

CHAPTER 22
CONTROLLING POLLUTION

[Prior to 7/1/83, DEQ Ch 3]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

567—22.1(455B) Permits required for new or existing stationary sources.

22.1(1) Permit required. Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, or conditional permit, or permit pursuant to 22.8(455B), or permits required pursuant to 22.4(455B) and 22.5(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

a. Existing sources. Sources built prior to September 23, 1970, are not subject to this subrule, unless they have been modified, reconstructed, or altered on or after September 23, 1970.

b. New or reconstructed major sources of hazardous air pollutants. No person shall construct or reconstruct a major source of hazardous air pollutants, as defined in 40 CFR 63.2 and 40 CFR 63.41 as amended through December 27, 1996, unless a construction permit has been obtained from the department, which requires maximum achievable control technology for new sources to be applied. The permit shall be obtained prior to the initiation of construction or reconstruction of the major source.

c. New, reconstructed, or modified sources may initiate construction prior to issuance of the construction permit by the department if they meet the eligibility requirements stated in subparagraph (1) below. The applicant must assume any liability for construction conducted on a source before the permit is issued. In no case will the applicant be allowed to hook up the equipment to the exhaust stack or operate the equipment in any way that may emit any pollutant prior to receiving a construction permit.

(1) Eligibility.

1. The applicant has submitted a construction permit application to the department, as specified in subrule 22.1(3);

2. The applicant has notified the department of the applicant’s intentions in writing five working days prior to initiating construction; and

3. The source is not subject to rule 567—22.4(455B), 567—subrule 23.1(2), 567—subrule 23.1(3), 567—subrule 23.1(4), 567—subrule 23.1(5), or paragraph “b” of this subrule. Prevention of significant deterioration (PSD) provisions and prohibitions remain applicable until a proposed project legally obtains PSD synthetic minor status (i.e., obtains permitted limits which limit the source below the PSD thresholds).

(2) The applicant must cease construction if the department’s evaluation demonstrates that the construction, reconstruction or modification of the source will interfere with the attainment or maintenance of the national ambient air quality standards or will result in a violation of a control strategy required by 40 CFR Part 51, Subpart G, as amended through August 12, 1996.

(3) The applicant will be required to make any modification to the source that may be imposed in the issued construction permit.

(4) The applicant must notify the department of the date that construction or reconstruction actually started. All notifications shall be submitted to the department in writing no later than 30 days after construction or reconstruction started. All notifications shall include all of the information listed in 22.3(3)“b.”

22.1(2) Exemptions. The provisions of this rule shall not apply to the following listed equipment or control equipment unless review of the equipment or the control equipment is necessary to comply with rule 22.4(455B), prevention of significant deterioration requirements; rule 22.5(455B), special requirements for nonattainment areas; 567—subrule 23.1(2), new source performance standards (40 CFR Part 60 NSPS); 567—subrule 23.1(3), emission standards for hazardous air pollutants (40 CFR Part 61 NESHAP); 567—subrule 23.1(4), emission standards for hazardous air pollutants for source categories (40 CFR Part 63 NESHAP); or 567—subrule 23.1(5), emission guidelines, in which case a permit must be obtained. If equipment is permitted under the provisions of rule 22.8(455B), then no other exemptions shall apply to that equipment.

*Records shall be kept at the facility for exemptions that have been claimed under the following paragraphs: 22.1(2)“a” (for equipment > 1.0 MMBTU/hour), 22.1(2)“b,” 22.1(2)“e,” 22.1(2)“r” or 22.1(2)“s.” The records shall contain the following information: the specific exemption claimed and a description of the associated equipment. These records shall be made available to the department upon request.

The following paragraphs are applicable to 22.1(2)“g” and “i.” A facility claiming to be exempt under the provisions of paragraph “g” or “i” shall provide to the department the information listed below. If the exemption is claimed for a source not yet constructed or modified, the information shall be provided to the department at least 30 days in advance of the beginning of construction on the project. If the exemption is claimed for a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the information listed below shall be provided to the department within 60 days of March 20, 1996. After that date, if the exemption is claimed by a source that has already been constructed or modified and that does not have a construction permit for that construction or modification, the source shall not operate until the information listed below is provided to the department:

- A detailed emissions estimate of the actual and potential emissions, specifically noting increases or decreases, for the project for all regulated pollutants (as defined in 22.100(455B)), accompanied by documentation of the basis for the emissions estimate;
- A detailed description of each change being made;
- The name and location of the facility;
- The height of the emission point or stack and the height of the highest building within 50 feet;
- The date for beginning actual construction and the date that operation will begin after the changes are made;
- A statement that the provisions of rules 22.4(455B) and 22.5(455B) do not apply; and
- A statement that the accumulated emissions increases associated with each change under paragraph 22.1(2)“i,” when totaled with other net emissions increases at the facility contemporaneous with the proposed change (occurring within five years before construction on the particular change commences), have not exceeded significant levels, as defined in 40 CFR 52.21(b)(23) as amended through March 12, 1996, and adopted in rule 22.4(455B), and will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28. This statement shall be accompanied by documentation for the basis of these statements.

