

**TITLE 326 AIR POLLUTION CONTROL BOARD**

**Final Rule**  
LSA Document #10-505(F)

**DIGEST**

Amends 326 IAC 2 concerning the prevention of significant deterioration and Title V greenhouse gas tailoring rule (75 FR 31514, June 3, 2010). Effective 30 days after filing with the Publisher.

**HISTORY**

Findings and Determination of the Commissioner Pursuant to IC 13-14-9-8: September 1, 2010, Indiana Register (DIN: 20100901-IR-326100505FDA).

Notice of Hearing: September 1, 2010, Indiana Register (DIN: 20100901-IR-326100505PHA).

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Date of Hearing: December 1, 2010.

326 IAC 2-2-1; 326 IAC 2-2-4; 326 IAC 2-7-1

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

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

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

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

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

(b) "Actual emissions" means the actual rate of emissions of a 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 equal to or greater than one (1) microgram per cubic meter ( $\mu\text{g}/\text{m}^3$ ) (annual average) of the pollutant for which the minor source baseline date is established.

(2) Area redesignations under 326 IAC 1-4 and Section 107(d)(1)(D) or 107(d)(1)(E) of the 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<sub>10</sub> 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<sub>2</sub> or CO<sub>2</sub> 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 shall be considered significant for ozone.
- (2) A physical change or change in the method of operation shall not include the following:
  - (A) Routine maintenance, repair, and replacement.
  - (B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan pursuant to the Federal Power Act.
  - (C) Use of an alternative fuel by reason of an order under Section 125 of the CAA.
  - (D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
  - (E) Use of an alternative fuel or raw material by a source that the source:

- (i) was capable of accommodating before January 6, 1975, unless the change would be prohibited under any enforceable permit condition that was established after January 6, 1975, pursuant to:
  - (AA) 40 CFR Part 52.21\*;
  - (BB) this rule;
  - (CC) 326 IAC 2-3; or
  - (DD) minor new source review regulations approved pursuant to 40 CFR Part 51.160 through 40 CFR Part 51.166\*; or
- (ii) is approved to use under any permit issued under 40 CFR Part 52.21\* or under this rule.
- (F) An increase in the hours of operation or in the production rate unless the change would be prohibited under any enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR Part 52.21\* or under this rule or 326 IAC 2-3.
- (G) Any change in ownership at a source.
- (H) The 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) "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.

(ff) "Major stationary source" means the following:

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

- (A) Fossil fuel-fired steam electric plants of more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
- (B) Coal cleaning plants (with thermal driers).
- (C) Kraft pulp mills.
- (D) Portland cement plants.
- (E) Primary zinc smelters.
- (F) Iron and steel mill plants.
- (G) Primary aluminum ore reduction plants.
- (H) Primary copper smelters.
- (I) Municipal incinerators capable of charging more than fifty (50) tons of refuse per day.
- (J) Hydrofluoric, sulfuric, and nitric acid plants.
- (K) Petroleum refineries.
- (L) Lime plants.
- (M) Phosphate rock processing plants.
- (N) Coke oven batteries.
- (O) Sulfur recovery plants.
- (P) Carbon black plants (furnace process).
- (Q) Primary lead smelters.
- (R) Fuel conversion plants.
- (S) Sintering plants.
- (T) Secondary metal production plants.
- (U) Chemical process plants.
- (V) Fossil fuel boilers (or combinations thereof) totaling more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
- (W) Taconite ore processing plants.
- (X) Glass fiber processing plants.
- (Y) Charcoal production plants.

