made as if the PAL had been adjusted.

(2) The department shall decide whether and how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the department determines is appropriate. The determination of distribution of the PAL allowable emissions may be based on the emissions limitations that were eliminated by the PAL in accordance with section 1(c)(3) of this rule.

(d) Each emissions unit shall be in compliance with the allowable emission limitation on a twelve (12) month rolling basis. The department may approve the use of monitoring systems other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

(e) Until the department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (c)(2), the source shall continue to comply with a source-wide, multiunit emissions cap equivalent to the level of the PAL emission limitation.

(f) The department shall follow the procedures specified in section 5 of this rule in terminating or revoking a PAL for a major stationary source and shall provide the proposed distributed allowable emission limitations to the public for review and comment. During such public review, any person may propose a PAL distribution of allowable emissions for the source for consideration by the department. *(Air Pollution Control Division; 326 IAC 2-3.4-15; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3946)*

Rule 5.1. Construction of New Sources

326 IAC 2-5.1-4 Transition procedures

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. 4. (a) The commissioner shall include an approval to operate and operating conditions in an initial construction permit. The level of approval shall be as follows:

(1) A source must obtain approval to operate under a state operating permit under 326 IAC 2-6.1 if the permit does not include terms and conditions that limit the potential to emit of the source to below thresholds that would require a Part 70 permit.

(2) A source must obtain approval to operate as a FESOP under 326 IAC 2-8 if the permit includes terms and conditions that limit the potential to emit of the source to below the thresholds that require the source to obtain a Part 70 permit and is issued in accordance with 326 IAC 2-8-13.

(3) A source must obtain approval to operate as a Part 70 source under 326 IAC 2-7 if:

(A) the source is constructing under 326 IAC 2-2 or 326 IAC 2-3; or

(B) the potential to emit exceeds the Part 70 major source thresholds as defined in 326 IAC 2-7-1(22).

The permit must include the permit content in accordance with 326 IAC 2-7-5 and compliance requirements in accordance with 326 IAC 2-7-6, and the permit must be issued in accordance with 326 IAC 2-7-17.

(b) If all terms and conditions of 326 IAC 2-1.1-6 were satisfied in the processing of the construction permit, then the emission limitations may be included in the subsequent operating permit without repeating the public notice requirements in 326 IAC 2-1.1-6. *(Air Pollution Control Division; 326 IAC 2-5.1-4; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1011; filed Aug 10, 2004, 3:35 p.m.: 27 IR 3947)*

Rule 6. Emission Reporting

326 IAC 2-6-1 Applicability

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

Sec. 1. (a) This rule applies to all of the following:

(1) Sources required to have a Part 70 operating permit under 326 IAC 2-7.

(2) Sources located in the following counties that emit volatile organic compounds (VOC) or oxides of nitrogen (NO_x) into the ambient air at levels equal to or greater than twenty-five (25) tons per year:

(A) Lake.
(B) Porter.
(C) Clark.
(D) Floyd.

(3) Sources that emit lead into the ambient air at levels equal to or greater than five (5) tons per year.

(b) All sources permitted by the department are subject to section 5 of this rule concerning additional information requests.

(c) Sources covered by subsection (a) must comply with the compliance schedule in section 3 of this rule. *(Air Pollution Control Division; 326 IAC 2-6-1; filed Nov 12, 1993, 4:00 p.m.: 17 IR 732; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2210; filed Jul 14, 2006, 1:25 p.m.: 20060809-IR-326050078FRA; filed Oct 21, 2016, 10:24 a.m.: 20161116-IR-326160162FRA; filed Apr 24, 2020, 4:52 p.m.: 20200506-IR-326190409FRA, eff Apr 24, 2020, see Executive Order 20-15, posted at 20200422-IR-GOV200234EOA)*

326 IAC 2-6-2 Definitions

Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. 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, the following definitions apply throughout this
rule unless expressly stated otherwise:

(1) "Actual emissions" means the emissions in tons per year of any pollutant emitted by an emissions unit for the calendar year.

(2) "Annual process rate" means the actual or estimated annual fuel, process, or solid waste operating rate in a calendar year.

(3) "Ash content" means the inert residual portion of a fuel.

(4) "Capture efficiency" means the percent of the total emissions captured and routed to the air pollution control equipment.

(5) "Control efficiency" means the percent of the total emissions routed to the air pollution control equipment that are destroyed or captured by the air pollution control equipment. The control efficiency includes control equipment downtime and any malfunctions that occurred while the emission unit or units are in operation. If the actual control efficiency during the calendar year is unknown or cannot reasonably be predicted from available data, then the efficiency provided by the manufacturer may be used.

(6) "Control equipment identification code" means the code provided by the department that defines the equipment used to reduce, by destruction or removal, the amount of air pollutants in a gas stream prior to discharge to the ambient air. Examples of destruction or removal are incineration and carbon adsorption.

(7) "Days per week in operation" means the days per week that the emitting process operates averaged over the inventory period.

(8) "Design capacity" means a measure of the size of a point source based on the reported maximum operational capacity of the unit.

(9) "Downtime" means the period of time when the air pollution control equipment is not operational and the process it is controlling is in operation.

(10) "Emission factor" means an estimate of the rate at which a pollutant is released to the atmosphere as the result of some activity, divided by the rate of that activity, such as production rate or throughput.

(11) "Emissions group" means any combination of like emissions units or processes from a single building, adjacent buildings, or areas. Like emissions units or processes will contain emission units with same or similar emission estimating methods or source classification codes.

(12) "Estimated emissions method code" means a code provided by the department that identifies the estimation technique used in the calculation of estimated emissions.
(13) "Fugitive emissions" has the meaning set forth in 326 IAC 2-7-1(18).
(14) "Heat content" means the amount of thermal heat energy in a solid, liquid, or gaseous fuel.
(15) "Hours per day in operation" means hours per day that the emitting process operated averaged over the days in operation in the calendar year.
(16) "Maximum nameplate capacity" means a measure of a unit's size that the manufacturer puts on the unit's nameplate.
(17) "Oxides of nitrogen" or "NO_x" means all oxides of nitrogen, including, but not limited to, nitrogen oxide and nitrogen dioxide, but excluding nitrous oxide, collectively expressed as molecular weight of nitrogen dioxide.
(18) "Percent annual throughput" means the weighted percent of yearly activity for the following quarters:
(A) Winter meaning December, January, and February of the same year. For example, winter 2004 would be equal to the sum of the monthly percent activity for January 2004, February 2004, and December 2004.
(B) Spring meaning March through May of the same calendar year.
(C) Summer meaning June through August of the same calendar year.
(D) Fall meaning September through November of the same calendar year.
(19) "Potential to emit" has the meaning set forth in 326 IAC 2-7-1(29).
(20) "Process rate" means a quantity per unit time of any raw material or process intermediate consumed, or product generated through the use of any equipment, source operation, or process. For a stationary internal combustion unit or any other fuel burning equipment, this term means the quantity of fuel burned per unit time.
(21) "Responsible official" has the meaning set forth in 326 IAC 2-7-1(34).
(22) "Sulfur content" means the sulfur content of a fuel, expressed as percent by weight.