The written statement shall contain certification by a responsible official as defined in rule 22.100(455B) of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

a. Fuel-burning equipment for indirect heating and reheating furnaces or cooling units using natural gas or liquefied petroleum gas with a capacity of less than ten million Btu per hour input per combustion unit.

b. Fuel-burning equipment for indirect heating or cooling with a capacity of less than one million Btu per hour input per combustion unit when burning coal, untreated wood or fuel oil. Used oils meeting the specification from 40 CFR 279.11 as amended through May 3, 1993, are acceptable fuels for this exemption.

c. Mobile internal combustion and jet engines, marine vessels and locomotives.

d. Equipment used for cultivating land, harvesting crops, or raising livestock other than anaerobic lagoons. This exemption is not applicable if the equipment is used to remove substances from grain which were applied to the grain by another person. This exemption is also not applicable to equipment used by a person to manufacture commercial feed, as defined in Iowa Code section 198.3, which is normally not fed to livestock, owned by the person or another person, in a feedlot, as defined in Iowa Code section 172D.1, subsection 6, or a confinement building owned or operated by that person and located in this state.

*Effective date of unlettered paragraphs delayed 70 days from March 14, 2001, by the Administrative Rules Review Committee at its meeting held March 9, 2001.

e. Incinerators and pyrolysis cleaning furnaces with a rated refuse burning capacity of less than 25 pounds per hour. Pyrolysis cleaning furnace exemption is limited to those units that use only natural gas or propane. Salt bath units are not included in this exemption.

f. Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment.

**g.* Equipment or control equipment which reduces or eliminates all emission to the atmosphere. If a source wishes to obtain credit for reductions under the prevention of significant deterioration requirements, it must apply for a permit for the reduction prior to the time the reduction is made. If a construction permit has been previously issued for the equipment or control equipment, the conditions of the construction permit remain in effect.

h. Equipment (other than anaerobic lagoons) or control equipment which emits odors unless such equipment or control equipment also emits particulate matter, or any other regulated air contaminant (as defined in 22.100(455B)).

**i.* Construction, modification or alteration to equipment which will not result in a net emissions increase (as defined in 22.5(1) "f") of more than 1.0 lb/hr of any regulated air pollutant (as defined in 22.100(455B)). Emission reduction achieved through the installation of control equipment, for which a construction permit has not been obtained, does not establish a limit to potential emissions.

Pollutants covered under the provisions of Section 112(g) of the Clean Air Act are not included in this exemption except for those listed in Table 1. Further, the net emissions rate INCREASE must not equal or exceed the values listed in Table 1.

Table 1

<u>Pollutant</u>	<u>Ton/year</u>
Lead	0.6
Asbestos	0.007
Beryllium	0.0004
Vinyl Chloride	1
Fluorides	3

This exemption is ONLY applicable to vertical discharges with the exhaust stack height 10 or more feet above the highest building within 50 feet. If a construction permit has been previously issued for the equipment or control equipment, the conditions of the construction permit remain in effect. In order to use this exemption, the facility must comply with the information submission to the department as described above.

The department reserves the right to require proof that the expected emissions from the source which is being exempted from the air quality construction permit requirement, in conjunction with all other emissions, will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28. If the department finds, at any time after a change has been made pursuant to this exemption, evidence of violations of any of the department's rules, the department may require the source to submit to the department sufficient information to determine whether enforcement action should be taken. This information may include, but is not limited to, any information that would have been submitted in an application for a construction permit for any changes made by the source under this exemption, and air quality dispersion modeling.

j. Residential wood heaters, cookstoves, or fireplaces.

k. Asbestos demolition and renovation projects subject to 40 CFR 61.145 as amended through January 16, 1991.

l. The equipment in laboratories used exclusively for nonproduction chemical and physical analyses. Nonproduction analyses means analyses incidental to the production of a good or service and includes analyses conducted for quality assurance or quality control activities, or for the assessment of environmental impact.