- (Z) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels.
- (2) Any stationary source with the potential to emit two hundred fifty (250) tons per year or more of a regulated NSR pollutant.
- (3) Any of the following stationary sources with potential emissions of five (5) tons per year or more of lead or lead compounds measured as elemental lead:
  - (A) Primary lead smelters.
  - (B) Secondary lead smelters.
  - (C) Primary copper smelters.
  - (D) Lead gasoline additive plants.
  - (E) Lead-acid storage battery manufacturing plants that produce two thousand (2,000) or more batteries per day.
- (4) Any other stationary source with potential emissions of twenty-five (25) or more tons per year of lead or lead compounds measured as elemental lead.
- (5) Any physical change occurring at a stationary source not qualifying under subdivisions (1) through (4) if the change would by itself qualify as a major stationary source under subdivisions (1) through (4).
- (6) Notwithstanding subdivisions (1) through (5), a source or modification of a source shall not be considered a major stationary source if it would qualify under subdivisions (1) through (5) only if fugitive emissions, to the extent quantifiable, are considered in calculating potential to emit of the stationary source or modification and the source does not belong to any of the categories listed in subdivision (1) or any other stationary source category that, as of August 7, 1980, is being regulated under Section 111 or 112 of the CAA (42 U.S.C. 7411 or 42 U.S.C. 7412).
- (7) A major stationary source that is major for VOC shall be considered major for ozone.

(gg) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or major modification subject to the requirements of this rule or to 40 CFR Part 52.21\* submits a complete application under the relevant regulations, including the following:

- (1) The trigger date is the following:
  - (A) In the case of particulate matter and sulfur dioxide, August 7, 1977.
  - (B) In the case of nitrogen dioxide, February 8, 1988.
- (2) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:
  - (A) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under 326 IAC 1-4 for the pollutant on the date of its complete application under this rule; and
  - (B) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.
- (3) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM<sub>10</sub> 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<sub>10</sub> 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<sub>2</sub> or CO<sub>2</sub> 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<sub>x</sub> 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:

(A) pollutant for which a national ambient air quality standard has been promulgated; and

(B) constituents or precursors for the pollutants identified by the U.S. EPA.

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

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

(4) Any pollutant that otherwise is subject to regulation under the CAA ~~except that 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.

~~(5)~~ (6) Notwithstanding subdivision (4), 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<sub>10</sub>: fifteen (15) tons per year.
- (F) Ozone: forty (40) tons per year of VOC.
- (G) Lead: six-tenths (0.6) ton per year.
- (H) Asbestos: seven one-thousandths (0.007) ton per year.
- (I) Beryllium: four ten-thousandths (0.0004) ton per year.
- (J) Mercury: one-tenth (0.1) ton per year.
- (K) Vinyl chloride: one (1) ton per year.
- (L) Fluorides: three (3) tons per year.
- (M) Sulfuric acid mist: seven (7) tons per year.
- (N) Hydrogen sulfide (H<sub>2</sub>S): ten (10) tons per year.

- (O) Total reduced sulfur (including H<sub>2</sub>S): ten (10) tons per year.
- (P) Reduced sulfur compounds (including H<sub>2</sub>S): ten (10) tons per year.
- (Q) Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): thirty-five ten-millionths (0.0000035) or  $3.5 \times 10^{-6}$  ton per year.
- (R) Municipal waste combustor metals (measured as particulate matter): fifteen (15) tons per year.
- (S) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): forty (40) tons per year.
- (T) Municipal solid waste landfills emissions (measured as nonmethane organic compounds): fifty (50) tons per year.
- (U) Ozone-depleting substances (ODS): one hundred (100) tons per year.
- (V) Pollutant greenhouse gases (GHGs): as specified in subsection (zz).**
- ~~(W)~~ **(W)** 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<sub>2</sub>e equivalent emissions (CO<sub>2</sub>e)" 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<sub>2</sub>e.**

**(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<sub>2</sub>e, 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<sub>2</sub>e 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<sub>2</sub>e 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<sub>2</sub>e 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<sub>2</sub>e or more; or

(B) an existing stationary source that emits or has the potential to emit one hundred thousand (100,000) tpy CO<sub>2</sub>e 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<sub>2</sub>e or more.

~~(zz)~~ (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.

*(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)*