(Air Pollution Control Board; 326 IAC 2-6-2; filed Nov 12, 1993, 4:00 p.m.: 17 IR 733; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2210)

326 IAC 2-6-3 Compliance schedule

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

Sec. 3. (a) The owner or operator of a source subject to section 1(a) of this rule must submit an emission statement covering the previous calendar year to the department according to the following schedule:
(1) Annually, by July 1, for sources subject to section 1(a)(2) of this rule or with the potential to emit annual emissions greater than or equal to any of the following emission thresholds:
(A) Two thousand five hundred (2,500) tons per year of any of the following:
(i) Carbon monoxide.
(ii) Oxides of nitrogen.
(iii) Sulfur dioxide.
(B) Two hundred fifty (250) tons per year of either of the following:
(i) Particulate matter less than or equal to ten (10) micrometers (PM_{10}).
(ii) Volatile organic compounds.
(2) Triennially, by July 1, according to the schedule in subsection (b) for all sources not subject to annual reporting in subdivision (1).
(b) The county schedule for reporting under subsection (a)(2) is as follows:
(1) Starting in 2004, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:
(A) Adams County.
(B) Allen County.
(C) Benton County.
(D) Carroll County.
(E) Cass County.
(F) Dekalb County.
(G) Elkhart County.
(H) Fulton County.
(I) Huntington County.
(J) Jasper County.
(K) Kosciusko County.
(L) LaGrange County.
(M) Lake County.
(N) LaPorte County.

(O) Marshall County.
(P) Miami County.
(Q) Newton County.
(R) Noble County.
(S) Porter County.
(T) Pulaski County.
(U) St. Joseph County.
(V) Starke County.
(W) Steuben County.
(X) Wabash County.
(Y) Wells County.
(Z) White County.
(AA) Whitley County.

(2) Starting in 2005, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Blackford County.
(B) Boone County.
(C) Clinton County.
(D) Delaware County.
(E) Fayette County.
(F) Fountain County.
(G) Grant County.
(H) Hamilton County.
(I) Hancock County.
(J) Hendricks County.
(K) Henry County.
(L) Howard County.
(M) Jay County.
(N) Johnson County.
(O) Madison County.
(P) Marion County.
(Q) Montgomery County.
(R) Morgan County.
(S) Parke County.
(T) Putnam County.
(U) Randolph County.
(V) Rush County.
(W) Shelby County.
(X) Tippecanoe County.
(Y) Tipton County.
(Z) Union County.
(AA) Warren County.
(BB) Wayne County.

(3) Starting in 2006, and every three (3) years thereafter, sources located in the following counties must submit an emission statement:

(A) Bartholomew County.
(B) Brown County.
(C) Clark County.
(D) Clay County.
(E) Crawford County.
(F) Daviess County.
(G) Dearborn County.
(H) Decatur County.
(I) Dubois County.
(J) Floyd County.
(K) Franklin County.
(L) Gibson County.
(M) Greene County.
(N) Harrison County.

(O) Jackson County.
(P) Jefferson County.
(Q) Jennings County.
(R) Knox County.
(S) Lawrence County.
(T) Martin County.
(U) Monroe County.
(V) Ohio County.
(W) Orange County.
(X) Owen County.
(Y) Perry County.
(Z) Pike County.
(AA) Posey County.
(BB) Ripley County.
(CC) Scott County.
(DD) Spencer County.
(EE) Sullivan County.
(FF) Switzerland County.
(GG) Vanderburgh County.
(HH) Vermillion County.
(II) Vigo County.
(JJ) Warrick County.
(KK) Washington County.

(c) The department will make available emission statement reporting forms to sources subject to this rule.

(d) Sources subject to this rule may submit their emission statement as follows:

(1) Electronically. Sources that submit their emission statement electronically must submit to the department a certification that complies with section 4(c)(1) of this rule by the submission deadline.

(2) By mail. The United States Postal Service postmark is the submittal date.

(3) By private carrier. Records of dates of receipt and delivery by the service must be maintained.

(4) By hand delivery to the office of air quality, Indianapolis, Indiana.

(Air Pollution Control Division; 326 IAC 2-6-3; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2212; filed Jul 14, 2006, 1:25 p.m.: 20060809-IR-326050078FRA)

326 IAC 2-6-4 Requirements

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

Sec. 4. (a) A source subject to section 1(a) of this rule shall report estimated actual emissions in the emission statement of the following pollutants:

(1) Carbon monoxide (CO).
(2) Volatile organic compounds (VOC).
(3) Oxides of nitrogen (NO_x).
(4) Particulate matter less than or equal to ten (10) micrometers (PM_{10}).
(5) Sulfur dioxide (SO_2).
(6) Lead and lead compounds, including any unique chemical substance that contains lead.
(7) Particulate matter less than or equal to two and five-tenths (2.5) micrometers ($PM_{2.5}$).
(8) Ammonia (NH_3).

(b) Emissions from processes that are insignificant or trivial activities as defined in 326 IAC 2-7-1(21) and 326 IAC 2-7-1(40) are not required to be reported in an emission statement.

(c) The emission statement submitted by the source must contain, at a minimum, the following information:

(1) Certification by a responsible official that the information in the emission statement is accurate based on reasonable estimates using data available to the preparers and on a reasonable inquiry into records and persons responsible for the operation of the source, and is true, accurate, and complete. The certification shall include the:

(A) full name;
(B) title;
(C) signature;
(D) date of signature; and
(E) telephone number;

of the person signing the certification.

(2) Source identification information, to include the following:

(A) Full name, physical location, and mailing address of the source.

(B) Source universal transverse mercator (UTM) or latitude and longitude.

(C) North American Industry Classification System (NAICS) code.

(3) Operating data, for each emission unit or emissions group, to include the following:

(A) Percent annual throughput by quarter as defined in section 2 of this rule.

(B) Days per week in operation.

(C) Design capacity.

(D) Hours per day in operation.

(E) Hours per year in operation.

(F) Maximum nameplate capacity.

(4) For reporting purposes, multiple stacks that vent to the atmosphere may be grouped together to reflect any grouping of process units. Stack parameters include the following:

(A) Stack identification.

(B) Stack height and diameter (in feet).

(C) Universal transverse mercator (UTM) or latitude and longitude coordinates.

(D) Exit gas temperature (degrees Fahrenheit).

(E) Exit gas flow rates in cubic feet per minute.

(5) Emissions information for each process, to include the following:

(A) The estimated actual emissions of all pollutants listed in subsection (a) at the process level in tons per year. Actual emission estimates must:

(i) include upsets, downtime, and fugitive emissions; and

(ii) follow an emission estimation method.