*Effective date of 22.1(2) "g" and "i" delayed 70 days from March 14, 2001, by the Administrative Rules Review Committee at its meeting held March 9, 2001.

m. Storage tanks with a capacity of less than 10,570 gallons and an annual throughput less than 40,000 gallons.

n. Stack or vents to prevent escape of sewer gases through plumbing traps. Systems which include any industrial waste are not exempt.

o. A nonproduction surface coating process that uses only hand-held aerosol spray cans.

p. Brazing, soldering or welding equipment or portable cutting torches used only for nonproduction activities.

q. Cooling and ventilating equipment: Comfort air conditioning not designed or used to remove air contaminants generated by, or released from, specific units of equipment.

r. An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft. For the purposes of this exemption, the manufacturer's nameplate rating at full load shall be defined as the brake horsepower output at the shaft.

s. Equipment that is not related to the production of goods or services and used exclusively for academic purposes, located at educational institutions (as defined in Iowa Code section 455B.161). The equipment covered under this exemption is limited to: lab hoods, art class equipment, wood shop equipment in classrooms, wood fired pottery kilns, and fuel-burning units with a capacity of less than one million Btu per hour fuel capacity. This exemption does not apply to incinerators.

22.1(3) Construction permits. The owner or operator of a new or modified stationary source shall apply for a construction permit unless a conditional permit is required by Iowa Code chapter 455B or subrule 22.1(4) or requested by the applicant in lieu of a construction permit. Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

a. *New equipment design in concept review.* If requested in writing, the director will review the design concepts of proposed new equipment and associated control equipment prior to application for a construction permit. The purpose of the review would be to determine the acceptability of the location of the proposed equipment. If the review is requested, the requester shall supply the following information:

(1) Preliminary plans and specifications of proposed equipment and related control equipment.

(2) The exact site location and a plot plan of the immediate area, including the distance to and height of nearby buildings and the estimated location and elevation of the emission points.

(3) The estimated emission rates of any air contaminants which are to be considered.

(4) The estimated exhaust gas temperature, velocity at the point of discharge, and stack diameter at the point of discharge.

(5) An estimate of when construction would begin and when construction would be completed.

b. *Construction permit applications.* Each application for a construction permit shall be submitted to the department on the form "Air Construction Permit Application." Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer registered in the state of Iowa in conformance with Iowa Code chapter 542B. The application for a permit to construct shall include the following information:

(1) A description of the equipment or control equipment covered by the application;

(2) A scaled plot plan, including the distance and height of nearby buildings, and the location and elevation of existing and proposed emission points;

(3) The composition of the effluent stream, both before and after any control equipment with estimates of emission rates, concentration, volume and temperature;

(4) The physical and chemical characteristics of the air contaminants;

(5) The proposed dates and description of any tests to be made by the owner or operator of the completed installation to verify compliance with applicable emission limits or standards of performance;

(6) Information pertaining to sampling port locations, scaffolding, power sources for operation of appropriate sampling instruments, and pertinent allied facilities for making tests to ascertain compliance;

(7) Any additional information deemed necessary by the department to determine compliance with or applicability of rules 22.4(455B) and 22.5(455B); and

(8) Application for a case-by-case MACT determination. If the source meets the definition of construction or reconstruction of a major source of hazardous air pollutants, as defined in paragraph 22.1(1) "b," then the owner or operator shall submit an application for a case-by-case MACT determination, as required in subparagraph 23.1(4) "b"(1), with the construction permit application. In addition to this paragraph, an application for a case-by-case MACT determination shall include the following information:

1. The hazardous air pollutants (HAP) emitted by the constructed or reconstructed major source, and the estimated emission rate for each HAP, to the extent this information is needed by the permitting authority to determine MACT;

2. Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

3. The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;

4. The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity to the extent this information is needed by the permitting authority to determine MACT;

5. A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in 40 CFR Part 63.43(d) as amended through December 27, 1996;

6. The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);

7. Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology;

8. An identification of any listed source category or categories in which the major source is included.

(9) A signed statement that ensures the applicant's legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project.

c. Application requirements for anaerobic lagoons. The application for a permit to construct an anaerobic lagoon shall include the following information:

(1) The source of the water being discharged to the lagoon;

(2) A plot plan, including distances to nearby residences or occupied buildings, local land use zoning maps of the vicinity, and a general description of the topography in the vicinity of the lagoon;

(3) In the case of an animal feeding operation, the information required in rule 567—65.15(455B);

(4) In the case of an industrial source, a chemical description of the waste being discharged to the lagoon;

(5) A report of sulfate analyses conducted on the water to be used for any purpose in a livestock operation proposing to use an anaerobic lagoon. The report shall be prepared by using standard methods as defined in 567—60.2(455B);

(6) A description of available water supplies to prove that adequate water is available for dilution;

(7) In the case of an animal feeding operation, a waste management plan describing the method of waste collection and disposal and the land to be used for disposal. Evidence that the waste disposal equipment is of sufficient size to dispose of the wastes within a 20-day period per year shall also be provided;

(8) Any additional information needed by the department to determine compliance with these rules.

