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## Final Rules

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### TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-267(F)

#### DIGEST

Amends 326 IAC 2 concerning amendments necessary to obtain U.S. EPA approval of the prevention of significant deterioration (PSD) rules as part of the state implementation plan and federal approval of the Title V permit program. Adds 326 IAC 2-2.5 concerning pollution control projects. Amends 326 IAC 3-5-1, 326 IAC 4-2-1, 326 IAC 5-1-1, 326 IAC 6-1-1, 326 IAC 6-2-1, 326 IAC 6-5-1, 326 IAC 6-6-1, 326 IAC 7-1.1-1, 326 IAC 7-1.1-2, 326 IAC 7-3-1, 326 IAC 8-1-1, 326 IAC 9-1-2, 326 IAC 10-1-1, 326 IAC 11-1-1, 326 IAC 11-2-1, 326 IAC 11-3-1, 326 IAC 11-4-1, 326 IAC 11-5-1, 326 IAC 12-1-1, 326 IAC 14-1-3, and 326 IAC 15-1-1 to maintain consistency. Repeals 326 IAC 2-7-25. Effective 30 days after filing with the secretary of state.

#### HISTORY

First Notice of Comment Period: December 1, 2000, Indiana Register (24 IR 765).

Second Notice of Comment Period and Notice of First Hearing: April 1, 2001, Indiana Register (24 IR 2211).

Change of Notice of Public Hearing: June 1, 2001, Indiana Register (24 IR 2722).

Date of First Hearing: June 6, 2001.

Proposed Rule and Notice of Second Hearing: July 1, 2001, Indiana Register (24 IR 3103).

Change of Notice of Public Hearing: October 1, 2001

Date of Second Hearing: October 3, 2001.

326 IAC 2-1.1-3	326 IAC 2-7-24
326 IAC 2-1.1-9.5	326 IAC 2-7-25
326 IAC 2-2-1	326 IAC 3-5-1
326 IAC 2-2-2	326 IAC 4-2-1
326 IAC 2-2-3	326 IAC 5-1-1
326 IAC 2-2-4	326 IAC 6-1-1
326 IAC 2-2-5	326 IAC 6-2-1
326 IAC 2-2-6	326 IAC 6-5-1
326 IAC 2-2-7	326 IAC 6-6-1
326 IAC 2-2-9	326 IAC 7-1.1-1
326 IAC 2-2-12	326 IAC 7-1.1-2
326 IAC 2-2-14	326 IAC 7-3-1
326 IAC 2-2.5	326 IAC 8-1-1
326 IAC 2-6.1-2	326 IAC 9-1-2
326 IAC 2-6.1-5	326 IAC 10-1-1
326 IAC 2-7-1	326 IAC 11-1-1
326 IAC 2-7-2	326 IAC 11-2-1
326 IAC 2-7-4	326 IAC 11-3-1
326 IAC 2-7-5	326 IAC 11-4-1
326 IAC 2-7-11	326 IAC 11-5-1
326 IAC 2-7-12	326 IAC 12-1-1
326 IAC 2-7-16	326 IAC 14-1-3
326 IAC 2-7-20	326 IAC 15-1-1

SECTION 4. 326 IAC 2-2-2, AS AMENDED AT 24 IR 2419, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 2-2-2 Applicability**

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

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

Sec. 2. (a) The requirements of this rule shall apply to any major stationary source **or major modification**, as defined in section 1 of this rule, ~~which~~ **that** is being constructed or will be constructed in ~~any attainment or unclassifiable~~ **an** area as designated, ~~in 326 IAC 1-4~~, as of the submittal date of a complete application in accordance with 326 IAC 2-5.1, **as attainment or unclassifiable in 326 IAC 1-4.**

(b) The owner or operator of a major stationary source or major modification shall not begin actual construction unless the requirements in sections 3 through 8, 10, and 14 through 16 of this rule have been met and a permit has been issued under this rule.

(c) Sources that are located in or proposed to be located in an area designated as nonattainment pursuant to 326 IAC 1-4 for a pollutant shall be exempt from the requirements of this rule for that particular pollutant.