Fugitive emissions may be reported as plantwide or grouped together in a logical manner. If control efficiencies are adjusted because of upsets, downtime, and malfunctions, information must be provided about how the control efficiencies are calculated.

(B) Emissions of VOC, PM_{10}, and $PM_{2.5}$ shall be reported as total VOC, PM_{10}, and $PM_{2.5}$ emissions, respectively.

(C) Calendar year for the emissions.

(D) Estimated emissions method code provided by the department.

(E) Emission factor, if part of emissions calculation. Acceptable sources of an emission factor include the following:

(i) AP-42, "Compilation of Air Pollutant Emission Factors AP-42" as defined at 326 IAC 1-2-20.5.

(ii) Site-specific values accepted by the department and the U.S. EPA.

(iii) Other documentable methodology accepted by the department and the U.S. EPA.

(F) Source classification code (SCC).

(G) Annual process rate (annual throughput) to the extent it is part of emissions calculation.

(H) If part of emissions calculation, the following:

(i) Ash content.

(ii) Sulfur content.

(iii) Heat content.

(6) Control equipment information, to include the following:

(A) Capture efficiency.

(B) Current control equipment efficiency percentage unless a controlled emission factor is applied. The actual efficiency should reflect the total control efficiency from all control equipment for each process pollutant. If the actual control efficiency is unavailable, the:

(i) efficiency designed by the manufacturer may be used; or

(ii) control efficiency limit imposed by a permit should be used.

(C) Control equipment identification code.

(d) Nothing in this rule requires stack testing. *(Air Pollution Control Board; 326 IAC 2-6-4; filed Nov 12, 1993, 4:00 p.m.: 17 IR 734; errata, 17 IR 1009; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1566; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2213; filed Jul 14, 2006, 1:25 p.m.: 20060809-IR-326050078FRA)*

326 IAC 2-6-5 Additional information requests

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

Affected: IC 13-15; IC 13-17

Sec. 5. The department may request emissions and emissions-related information about any regulated air pollutant as defined

at 326 IAC 2-7-1(31) from any source permitted by the department when needed for air quality planning, air quality modeling, or state implementation plan development. A source that receives an information request pursuant to this section shall provide the information, based on reasonable estimates and using data available to the preparers, in writing to the department within sixty (60) days of receipt of the department's request. A source may request additional time to submit the information. Types of circumstances when the department may request information include the following:

(1) To identify sources or processes that emit a monitored pollutant.

(2) To address public complaints.

(3) To develop and quality assure emissions inventories, as necessary, for permit modeling, state implementation plan development, rulemaking, or perform air risk analysis.

(4) To survey industry wide sources or geographic specific areas to address potential health risks.

(5) To assess pollutants for a single industry source.

(6) To comply with an information request from a local, state, or federal agency.

(7) To verify or supplement Emergency Planning and Community Right-to-Know Act Section 313 toxic release inventory information.

(Air Pollution Control Board; 326 IAC 2-6-5; filed Feb 26, 2004, 3:45 p.m.: 27 IR 2215)

Rule 7. Part 70 Permit Program

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) In addition to the request for modification approval in subsection (a), the commissioner may issue a source modification for the purpose of incorporating the control requirements and emission limitations that are set forth in a:

(1) final federal district court order that adjudicates violations of:

(A) the prevention of significant deterioration provisions under Sections 160 through 169B of the CAA (42 U.S.C. 7470 through 42 U.S.C. 7492);

(B) the nonattainment new source review requirements under Sections 171 through 193 of the CAA (42 U.S.C. 7501 through 42 U.S.C. 7515);

(C) Section 112(g) and 112(j) of the CAA (42 U.S.C. 7412(g) and 42 U.S.C. 7412(j));

(D) 326 IAC 2-2;

(E) 326 IAC 2-3; or

(F) 326 IAC 20; or

(2) federal consent decree that is entered into for the purpose of resolving alleged violations of:

(A) the prevention of significant deterioration provisions under Sections 160 through 169B of the CAA (42 U.S.C. 7470 through 42 U.S.C. 7492);

(B) the nonattainment new source review requirements under Sections 171 through 193 of the CAA (42 U.S.C. 7501 through 42 U.S.C. 7515);

(C) Section 112(g) and 112(j) of the CAA (42 U.S.C. 7412(g) and 42 U.S.C. 7412(j));

(D) 326 IAC 2-2;

(E) 326 IAC 2-3; or

(F) 326 IAC 20.

(c) 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 modification under a provision of this rule, the owner or operator of the source must submit an application for a permit or permit modification to the commissioner not later than thirty (30) calendar days after initiating the repair or replacement.

(d) Any person proposing to make a modification described in subsection (e) or (g) 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.

(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 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 acknowledgment 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.

(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.

(e) The following minor modifications shall be processed in accordance with subsection (f):

(1) 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 PM, PM_{10}, or direct $PM_{2.5}$.

(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) 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 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 one (1) ton 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.

(2) 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 in emissions of either pollutant of 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.

(f) Minor modification approval procedures for modifications described under subsection (e) 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 (e), 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 (g), or would not provide for compliance monitoring consistent with this rule and should be processed under subsection (h).

(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.

(g) The following significant modifications shall be processed in accordance with subsection (h):

(1) Any modification that is 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) PM, PM_{10}, or direct $PM_{2.5}$.

(B) Sulfur dioxide (SO_2).

(C) Nitrogen oxides (NO_x).

(D) 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 HAP as defined under Section 112(b) of the CAA or twenty-five (25) tons per year of any combination of HAPs.

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

(h) The following shall apply to the significant modifications described in subsection (g):

(1) Any person proposing to make a modification described in subsection (g) shall:

(A) submit an application concerning the modification; and

(B) include the information under subsection (d).

(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 (g) except subsection (g)(1).

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

(B) Send this technical support document to:

(i) the U.S. EPA;

(ii) the applicant; and

(iii) any other person who requests it.

(i) The following shall apply to a modification approval described in subsection (g) 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

(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.

(j) Each modification approval issued under this rule shall provide that construction must commence within eighteen (18) months of the issuance of the modification approval.

(k) 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 for significant modifications as established in 326 IAC 2-1.1-6 or section 17 of this rule. Modifications for the purpose of incorporating the control requirements and emission limitations of a final federal district court order or federal consent decree under subsection (b) shall follow procedures for public notice as established in 326 IAC 2-1.1-6.

(l) 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.

(m) 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.

(4) For a source that has a final Part 70 permit and requested a modification under subsection (b), the modification approval shall be incorporated into the Part 70 permit as an administrative amendment in accordance with section 11 of this rule.