22.1(4) Conditional permits. The owner or operator of any new or modified major stationary source may elect to apply for a conditional permit in lieu of a construction permit. Electric power generating facilities with a total capacity of 100 megawatts or more are required to apply for a conditional permit.

a. Applicability determination. If requested in writing, the director will make a preliminary determination of nonattainment applicability pursuant to rules 22.4(455B) and 22.5(455B), based upon the information supplied by the requester.

b. Conditional permit applications. Each application for a conditional permit shall be submitted to the department in writing and shall consist of the following items:

(1) The results of an air quality impact analysis which characterizes preconstruction air quality and the air quality impacts of facility construction and operation. A quality assurance plan for the preconstruction air monitoring where required in accordance with 40 Code of Federal Regulations Part 58 as amended through July 18, 1997, shall also be submitted.

(2) A description of equipment and pollution control equipment design parameters.

(3) Preliminary plans and specifications showing major equipment items and location.

(4) The fuel specifications of any anticipated energy source, and assurances that any proposed energy source will be utilized.

(5) Certification that the preliminary plans and specifications for the equipment and related control equipment have been prepared by or under the direct supervision of a professional engineer registered in the state of Iowa in conformance with Iowa Code chapter 542B.

(6) An estimate of when construction would begin and when construction would be completed.

(7) Any additional information deemed necessary by the department to determine compliance with or applicability of rules 22.4(455B) and 22.5(455B).

This rule is intended to implement Iowa Code section 455B.133.

567—22.2(455B) Processing permit applications.

22.2(1) Incomplete applications. The department will notify the applicant whether the application is complete or incomplete. If the application is found by the department to be incomplete upon receipt, the applicant will be notified within 30 days of that fact and of the specific deficiencies. Sixty days following such notification, the application may be denied for lack of information. When this schedule would cause undue hardship to an applicant, or the applicant has a compelling need to proceed promptly with the proposed installation, modification or location, a request for priority consideration and the justification therefor shall be submitted to the department.

22.2(2) Public notice and participation. A notice of intent to issue a conditional or construction permit to a major stationary source shall be published by the department in a newspaper having general circulation in the area affected by the emissions of the proposed source. The notice and supporting documentation shall be made available for public inspection upon request from the department's central office. Publication of the notice shall be made at least 30 days prior to issuing a permit and shall include the department's evaluation of ambient air impacts. The public may submit written comments or request a public hearing. If the response indicates significant interest, a public hearing may be held after due notice.

22.2(3) Final notice. The department shall notify the applicant in writing of the issuance or denial of a construction or conditional permit as soon as practicable and at least within 120 days of receipt of the completed application. This shall not apply to applicants for electric generating facilities subject to Iowa Code chapter 476A.

This rule is intended to implement Iowa Code section 455B.133.

567—22.3(455B) Issuing permits.

22.3(1) Stationary sources other than anaerobic lagoons. In no case shall a construction permit or conditional permit which results in an increase in emissions be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and that schedule is contained in an order or permit condition, the department may consider issuance of a construction permit or conditional permit. A construction or conditional permit shall be issued when the director concludes that the preceding requirement has been met and:

- a. That the required plans and specifications represent equipment which reasonably can be expected to comply with all applicable emission standards, and
- b. That the expected emissions from the proposed source or modification in conjunction with all other emissions will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28, and
- c. That the applicant has not relied on emission limits based on stack height that exceeds good engineering practice or any other dispersion techniques as defined in 567—subrule 23.1(6), and
- d. That the applicant has met all other applicable requirements.

22.3(2) Anaerobic lagoons. A construction permit for an industrial anaerobic lagoon shall be issued when the director concludes that the application for permit represents an approach to odor control that can reasonably be expected to comply with the criteria in 567—subrule 23.5(2). A construction permit for an animal feeding operation using an anaerobic lagoon shall be issued when the director concludes that the application has met the requirements of rule 567—65.15(455B).

22.3(3) Conditions of approval. A permit may be issued subject to conditions which shall be specified in writing. Such conditions may include but are not limited to emission limits, operating conditions, fuel specifications compliance testing, continuous monitoring, and excess emission reporting.

a. Each permit shall specify the date on which it becomes void if work on the installation for which it was issued has not been initiated.

b. Each permit shall list the requirements for notifying the department of the dates of intended startup, start of construction and actual equipment startup. All notifications shall be in writing and include the following information:

- (1) The date or dates required by 22.3(3)“b” for which the notice is being submitted.
- (2) Facility name.
- (3) Facility address.
- (4) DNR facility number.
- (5) DNR air construction permit number.
- (6) The name or the number of the emission unit or units in the notification.
- (7) The emission point number or numbers in the notification.
- (8) The name and signature of a company official.
- (9) The date the notification was signed.

