

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;

(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 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.~~

~~(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~~

PERMIT REVIEW RULES

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 reduce the frequency of any monitoring or reporting required by a permit condition or applicable requirement.
- (2) The addition of a portable source or relocation of a portable source to an existing source if the addition or relocation would require a change to any permit terms or conditions.
- (3) Modifications that would have a potential to emit within any of the following ranges:
 - (A) Less than twenty five (25) tons per year and equal to or greater than five (5) tons per year of either particulate matter PM, or particulate matter less than ten (10) microns PM₁₀.
 - (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 (SO₂).
 - (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 five (5) tons per year and equal to or greater than two tenths (0.2) ton per year of lead (Pb).
 - (F) Less than twenty five (25) tons per year and equal to or greater than five (5) tons per year of the following regulated air pollutants:
 - (i) Hydrogen sulfide (H₂S).
 - (ii) Total reduced sulfur (TRS).
 - (iii) Reduced sulfur compounds. (iv) Fluorides.
- (4) Modifications for which the potential to emit is limited to less than twenty five (25) tons per year of any

PERMIT REVIEW RULES

regulated pollutant other than HAPs, ten (10) tons per year of any single HAP as defined under Section 112(b) of the CAA, or twenty five (25) tons per year of any combination of HAPs by complying with one (1) of the following constraints:

- (A) Limiting total annual solvent usage or maximum VOC content, or both.
 - (B) Limiting annual hours of operation of the process or business.
 - (C) Using a particulate air pollution control device as follows:
 - (i) Achieving and maintaining ninety-nine percent (99%) efficiency.
 - (ii) Complying with a no-visible emission standard.
 - (iii) The potential to emit before controls does not exceed major source thresholds for federal permitting programs.
 - (iv) Certifying to the commissioner that the control device supplier guarantees that a specific outlet concentration, in conjunction with design air flow, will result in actual emissions less than twenty five (25) tons of PM, or fifteen (15) tons per year of particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers.
 - (D) Limiting individual fuel usage and fuel type for a combustion source.
 - (E) Limiting raw material throughput or sulfur content of raw materials, or both.
- (5) A modification that is subject to a RACT, a new source performance standard (NSPS), or a national emission standard for hazardous air pollutants (NESHAP) and the RACT, NSPS, or NESHAP is the most stringent applicable requirement, except for those modifications that would be subject to the provisions of 40 CFR Part 63, Subpart B, Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources*. As part of the application required under subsection (d), the applicant shall acknowledge the requirement to comply with the RACT, NSPS, or NESHAP.
- (6) A change for which a source requests an emission limit to avoid 326 IAC 8-1-6.
- (7) A modification of an existing source that has a potential to emit greater than the thresholds under subdivision (3) if the modification will replace or repair a part or piece of equipment in an existing process unless the modification:
- (A) results in the replacement or repair of an entire process;
 - (B) qualifies as a reconstruction of an entire process;
 - (C) may result in an increase of actual emissions; or
 - (D) would result in a net emissions increase greater than the significant levels in 326 IAC 2-2 or 326 IAC 2-3.
- (8) A modification that has a potential to emit greater than the thresholds under subdivision (3) that adds an emissions unit or units of the same type that are already permitted and that will comply with the same applicable requirements and permit terms and conditions as the existing emission unit or units, except if the modification would result in a potential to emit greater than the thresholds in 326 IAC 2-2 or 326 IAC 2-3.
- (9) 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 of either emissions 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.

PERMIT REVIEW RULES

~~(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) Particulate matter (PM), or particulate matter with an aerodynamic diameter less than or equal to ten (10) micrometers (PM₁₀).~~

~~(B) Sulfur dioxide (SO₂).~~

~~(C) Nitrogen oxides (NO_x). (D) VOC.~~

~~(E) Hydrogen sulfide (H₂S).~~

~~(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.~~

PERMIT REVIEW RULES

- (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 as established in 326 IAC 2-1.1-6 or section 17 of this rule.

(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.

PERMIT REVIEW RULES

~~(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.~~

~~*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 2-7-10.5; 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)