(Air Pollution Control Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA; filed Feb 6, 2012, 2:54 p.m.: 20120307-IR-326090493FRA; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA; filed Sep 26, 2013, 9:33 a.m.: 20131023-IR-326110747FRA; errata filed Nov 27, 2013, 12:51 p.m.: 20131225-IR-326130534ACA)

Rule 8. Federally Enforceable State Operating Permit Program

326 IAC 2-8-1 Definitions

Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-1-1-2; IC 13-7-1

Sec. 1. In addition to the definitions provided in IC 13-7-1, IC 13-1-1-2, 326 IAC 1-2, and 326 IC 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)

326 IAC 2-8-2 Applicability

Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 2. A source required to have a Part 70 permit as described in 326 IAC 2-7-2(a) may apply to the commissioner

for a FESOP. Until the commissioner has issued a FESOP for the source, the source is subject to all applicable requirements of 326 IAC 2-7. If the commissioner has not issued a source a final FESOP within one (1) year of the date that approval by the U.S. EPA of the Part 70 permit program becomes effective, the source must comply with all provisions of 326 IAC 2-7. *(Air Pollution Control Board; 326 IAC 2-8-2; filed May 25, 1994, 11:00 a.m.: 17 IR 2271)*

326 IAC 2-8-3 Permit application

Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

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. 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 application shall be deemed to be complete.

(b) In order for an application to be deemed complete, it must contain the following:

(1) All information required under subsection (c), except that applications for a FESOP revision need to supply such information only if it is related to the proposed change. The information submitted under subsection (c) must be sufficient to evaluate the subject source and its application and to determine all applicable requirements.

(2) Certification by a responsible official that the submit- ted information is consistent with subsection (cl).

(c) An application for a FESOP shall include, at minimum, the information specified in subdivisions (1) through (6) [this subsection]. The following information shall be included in the application for each emission unit at a FESOP source:

(1) Identifying information, including the following:

(A) Company name and address (or plant name and address if different from the company name).

(B) Owner's name and agent.

(C) Telephone numbers and names of 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 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 is sufficient to verify which requirements are applicable to the source.

(B) Identification and 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 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 followi111 information to the extent it is needed to determine or regulate emissions:

(i) Fuels.

(ii) Fuel use.

(iii) Raw materials.

(iv) Production 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 standard, 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 on which the information in this subsection are based.

(I) Insignificant activities shall be listed, but the emissions related information described in clauses (A) through (II) of this subdivision need not be provided unless the commissioner determines that such information is necessary to determine the applicability of 40 CFR 70*.

(4) Other specific information that may be necessary to implement and enforce other applicable requirements of the CAA or of this rule or to determine the applicability of such requirements.

(5) An explanation of any proposed exemption., from otherwise applicable requirements.

(6) A preventive maintenance plan as described in 326 IAC 1-6-3.

(d) 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, hued 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, the commissioner may also require the source to submit a copy of such 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 failure or incorrect submittal, promptly submit such 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 request such information in writing and 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.

*Copies of the Code of Federal Regulations (CFR) referenced may be obtained from the Government Printing Office, Washington, D.C. 20402 or at the Indiana Department of Environmental Management, Indiana Government Center-North, 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)*

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 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 startup, 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 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 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) 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, andthe 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)

326 IAC 2-8-5 Compliance requirements for FESOPs

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

Affected: IC 13-15; IC 13-17

Sec. 5. (a) Each FESOP shall contain the following requirements:

(1) Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the FESOP. Any document (including reports) required by a FESOP

shall contain a certification by an authorized individual that meets the requirements of section 3(d) of this rule. Compliance certification requirements shall include the following:

(A) The frequency of submissions of compliance certifications.

(B) In accordance with section 4(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 the FESOP that is the basis of the certification.

(ii) The compliance status.

(iii) Whether compliance was continuous or intermittent.

(iv) The methods used for determining the compliance status of the source, currently and over the reporting period.

(v) Such other facts as the commissioner may require to determine the compliance status of the source.

(D) Such additional requirements as may be specified under Sections 114(a)(3) and 504(b) of the CAA.

(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, or the U.S. EPA to perform the following:

(A) Enter upon the permittee's premises where a FESOP source is located or emissions related activity is conducted, or where records must be kept under the conditions of a FESOP.

(B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of a FESOP.

(C) Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under a FESOP.

(D) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with a FESOP or applicable requirements.

(3) A schedule for compliance with any requirement with which the source is not in compliance at the time of 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 requirements for which the source will be in noncompliance at the time of FESOP 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.

(4) Such other provisions as the commissioner may require.

(b) The commissioner may issue a compliance order to any source upon discovery that an issued permit is in nonconformance with an applicable requirement. The order may require immediate compliance or contain a schedule for expeditious compliance with the applicable requirement. *(Air Pollution Control Board; 326 IAC 2-8-5; filed May 25, 1994, 11:00 a.m.: 17 IR 2274; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1053)*

326 IAC 2-8-6 Federally enforceable requirements

Authority: IC 13-1-1-4; IC 13-7-10

Affected: IC 4-22-9-5; IC 13-7

Sec. 6. (a) The commissioner may not issue a FESOP that waives, or makes less stringent, any limitation or requirement contained in or issued under the state implementation plan (SIP) or requirements that are otherwise federally enforceable under the CAA. Permits that do not conform to the requirements of this rule and the requirements of U.S. EPA's underlying regulations may be deemed by the U.S. EPA not federally enforceable.

(b) All terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable by the U.S. EPA and citizens under the CAA. *(Air Pollution Control Board; 326 IAC 2-8-6; filed May 25, 1994, 11:00 a.m.: 17 IR 2274)*

326 IAC 2-8-7 Permit issuance, renewal, and revisions

Authority: IC 13-1-1-4; IC 13-7-10

Affected: IC 13-7

Sec. 7. (a) A FESOP, FESOP modification, or renewal may be issued only if all of the following conditions have been met:

(1) The commissioner has received a complete application for a FESOP, FESOP modification, or FESOP renewal.

(2) The commissioner has complied with the requirements for public notice under section 13 of this rule.

(3) The conditions of the FESOP provide for compliance with all applicable requirements and the requirements of this rule.

(4) The U.S. EPA has received a copy of the draft FESOP and any notices required

(b) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under 326 IAC 2-1 through 326 IAC 2-3. *(Air Pollution Control Board; 326 IAC 2-8-7; filed May 25, 1994, 11:00 a.m.: 17 IR 2274)*

326 IAC 2-8-8 Permit reopening
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7-10-5

Sec. 8. (a) A permit shall be reopened and revised under any of the circumstances listed in IC 13-7-10-5 or if the commissioner determines any of the following:

(1) That a FESOP contains a material mistake.

(2) That inaccurate statements were made in establishing the emissions standards or other terms or conditions of a FESOP.

(3) That a FESOP must be revised or revoked to assure compliance with an applicable requirement.

(b) Proceedings by the commissioner to reopen and revise a FESOP shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening and revision shall be made as expeditiously as practicable.