c. Each permit shall specify that no review has been undertaken on the various engineering aspects of the equipment other than the potential of the equipment for reducing air contaminant emissions.

d. A conditional permit shall require the submittal of final plans and specifications for the equipment or control equipment designed to meet the specified emission limits prior to installation of the equipment or control equipment.

e. If changes in the final plans and specifications are proposed by the permittee after a construction permit has been issued, a supplemental permit shall be obtained.

f. A permit is not transferable from one location to another or from one piece of equipment to another, unless the equipment is portable. When portable equipment for which a permit has been issued is to be transferred from one location to another, the department shall be notified in writing at least 30 days prior to transferring to the new location. The owner or operator will be notified at least 10 days prior to the scheduled relocation if said relocation will prevent the attainment or maintenance of ambient air quality standards and thus require a more stringent emission standard and the installation of additional control equipment. In such a case a supplemental permit shall be obtained prior to the initiation of construction, installation, or alteration of such additional control equipment.

g. The issuance of a permit or conditional permit (approval to construct) shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirement under local, state or federal law.

22.3(4) Denial of a permit.

a. When an application for a construction or conditional permit is denied, the applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the right of the applicant to file a further application after revisions are made to meet the objections specified as reasons for the denial.

b. The department may deny an application based upon the applicant's failure to provide a signed statement of the applicant's legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application.

22.3(5) Modification of a permit. The director may, after public notice of such decision, modify a condition of approval of an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard.

22.3(6) Limits on hazardous air pollutants. The department may limit a source's hazardous air pollutant potential to emit, as defined at 567—22.100(455B), in the source's construction permit for the purpose of establishing federally enforceable limits on the source's hazardous air pollutant potential to emit.

22.3(7) Revocation of a permit. The department may revoke a permit upon obtaining knowledge that a permit holder has lost legal entitlement to use the property identified in the permit to install and operate equipment covered by the permit, upon notice that the property owner does not wish to have continued the operation of the permitted equipment, or upon notice that the owner of the permitted equipment no longer wishes to retain the permit for future operation.

22.3(8) Ownership change of permitted equipment. The new owner shall notify the department in writing no later than 30 days after the change in ownership of equipment covered by a construction permit pursuant to 567—22.1(455B). The notification to the department shall include the following information:

- a. The date of ownership change;
- b. The name, address and telephone number of the responsible official, contact person and the owner of the equipment both before and after ownership change; and
- c. The construction permit number of the equipment changing ownership.

This rule is intended to implement Iowa Code section 455B.133.

567—22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). Except as provided in subrule 22.4(1), the following federal regulations pertaining to the prevention of significant deterioration are adopted by reference, 40 CFR Subsection 52.21 as amended through March 12, 1996.

22.4(1) Federal rules 40 CFR 52.21(a) (Plan Disapproval), 52.21(q) (Public Participation), 52.21(s) (Environmental Impact Statement), and 52.21(u) (Delegation of Authority) are not adopted by reference. Also, for the purposes of 40 CFR 52.21(l), the department adopts by reference Appendix W to 40 CFR 51, Guideline on Air Quality Models (Revised), as adopted August 12, 1996.

22.4(2) The term “administrator” shall mean the director of the department of natural resources except that:

a. In subparagraph 52.21(b)(3)(iii) “net emissions increase,” and paragraph 52.21(b)(17) “federally enforceable,” it shall mean both the director of the department of natural resources and the administrator of the Environmental Protection Agency (EPA).

b. It shall mean the administrator of EPA in 52.21(f)(1)(v), 52.21(f)(3), and 52.21(f)(4)(i) “increment consumption,” 52.21(g)(1) to (g)(6) “redesignation,” 52.21(l)(2), 52.21(p)(1) and (p)(2) “federal Class I areas,” and 52.21(t) “disputed permits or redesignations.”

c. It shall mean the director of the department of natural resources or the administrator of the EPA, whichever has enforcement responsibility, in paragraphs 52.21(r) “source obligation,” and 52.21(w) “permit rescission.”

22.4(3) The procedural requirements of 40 CFR 51.166(q), as amended through June 19, 1978, (except the phrase “The plan shall provide that—”) are hereby adopted by reference. For the purposes of this subrule the phrase “specified time period” shall mean 30 days. The term “administrator” as it appears in subparagraph 51.166(q)“iv” shall mean the administrator of EPA.