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

**(e) The requirements of sections 3, 4, 5, 7, 8, 10, 14, and 15 of this rule shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the CAA that it would emit, except as otherwise provided in this rule.**

**(f) The requirements of sections 3, 4, 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*)

SECTION 7. 326 IAC 2-2-5, AS AMENDED AT 24 IR 2422, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-2-5 Air quality impact; requirements**

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

Affected: IC 13-15; IC 13-17

(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.

~~\*Copies of 40 CFR 51, Appendix W referenced in this section~~ **\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 and 20401**

or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Management, Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana ~~46204-2220~~ 46204. (*Air Pollution Control Board; 326 IAC 2-2-5; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2398; filed Jun 14, 1989, 5:00 p.m.: 12 IR 2024; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1001; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2422; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1566*)

quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(b) The requirements of this section shall not apply to a major stationary source or major modification as defined in section 1 of this rule, with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of the pollutant from the modification would:

~~(A)~~ (1) impact no Class I area and no area where an applicable increment is known to be violated; and

~~(B)~~ (2) be temporary.

*(Air Pollution Control Board; 326 IAC 2-2-7; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2399; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2424; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1568)*

SECTION 10. 326 IAC 2-2-9, AS AMENDED AT 24 IR 2424, SECTION 9, IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-2-9 Innovative control technology**

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

Affected: IC 13-15; IC 13-17

Sec. 9. Any owner or operator of a proposed major stationary source or major modification may request the commissioner in writing to approve a system of innovative control technology as follows:

(1) The commissioner shall, with the consent of the governors of other affected states, allow the source or modification to employ a system of innovative control technology if the following are met:

(A) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(B) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under section 3 of this rule by a date specified by the commissioner. Such date shall not be later than four (4) years from the time of startup or seven (7) years from the date of permit issuance.

(C) The source or modification will meet the requirements of sections 3 and 4 5 of this rule, based on the emissions rate that the source employing the system of innovative control technology would be required to meet on the date specified by the commissioner.

(D) The source or modification will not, before the date specified by the commissioner:

(i) cause or contribute to a violation of an applicable ambient air quality standard as designated in 326 IAC 1-3; or

(ii) impact any area where an applicable increment is known to be violated.

(E) All other applicable requirements, including those for public participation, have been met.

(F) If applicable, the provisions of section 14 of this rule, relating to Class I areas, have been satisfied with respect to all periods during the life of the source or modification.

SECTION 9. 326 IAC 2-2-7, AS AMENDED AT 24 IR 2424, SECTION 7, IS AMENDED TO READ AS FOLLOWS:

**326 IAC 2-2-7 Additional analysis; requirements**

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

Affected: IC 13-15; IC 13-17

Sec. 7. (a) The owner or operator shall provide an analysis of the following:

(1) Impairment to visibility, soils, and vegetation that would occur as a result of the major stationary source or major modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air

(2) The commissioner shall withdraw any approval to employ a system of innovative control technology made under this section if:

- (A) the proposed system fails by the specified date to achieve the required continuous emissions reductions rate;
- (B) the proposed system fails before the specified date, so as to contribute to an unreasonable risk to public health, welfare, or safety; or
- (C) the commissioner decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(3) If a major stationary source or major modification fails to meet the required level of continuous emission reduction within the specified time period, or the approval is withdrawn in accordance with subsection (a)(2); subdivision (2), the commissioner may allow the major stationary source or major modification up to an additional three (3) years to meet the requirement for the application of best available control technology through use of a demonstrated system of control. (Air Pollution Control Board; 326 IAC 2-2-9; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2400; filed Mar 23, 2001, 3:03 p.m.: 24 IR 2424; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1568)

SECTION 12. 326 IAC 2-2-14, AS ADDED AT 24 IR 2427, SECTION 14, IS AMENDED TO READ AS FOLLOWS:

**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 any such area. Such 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 such 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 such permit application.

(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 such 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.

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(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, particulate matter, 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)
Particulate matter:	
PM <sub>10</sub> , annual arithmetic mean	17
PM <sub>10</sub> , 24 hour maximum	30
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 such maximum allowable increase. If such exemption is

granted, the department shall issue a permit to such 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 pursuant to subsection (f) or (g), the major stationary source or major modification shall comply with such 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 such 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:

Period of Exposure	Maximum Allowable Increase (Micrograms Per Cubic Meter) of Sulfur Dioxide	
	Terrain Areas	
	Low	High
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 such 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 Board; 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)*