(c) The reopening and revision of a FESOP under subsection (a) shall not be initiated before a notice of such intent is provided to a FESOP source by the commissioner at least thirty (30) days in advance of the date the permit is to be reopened, except that the commissioner may provide a shorter time period in the case of an emergency. *(Air Pollution Control Board; 326 IAC 2-8-8; filed May 25, 1994, 11:00 a.m.: 17 IR 2275)*

326 IAC 2-8-9 Permit expiration
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 9. FESOP expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with sections 3(h) and 7 of this rule. *(Air Pollution Control Board; 326 IAC 2-8-9; filed May 25, 1994, 11:00 a.m.: 17 IR 2275)*

326 IAC 2-8-10 Administrative permit amendments
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 10. (a) An administrative permit amendment is a FESOP revision that does any of the following:

(1) Corrects typographical errors.

(2) Identifies a change in the name, address, or telephone number of any person identified in the FESOP, or provides a similar minor administrative change at the source.

(3) Requires more frequent monitoring or reporting by the permittee.

(4) Allows for a change in ownership or operational control of a source where the commissioner determines that no other change in a FESOP is necessary, provided that a written agreement containing a specific date for transfer of a FESOP responsibility, coverage, and liability between the current and new permittee has been submitted to the commissioner.

(5) Incorporates into the FESOP the requirements from preconstruction permits issued under 326 IAC 2-1-3, 326 IAC 2-1-3.2, 326 IAC 2-1-3.3, 326 IAC 2-2, and 326 IAC 2-3 where the preconstruction permit provides for administrative amendment and copies of the draft and final permits were submitted to the U.S. EPA.

(b) An administrative permit amendment may be made by the commissioner consistent with the following:

(1) The commissioner shall take no more than sixty (60) days from receipt of a request for an administrative permit amendment to take final action on such request and may incorporate such changes without providing prior notice to the public or affected states provided that it designates any such permit revisions as having been made under this subsection.

(2) The commissioner shall submit a copy of a revised FESOP to the U.S. EPA.

(3) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

(Air Pollution Control Board; 326 IAC 2-8-10; filed May 25, 1994, 11:00 a.m.: 17 IR 2275)

326 IAC 2-8-11 Permit modification
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 11. (a) A permit modification is any revision to a FESOP that cannot be accomplished under the program's provisions for administrative permit amendments under section 10 of this rule.

(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 FESOP.

(C) Do not require or change a:

(i) case-by-case determination or an emission limit or other standard;

(ii) source specific determination for temporary sources or ambient impacts; or

(iii) visibility or increment analysis.

(D) Do not seek to establish or change a FESOP 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. Such terms and conditions include the following:

(i) A federally enforceable emissions cap assumed to avoid classification as a modification under any provision or Title I or the CAA.

(ii) An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the CAA.

(E) Are not modifications under any provision or Title I or the CAA, except for those modifications whose only Title I requirement is to be registered under 326 IAC 2-1-2.

(F) Are not changes that would subject the source to the requirements of the Part 70 permit program.

(2) Notwithstanding subdivision (l)(D)(i) and subsection (c)(l), minor FESOP modification procedures may be used for FESOP modifications involving the use of economic incentives, marketable FESOPs, emissions trading, and other similar approaches to the extent that such minor permit modification procedures are explicitly provided for in the applicable implementation plan (SIP) or in applicable requirements promulgated by the U.S. EPA.

(3) An application requesting the use or minor FESOP modification procedures shall meet the requirements of section 3(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 FESOP reflecting the requested change.

(C) Certification by a responsible official, consistent with section 3(d) of this rule, that the proposed modification meets the criteria for use of minor FESOP modification procedures and a request that such procedures be used.

(D) A copy of any previous approval issued by the commissioner under this article.

(4) Within five (5) working days or receipt of a complete FESOP modification application, the commissioner shall notify the U.S. EPA.

(5) Within ninety (90) days or the commissioner's receipt of an application under minor modification procedures, the commissioner shall do any or the following:

(A) Issue the FESOP modification as proposed.

(B) Deny the FESOP modification application.

(C) Determine that the requested modification does not meet the minor FESOP modification criteria and should be reviewed under the significant modification procedures.

(6) The source may make the change proposed in its minor permit modification application immediately after it files such application unless the change is subject to the construction permit requirements of 326 IAC 2-1, 326

IAC 2-2, or 326 IAC 2-3. After the source makes the change allowed by this subdivision, and until the commissioner takes any of the actions specified in subdivision (5), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing FESOP terms and conditions it seeks to modify. If the source fails to comply with its proposed FESOP terms and conditions during this time period, the existing FESOP terms and conditions it seeks to modify may be enforced against it.

(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 permit modification processing:

(1) Group processing or modifications may be used only for those permit modifications that meet the following requirements:

(A) The modifications meet the criteria for minor permit modification procedures under subsection (b).

(B) The modifications are exempt from preconstruction approval under 326 IAC 2-1-l(b)(3).

(2) An application requesting the use of group processing procedures shall meet the requirements of section 3(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 FESOP which reflects the requested change.

(C) Certification of a responsible official, consistent with section 3(d) of this rule, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

(D) A list of the source's other pending applications awaiting group processing, and a determination or whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subdivision (l)(B).

(3) On a quarterly basis or within five (5) business days of receipt or an application demonstrating that the aggregate or a source's pending applications equals or exceeds the threshold level set under subdivision (l)(B), whichever is earlier, the commissioner promptly shall notify the U.S. EPA of the requested FESOP modification .

(4) The provisions or subsection (b)(5) shall apply to modifications eli1ible for group processing, except that the commissioner shall take one (1) or the actions specified in subsection (b)(5) within one hundred eighty (180) days of receipt or the application.

(5) The provisions or subsection (b)(6) shall apply to modifications eligible for group processing.

(d) Significant modification procedures shall be as follows:

(l) Significant modification procedures shall be used for applications requesting FESOP modifications that do not qualify as minor permit modifications or as administrative amendments. Any significant change in existing monitoring FESOP terms or conditions and every relaxation of reporting or record keeping permit terms or conditions 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 FESOP compliance terms and conditions irrelevant.

(2) Significant FESOP modification shall meet all requirements or this rule, including those for application, public participation, and review by the U.S. EPA, as they apply to FESOP issuance and FESOP renewal.

(Air Pollution Control Board; 326 IAC 2-8-10; filed May 25, 1994, 11:00 a.m.: 17 IR 2275)

326 IAC 2-8-11.1 Permit revisions

Authority: IC 13-1-1-4; IC 13-7-10

Affected: IC-13-7

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, 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 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 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 the limitations for modifications described in subsection (d)(4).

(5) A schedule of compliance, if applicable.

(6) A certification consistent with section 3(d) of this rule.

(d) Minor permit revisions are required for approval prior to construction and operation for modifications that have a potential to emit within the following ranges:

(1) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of either PM, PM_{10}, or direct $PM_{2.5}$.

(2) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of sulfur dioxide (SO_2).