22.4(4) Except as explained below, a permit may not be issued to any new major stationary source or major modification as defined in 567—22.5(455B) and 22.5(1) “a” and “b” if the source or modification would locate in any area designated attainment or unclassifiable for any national ambient air quality standard pursuant to Section 107 of the Act, when the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when the air quality impact of the source or modification at any locality that does not or would not meet the applicable national standard would exceed the following significance levels:

	Averaging Time				
	Annual	24 Hrs.	8 Hrs.	3 Hrs.	1 Hr.
Pollutant					
SO ₂ _____	1.0 ug/m ³ _____	5 ug/m ³ _____	_____	25 ug/m ³ _____	
PM ₁₀ _____	1.0 ug/m ³ _____	5 ug/m ³ _____	_____	_____	
NO ₂ _____	1.0 ug/m ³ _____	_____	_____	_____	
CO _____	_____	_____	0.5 mg/m ³ _____	_____	2 mg/m ³

A permit may be granted to a major source or major modification as identified above if it reduces the impact of its emissions upon air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard. This section shall not apply to a major source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area designated under Section 107 of the Act as nonattainment for that pollutant.

567—22.5(455B) Special requirements for nonattainment areas.**22.5(1) Definitions.**

a. "Major stationary source" means any of the following:

(1) Any stationary source of air contaminants which emits, or has the potential to emit, 100 tons per year or more of any regulated air contaminant;

(2) Any physical change that would occur at a stationary source not qualifying under subparagraph (1) as a major stationary source, if the change would constitute a major stationary source by itself;

(3) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe" and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements under Section 182(f) of the Clean Air Act do not apply;

(4) For ozone transport regions established pursuant to Section 184 of the Clean Air Act, sources with potential to emit 50 tpy or more of volatile organic compounds;

(5) For carbon monoxide nonattainment areas that both are classified as "serious" and in which there are stationary sources which contribute significantly to carbon monoxide levels, sources with the potential to emit 50 tpy or more of carbon monoxide; or

(6) For particulate matter (PM-10), nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

b. "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 net emission increase of any regulated air contaminant.

(1) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(2) A physical change, or change in the method of operation, shall not include:

Routine maintenance, repair, and replacement;

Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Co-ordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;

Any change in ownership at a stationary source; or

Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

Use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before December 21, 1976, unless such change would be prohibited by any enforceable permit condition.

An increase in the hours of operation or in the production rate, unless such change is prohibited under any enforceable permit condition.

c. *“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 federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

The provisions of this paragraph do not apply to a source or modification 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:

- Coal cleaning plants (with thermal dryers);
- Kraft pulp mills;
- Portland cement plants;
- Primary zinc smelters;
- Iron and steel mills;
- Primary aluminum ore reduction plants;
- Primary copper smelters;
- Municipal incinerators capable of charging more than 250 tons of refuse per day;
- Hydrofluoric, sulfuric, or nitric acid plants;
- Petroleum refineries;
- Lime plants;
- Phosphate rock processing plants;
- Coke oven batteries;
- Sulfur recovery plants;
- Carbon black plants (furnace process);
- Primary lead smelters;
- Fuel conversion plants;
- Sintering plants;
- Secondary metal production plants;
- Chemical process plants;
- Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- Taconite ore processing plants;
- Glass fiber processing plants;
- Charcoal production plants;
- Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act, 42 U.S.C. §§7401 et seq.

d. "Lowest achievable emission rate" means, for any source, that rate of emissions based on the following, whichever is more stringent:

(1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of source.

This term, applied to a modification, means the lowest achievable emission rate for the new or modified emission units within the stationary source.

This term may include a design, equipment, material, work practice or operational standard or combination thereof.

In no event shall the application of this term permit a proposed new or modified stationary source to emit any regulated air contaminant in excess of the amount allowable under applicable new source standards of performance.

e. "Secondary emissions" means emissions which occur or could occur as a result of the construction or operation of a major stationary source or major modification, but do not necessarily come from the major stationary source or major modification itself. For purposes of this rule, secondary emissions must be specific and well-defined, must be quantifiable, and must affect the same general nonattainment area as the stationary source or modification which causes the secondary emission. Secondary emissions may include, but are not limited to:

Emissions from barges or trains coming to or from the new or modified stationary source; and

Emissions from any off-site support facility which 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.

f. (1) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(2) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.

(3) An increase or decrease in actual emissions is creditable only if the director has not relied on it 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.

(4) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(5) A decrease in actual emissions is creditable only to the extent that:

The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

It is an enforceable permit condition at and after the time that actual construction on the particular change begins;

The director has not relied on it in issuing any other permit;

Such emission decreases have not been used for showing reasonable further progress; and

It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(6) An increase that results from a 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 180 days.

g. “*Emissions unit or installation*” means an identifiable piece of process equipment.

h. “*Reconstruction*” will be presumed to have taken place where the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new stationary source. Any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of new source performance standards (see 567—subrule 23.1(2)). A reconstructed stationary source will be treated as a new stationary source for purposes of this rule. In determining lowest achievable emission rate for a reconstructed stationary source, the definitions in the new source performance standards shall be taken into account in assessing whether a new source performance standard is applicable to such stationary source.

i. “*Fixed capital cost*” means the capital needed to provide all the depreciable components.

j. “*Fugitive emissions*” means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

k. “*Significant*” means in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

PM₁₀: 15 tpy

l. “*Allowable emissions*” means the emissions rate calculated using the maximum rated capacity of the source (unless the source is subject to an enforceable permit condition which restricts the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) Applicable standards as set forth in 567—Chapter 23;

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

(3) The emissions rate specified as an enforceable permit condition, including those with a future compliance date.

m. "Enforceable permit condition" for the purpose of this rule means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emission standards for hazardous air pollutants, requirements within the state implementation plan, and any permit requirements established pursuant to this rule, or under conditional, construction or Title V operating permit rules.

n. (1) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with subparagraphs (2) to (4) below.

(2) 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 two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority 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.

(3) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(4) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

o. "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

p. "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.

q. "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the state implementation plan.

r. "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

s. "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one 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" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0 respectively).

22.5(2) Applicability. Areas designated as attainment, nonattainment, or unclassified are as listed in 40 CFR §81.316 as amended through March 19, 1998.

a. The requirements contained in rule 22.5(455B) shall apply to any new major stationary source or major modification that, as of the date the permit is issued, is major for any pollutant for which the area in which the source would construct is designated as nonattainment.

b. The requirements contained in rule 22.5(455B) shall apply to each nonattainment pollutant that the source will emit or has the potential to emit in major amounts. In the case of a modification, the requirements shall apply to the significant net emissions increase of each nonattainment pollutant for which the source is major.

c. Particulate matter. If a major source or major modification is proposed to be constructed in an area designated nonattainment for particulate matter, then emission offsets must be achieved prior to startup.

If a major source or major modification is proposed to be constructed in an area designated attainment or unclassified for particulate matter, but the modeled (EPA-approved guideline model) worst case ground level particulate concentrations due to the major source or major modification in a designated particulate matter nonattainment area is equal to or greater than five micrograms per cubic meter (24-hour concentration), or one microgram per cubic meter (annual arithmetic mean), then emission offsets must be achieved prior to startup.

d. Sulfur dioxide. If a major source or major modification is proposed to be constructed in an area designated nonattainment for sulfur dioxide, then emission offsets must be achieved prior to startup.

If a major source or major modification is proposed to be constructed in an area designated attainment or unclassified for sulfur dioxide, but the modeled (EPA-approved guideline model) worst case ground level sulfur dioxide concentrations due to the major source or major modification in a designated sulfur dioxide nonattainment area is equal to or greater than 25 micrograms per cubic meter (three-hour concentration), five microgram per cubic meter (24-hour concentration), or one microgram per cubic meter (annual arithmetic mean), then emission offsets must be achieved prior to startup.

e. At such 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 which 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.

22.5(3) Emission offsets.

a. Emission offsets shall be obtained from the same source or other sources in the same nonattainment area, except that the required emissions reductions may be obtained from a source in another nonattainment area if:

(1) The other area, which must be nonattainment for the same pollutant, has an equal or higher nonattainment classification than the nonattainment area in which the source is located, and

(2) Emissions from such other nonattainment areas contribute to a violation of a National Ambient Air Quality Standard in the nonattainment area in which the proposed new or modified source would construct.

b. Emission offsets for any regulated air contaminant in the designated nonattainment area shall provide for reasonable further progress toward attainment of the applicable National Ambient Air Quality Standards and provide a positive net air quality benefit in the nonattainment area.

c. The increased emissions of any applicable nonattainment air pollutant allowed from the proposed new or modified source shall be offset by an equal or greater reduction, as applicable, in the total tonnage and impact of actual emissions, as stated in subrule 22.5(4), of such air pollutant from the same or other sources. For purposes of subrule 22.5(3), actual emissions shall be determined in accordance with subparagraphs 22.5(1)“n” (1) and (2).

d. All emissions reductions claimed as offset credit shall be federally enforceable prior to, or upon, the issuance of the permit required under this rule and shall be in effect by the time operation of the permitted new source or modification begins.

e. Proposals for emission offsets shall be submitted with the application for a permit for the major source or major modification. All approved emission offsets shall be made a part of the permit and shall be deemed a condition of expected performance of the major source or major modification.