(3) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of nitrogen oxides

(NO_x).
(4) Less than twenty-five (25) tons per year and equal to or greater than ten (10) tons per year of VOC for modifications that are not described in subdivision (5).
(5) Less than twenty-five (25) tons per year and equal to or greater than five (5) tons per year of VOC for modifications that require the use of air pollution control equipment to comply with the applicable provisions of 326 IAC 8.
(6) Less than one hundred (100) tons per year and equal to or greater than twenty-five (25) tons per year of carbon monoxide (CO).
(7) Less than one (1) ton per year and equal to or greater than two-tenths (0.2) ton per year of lead (Pb).
(8) 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:
(A) Hydrogen sulfide (H_2S).
(B) Total reduced sulfur (TRS).
(C) Reduced sulfur compounds.
(D) Fluorides.
(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
(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.
(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) PM, PM_{10}, or direct $PM_{2.5}$.
(ii) Sulfur dioxide (SO_2).
(iii) Nitrogen oxides (NO_x).
(iv) 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 HAP as defined under Section 112(b) of the CAA or twenty-five (25) tons per year of any combination of 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 that removes or reduces compliance monitoring, testing, record keeping, reporting, or its frequency.

(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

(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.

(Air Pollution Control Division; 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; filed Oct 1, 2010, 3:48 p.m.: 20101027-IR-326070372FRA; filed Feb 6, 2012, 2:54 p.m.: 20120307-IR-326090493FRA; filed Jun 11, 2012, 3:15 p.m.: 20120711-IR-326110251FRA; filed Sep 26, 2013, 9:33 a.m.: 20131023-IR-326110747FRA; errata filed Nov 27, 2013, 12:51 p.m.: 20131225-IR-326130534ACA)

326 IAC 2-8-12 Emergency provision

Authority: IC 13-1-1-4; IC 13-7-10

Affected: IC 13-7

Sec. 12. (a) An emergency as defined in 326 IAC 2-7-1(12) is not an affirmative defense for an action brought for noncompliance with a federal or state health-based emission limitation, except as otherwise provided in this section.

(b) An emergency as defined in 326 IAC 2-7-1(12) constitutes an affirmative defense to an action brought for noncompliance with a health-based or technology-based emission limitation if the affirmative defense of an emergency is demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that describe the following:

(1) An emergency occurred and the permittee can, to the extent possible, identify the causes of the emergency.

(2) The permitted facility was at the time being properly operated.

(3) During the period of an emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in a FESOP.

(4) The permittee notified the commissioner within four (4) daytime business hours after the beginning of the emergency by telephone or facsimile.

(5) The permittee submitted notice either in writing or by facsimile of the emergency to the commissioner within two (2) working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of section 4(3)(C)(ii) of this rule and must contain the following:

(A) A description of the emergency.

(B) Any steps taken to mitigate emissions.

(C) Corrective actions taken.

(6) The permittee immediately took all reasonable steps to correct the emergency.

(c) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(d) This emergency provision supersedes 326 IAC 1-6 for sources subject to this rule after the effective date of this rule. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

(e) The commissioner may require that the preventive maintenance plan required under section 3(c)(6) of this rule be revised in response to an emergency.

(f) Failure to notify the commissioner by telephone or facsimile within four (4) daytime business hours after the beginning of the emergency shall constitute a violation of this rule and any other applicable rules.

(g) Operations may continue during an emergency if the following conditions are met:

(1) If the emergency situation causes a deviation from a technology-based limit, the source may continue to operate the affected emitting facilities during the emergency provided the source immediately takes all reasonable steps to correct the emergency and minimize emissions.

(2) If an emergency situation causes a deviation from a health-based limit, the source may not continue to operate the affected emissions facilities unless:

(A) the source immediately takes all reasonable steps to correct the emergency situation and to minimize emissions; and

(B) continued operation of the facilities is necessary to prevent imminent injury to persons, severe damage to equipment, substantial loss of capital investment, or loss of product or raw material of substantial economic value.

Any operations shall continue no longer than the minimum time required to prevent the situations identified in clause (B). *[this clause]*

(Air Pollution Control Board; 326 IAC 2-8-12; filed May 25, 1994, 11:00 a.m.: 17 IR 2277; errata filed May 25, 1994, 11:10 a.m.: 17 IR 2358)

326 IAC 2-8-13 Public notice

Authority: IC 13-1-1-4; IC 13-7-10

Affected: IC 13-7

Sec. 13. (a) Any person applying for a FESOP upon land which is either undeveloped or for which a valid existing permit has not been issued shall, not more than ten (10) working days after submitting the FESOP application, make a reasonable effort to provide notice to all owners or occupants of land adjoining the land which is the subject of the application. Each applicant shall pay the cost of compliance with this requirement. The notice shall be in writing and include the date on which the application was submitted and a brief description of the subject of the application.

(b) Each applicant for a FESOP shall place a copy of the permit application or permit modification application for public review at a library in the county where the construction is proposed. Each applicant shall provide the commissioner with the location of the library where the copy may be found

(c) Prior to issuing a FESOP, the draft permit shall be available for review in the following manner:

(1) The commissioner shall notify the public of the draft FESOP by publishing, in a minimum of one (1) newspaper of general circulation in the county where the source is located, a notice which includes the following:

(A) Notification of receipt of the permit application.

(B) The commissioner's draft approval of the permit application.

(C) Notification to the public of at least a thirty (30) day period for submitting written comments to the commissioner.

(D) Notification to the public of the opportunity for a public hearing for consideration of the permit application or notice of such a hearing if one has been scheduled.

(E) Notification to the public that a copy of the application and commissioner's analysis thereof are available for inspection in a convenient public office building in the area where the source is located.

(2) A copy of the notice provided under subdivision (1) shall also be provided to the appropriate federal, state, or local agency.

(3) All comments received during the public comment period shall be considered by the commissioner before the commissioner finally approves or disapproves the permit.

(4) There shall be an opportunity for a public hearing if deemed necessary by the commissioner.

(5) Notification in writing of the final determination shall be given according to IC 13-15-5-3, and such notification shall be made available for public inspection in the same public office buildings to be notified under subdivision (1)(E).

(6) A permit may be denied by the commissioner on the basis of adverse comment if the comment demonstrates the following:

(A) The ambient air quality standards under 326 IAC 1-3 cannot be attained or maintained if a permit is issued.

(B) The prevention of significant deterioration requirements under 326 IAC 2-2 will not be met.

(C) The offset requirements under 326 IAC 2-3 will not be satisfied.

(D) For any other reason such as, but not limited to, interference with attainment and maintenance of the standards under 326 IAC 12.

(7) The commissioner may impose such conditions on the permit as necessary to ensure that the source or facility will comply with all applicable rules; and that the ambient air quality standards established under 326 IAC 1-3, the prevention of significant deterioration standards established under 326 IAC 2-2, and the offset requirements established under 326 IAC 2-3, will be attained and maintained and that the public health will be protected.

(Air Pollution Control Board; 326 IAC 2-8-13; filed May 25, 1994, 11:00 a.m.: 17 IR 2278; errata filed May 25, 1994, 11:10 a.m.: 17 IR 2358)

326 IAC 2-8-14 Review by U.S. EPA
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 14. The commissioner shall provide to the U.S. EPA a copy of each draft and final FESOP. *(Air Pollution Control Board; 326 IAC 2-8-14; filed May 25, 1994, 11:00 a.m.: 17 IR 2278)*

326 IAC 2-8-15 Operational flexibility
Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

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), (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 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), 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 maintains records on-site which document, on a rolling five (5) year basis, all such changes and emissions trading that are subject to subsections (b) through (d) and makes such records available, upon reasonable request, for public review. Such 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).

(b) An owner or operator of a FESOP source may make Section 502(b)(10) of the CAA cbanges without a permit revision, subject to the constraints of subsection (a). For each such change, the required written notification shall include a brief description of the change within the source, the date on which the change will occur, any change in emissions, and any permit term or conditions that is no longer applicable as a result of the change.

(c) 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 emission trades without requiring a permit revision, subject to the constraints of subsection (a) and the further conditions of this subsection. Such changes may be made without a permit revision regardless of whether the permit fails to provide expressly for such 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) 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 permit terms and conditions. To procure alternative operating scenarios for its FESOP, the owner or operator of a FESOP source must request such alternative scenarios in its application for the permit. *(Air Pollution Control Board; 326 IAC 2-8-15; filed May 25, 1994, 11:00 a.m.: 17 IR 2278)*

326 IAC 2-8-16 Fees
Authority: IC 13-1-4; IC 13-1-1-26
Affected: IC 13.7

Sec. 16. (a) An application for an initial FESOP must be accompanied by a fee of three thousand dollars ($3,000).

Any fee paid by the source in accordance with 326 IAC 2-1-7.1 after January 1, 1994, and before the date an application is submitted or December 31, 1995, whichever is earlier, shall be credited toward the application fee. For sources that submit a FESOP application prior to December 31, 1995, the department shall not assess a fee under 326 IAC 2-1-7.1 while the FESOP application is pending.

(b) A source that has been issued a FESOP under this rule shall pay an annual operating fee of one thousand five hundred dollars ($1,500) upon billing by the department. For sources that submit an application for a FESOP after December 31, 1995, a source that has been issued a FESOP shall not be assessed an annual operating fee in the billing cycle immediately following issuance of the FESOP, but shall be assessed the annual operating fee in subsequent billing cycles.

(c) The commissioner shall adjust the fees subsection (b) each year by the Consumer Price Index (CPI). The revision of the CPI which is most consistent with the CPI for the calendar year 1995 shall be used.

(d) A source that notifies the department during the calendar year 1994 or 1995 of its intent to file a FESOP application is not subject to the fee schedule contained in 326 IAC 2-7-19. The source must continue to pay fees under 326 IAC 2-1-7.1 until an application for a FESOP is made by the applicant or until a permit application is required to be submitted under 326 IAC 2-7. If a FESOP is not approved by the commissioner prior to the requirement that a Part 70 operating permit application be submitted, the source may be billed for the applicable fee under 326 IAC 2-7-19 for the calendar years 1994 and 1995 and subsequent years until a FESOP is issued. A source that applies for a FESOP at least nine (9) months in advance of the requirement to apply for a Part 70 permit is not subject to the 326 IAC 2-7-19 fee schedule until the commissioner makes a final determination on the FESOP application or a final Part 70 permit is issued for the source.

(e) Beginning in 1996, the commissioner shall review the monies in the Title V operating permit trust fund prior to billing Part 70 sources and FESOP sources. If the balance of the fund, once obligated expenditures are subtracted from the balance, exceeds three million dollars ($3,000,000) as of July 1 of the billing year, the department shall adjust the annual fee schedule for Part 70 and FESOP sources to bill an aggregate less than the total fee schedule amount equivalent to the amount in excess of three million dollars ($3,000,000). Adjustments to individual bills shall be proportional to the applicable fee divided by the total amount required by all the applicable fees.

(f) A fee established under this section may be billed in whole or in part by a local air pollution control agency under terms of an enforceable written agreement or contract between the local air agency and the commissioner. Any FESOP fee paid to a local air agency shall be considered as revenue to the Title V operating permit trust fund and after the effective date of approval by the U.S. EPA of the Part 70 permit program may only be expended for purposes consistent with IC 13-1-26 under an enforceable agreement with the commissioner. The commissioner or local air agency may direct the source to make payment of fees established under this rule in part to both the department and local air agency such that the total FESOP fee does not exceed the amount in this rule. During 1994, the department may defer to billing of a local air agency if the total billings for all FESOP sources exceed the total amount due under this rule if specified in an enforceable agreement between the local air agency and the department. The department may assess a fee not to exceed twenty-five percent (25%) of the local fee in order to recover costs associated with development and preparation of a complete statewide Title V operating permit program for activities that will not be duplicated by the local air agency if it is determined that the local air agency fees collected from Part 70 and FESOP permittees do not provide adequate revenues for the local agency to develop and prepare for the Title V operating permit program at a pace comparable to state development and preparation. *(Air Pollution Control Board; 326 IAC 2-8-16; filed May 25, 1994, 11:00 a.m.: 17 IR 2279; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2362; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1059)*

326 IAC 2-8-17 Local agencies

Authority: IC 13-1-1-4; IC 13-7-7-1
Affected: IC 13-7

Sec. 17. Pursuant to the CAA, and if specified in a written agreement with the commissioner, a local air pollution control agency may perform some or all of the functions of the FESOP program. The commissioner and such a local air agency shall enter into an enforceable written agreement documenting the local air agency's and the department's relative FESOP program roles and responsibilities. *(Air Pollution Control Board; 326 IAC 2-8-17; filed May 25, 1994, 11:00 a.m.: 17 IR 2280)*

Rule 9. Source Specific Operating Agreement Program

326 IAC 2-9-1 General provisions

Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-1-l; IC 13-1-ll; IC 13-7-7

Sec. 1. (a) The definitions provided in IC 13-7-1, IC 13-1-12, 32 IAC 1-2, 326 IAC 2-7, and 326 IAC 2-8 apply throughout this rule.

(b) A source that meets the specific restrictions and conditions listed in section 2 of this rule may apply to the commissioner for a source specific operating agreement. The issuance by the commissioner of an operating agreement makes the conditions and restrictions of section 2 of this rule applicable requirements as defined in 326 IAC 2-7-1(6) for purposes of determining the applicability of 326 IAC 2-1, 326 IAC 2-7, and 326 IAC 2-8. Until the commissioner has issued an operating agreement for a source that would be subject to 326 IAC 2-1, 326 IAC 2-7 or 326 IAC 2-8, the source is subject to all applicable requirements of those rules..

(c) The owner or operator of a source seeking an operating agreement shall submit a request to the commissioner. The request shall include all information necessary for the commissioner to verify that the source meets the applicable restrictions and conditions specified in section 2 of this rule, including the following:

(1) Identifying information.

(2) Description of the nature, location, design capacity, and typical operating schedule of the source.

(3) Description of the nature and amount of regulated pollutants emitted in the prior twelve (12) months.

(4) Description of how the source will comply with the applicable restrictions and conditions specified in section 2 of this rule.

The request shall be accompanied by a fee of five hundred ($500) and shall be signed by a responsible official who shall certify that the information contained therein is accurate true, and complete and that the source shall not emit volatile organic compounds (VOCs) or hazardous air pollutants (HAPs) in amounts greater than allowed by the specific subsection of section 2 of this rule to which it is subject.

(d) If the commissioner determines that the source meets the applicable restrictions and conditions specified in section 2 of this rule, the commissioner shall issue the operating agreement. The operating agreement shall specify the source specific restrictions and conditions applicable to the source and shall also establish specific monitoring and reporting requirements , which shall in no event be less frequent than annually.

(e) Before a source subject to this section modifies its operations in such a way that it will no longer comply with the applicable restrictions and conditions of its source specific operating agreement, it shall obtain the appropriate approval from the commissioner under 326 IAC 2-1, 326 IAC 2-2, 326 IAC 2-3, 326 IAC 2-7, and 326 IAC 2-8.

(f) Unless otherwise provided in section 2 of this rule, any source subject to this rule shall prepare and maintain monthly consumption records of all materials used that contain VOCs or HAPs, including the VOC or individual HAP content of each such material, records summarizing all VOC and individual HAP emissions on a monthly basis, and all purchase orders and invoices for any VOC or HAP containing materials.

(g) Any records required to be kept by a source in accordance with any subsection of section 2 of this rule shall be maintained at the site for at least five (5) years and shall be made available for inspection by the department upon request.

(h) Any source subject to this rule shall report to the department, in writing, any exceedance of a requirement contained in this rule or its operating agreement within one (1) week of its occurrence. *(Air Pollution Control Board; 326 IAC 2-9-1; filed May 25, 1994, 11:00 a.m.: 17 IR 2280)*

326 IAC 2-9-2 Source specific restrictions and conditions (Repealed)

Authority: IC 13-1-1-4; IC 13-7-10
Affected: IC 13-7

Sec. 2. (a) Any industrial or commercial surface coating operation which is not subject to the requirements of 326 IAC 8-2 or graphic arts operation which is not subject to the requirements of 326 IAC 8-5-5 and which is not a modification of a major source in Lake or Porter County subject to 326 IAC 2-3-3 may elect to be subject to this section by complying with the requirements of section I of this rule and the following:

(1) The total amount of VOC delivered to the source less the amount of VOC that is quantified by manifest as having been shipped off the site shall not exceed two (2) tom per month.

(2) The total amount of any HAP delivered to the source less the amount of HAP that is quantified by manifest as having been shipped off the site shall not exceed two- tenth (0.2) tons [sic. ton] per month or five-tenth (0.5) tons [sic. ton] per month of any combination of HAPs.

(3) The following records of total VOC or HAP delivered to the source each month shall be kept at the source:

(A) Number of gallons of each coating used.

(B) VOC and HAP content of each coating used.

(C) Amount of dilution of VOC and HAP solvent used.

(D) Summation on a monthly basis of emission of VOC and individual HAPs.

(E) Purchase orders and invoices for any VOC or HAP containing material used.

(F) Amount or VOC and HAP shipped off the site.

(4) The source shall provide a summation of VOC and individual HAP emissions to the department on a monthly basis and annual notice to the commissioner stating that the source is in operation and certifying that its operation are in

compliance with this subsection. This annual notice shall include an inventory listing monthly VOC and HAP totals and total VOC and HAP emissions for the previous twelve (12) months.

(b) Any industrial or commercial surface coating operation or graphic arts operation may elect to be subject to this section by complying with the requirements of section 1 of this rule and the following:

(1) The total amount of VOC or HAP delivered to the source less the amount of VOC or HAP quantified by manifest as having been shipped off the site shall not exceed fifteen (15) pounds per day of VOC or seven (7) pounds per day of VOC in Lake or Porter County; or three (3) pounds per day of any single HAP or seven (7) pounds of any combination of HAPs per day.

(2) The following records of total VOC or HAP delivered to the source each month shall be kept at the source:

(A) Number of gallons of each coating used.

(B) VOC or HAP content of each coating used.

(C) Amount of dilution of VOC or HAP solvent used.

(D) Amount or VOC and HAP shipped off the site.

(3) The source shall provide annual notice to the commissioner stating that the source is in operation and certifying that its operation are in compliance with this subsection. This annual notice shall include the total amount of VOC or RAP containing ma used in the previous twelve (12) months.

(e) Any grain elevator subject to 326 IAC 2-7 or 326 IAC 2-8 may elect to be subject to this section by complying with the requirements of section 1 of this rule and meeting the conditions outlined under subdivisions (1) through (2) [the following];

(1) Grain elevators with storage capacity less than or equal to one million (1,000,000) U.S. bushels that contain receiving facilities, headhouse, gallery belt, tripper belt operations, grain cleaning equipment, or grain drying equipment shall comply with the following provisions:

(A) Grain elevator shall not receive or ship more than three million (3,ooo,ooo) U.S. bushels of grain annually.

(B) Each source shall maintain records of the type and, amount of grain received and shipped on an annual basis.

(C) Each source shall provide annual notice to the commissioner stating that the source is in operation and certifying that its operations are in compliance with this subsection.

(2) Grain elevators with storge capacity greater than one million (1,000,000) U.S. bushels of grain but no more than two and one-half million [sic. two million five hundred thousand] (2,500,000) U.S. bushels that contain receiving, shipping, or grain storage facilities; headhouse, gallery belt, tripper belt operations; or grain cleaning or grain drying equipment shall comply with the following provisions:

(A) Grain elevators shall not receive or ship more than ten million (10,000,000) U.S. bushels of grain annually.

(B) Each source shall limit particulate matter emissions through the application of mineral oil or soy bean oil to all grain after it is received at an application rate of three one-hundredths [sic., three-hundredths] percent (0.03%) by weight or greater.

(C) Each source shall maintain the following records on a monthly basis:

(i) Type and amount of grain received and shipped.

(ii) Amount of mineral oil or soybean oil used and the rate of application.

(iii) Purchase orders and invoices for mineral oil or soybean oil.

(D) Each source shall provide annual notice to the commissioner stating that the source is in operation and certifying that its operations are in compliance with this subsection.

(Air Pollution Control Board; 326 IAC 2-9-2; filed May 25, 1994, 11:00 a.m.: 17 JR 2281)