22.5(4) Acceptable emission offsets.

a. *Equivalence.* The effect of the reduction of emissions must be measured or predicted to occur in the same area as the emissions of the major source or major modification. It can be assumed that, if the emission offsets are obtained from an existing source on the same premises or in the immediate vicinity of the major source or major modification and if the air contaminant disperses from substantially the same stack height, the emissions will be equivalent and may be offset. Otherwise, an adequate dispersion model must be used to predict the effect. If the reduction accomplished at the source is as specified in subrule 22.5(3) and if the effect of the reduction is measured or predicted to occur in the same area as the emissions of the major source or major modification, the effect of the reduction at the measured or predicted point does not have to exactly offset the effect of the major source or major modification.

b. *Offset ratio.* Rescinded IAB 2/14/96, effective 3/20/96.

c. *Control of uncontrolled existing sources.* If control equipment is proposed for a presently uncontrolled existing source for which controls are not required by rules, then credit may be allowed for any reduction below the source's potential to emit. The reduction shall be proposed at the time of permit application. Any such reductions which occurred prior to January 1, 1978, shall not be accepted for offsets.

d. *Greater control of existing sources.* If more effective control equipment for a source already in compliance with the SIP allowable level is proposed to offset the emissions of the major source or major modification in or affecting a nonattainment area, then the difference in the emissions between the actual level on January 1, 1978, and the new level can be credited for offsets. (This does not allow credit to be granted for any reductions in actual emissions required by the SIP subsequent to January 1, 1978.)

For example, if a cyclone that is being used to meet a SIP emission standard is emitting x_1 lbs/hr and if it is to be replaced by a bag filter emitting x_2 lbs/hr, an emission offset equal to $(x_1 - x_2)$ lbs/hr may be allowed toward the total required reduction.

e. Fugitive dust offsets. Credits may be allowed for permanent control of fugitive dust. EPA's "Technical Guidance for Control of Industrial Process Fugitive Particulate Emissions" (EPA-450/3-77-010, March 1977) shall be used as a guide to estimate reduction from fugitive dust controls on traditional sources. Traditional source means a source category for which a particulate emission standard has been established in 567—subrule 23.1(2), 567—paragraph 23.3(2)“a” or “b” or 567—23.4(455B). The emission factors shall be modified to reflect realistic reductions. This would correspond to a consideration of particles in the less than 3 micron size range and the effectiveness of the fugitive dust control method.

f. Fuel switching credits. Credit may be allowed for fuel switching provided there is a demonstration by the applicant that supplies of the cleaner fuel will be available to the applicant for a minimum of five years. The demonstration must include, as a minimum, a written contract with the fuel supplier that the fuel will not be interrupted. The permit for the existing source shall be amended to provide for maintaining those offsets resulting from the fuel switching before offset credit will be granted.

g. Reduction credits. Credit for an emissions reduction can be claimed to the extent that the administrator and the department have not: (1) relied on it in issuing any permit under regulations approved pursuant to 40 CFR Parts 51 (amended through April 9, 1998), 55 (amended through August 4, 1997), 63 (amended through December 28, 1998), 70 (amended through November 26, 1997), or 71 (amended through October 22, 1997); (2) relied on it in demonstrating attainment or reasonable further progress; or (3) the reduction is not otherwise required under the Clean Air Act. Incidental emissions reductions which are not otherwise required under the Act shall be creditable as emissions reductions for such purposes if such emissions reductions meet the requirements of subrule 22.5(3).

h. Derating of equipment. If the emissions from a major source or major modification are proposed to be offset by reducing the operating capacity of another existing source, then credit may be allowed for this provided proper documentation (such as stack test results) showing the effect on emissions due to derating is submitted. The permit for the existing source must be amended to limit the operating capacity before offsets will be allowed.

i. Shutdown or curtailment.

(1) Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are surplus, permanent, quantifiable, and federally enforceable, and if the area has an EPA-approved attainment plan. In addition, the shutdown or curtailment is creditable only if it occurred on or after the date specified for this purpose in the plan, and if such date is on or after the date of the most recent emissions inventory or attainment demonstration. However, in no event may credit be given for shutdowns which occurred prior to January 1, 1978. For purposes of this paragraph, the director may 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 such previously shutdown or curtailed sources. The work force shall be notified of the proposed curtailment or shutdown by the source owner or operator.

(2) The reductions described in subparagraph 22.5(4)“i”(1) may be credited in the absence of any approved attainment demonstration only if the shutdown or curtailment occurred on or after the date the new source permit application is filed, or, if the applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the cutoff date provisions in 22.5(4)“i”(1) are observed.

j. External emission offsets. If the emissions from the major source or major modification are proposed to be offset by reduction of emissions from a source not owned or operated by the owner or operator of the major source or major modification, then credit may be allowed for such reductions provided the external source's permit is amended to require the reduced emissions or a consent order is entered into by the department and the existing source. Consent orders for external offsets must be incorporated into the SIP and be approved by EPA before offset credit may be granted.

22.5(5) Banking of offsets in nonattainment areas. If the offsets in a given situation are more than required by 22.5(3) the amount of offsets that is greater than required may be banked for the exclusive use or control of the person achieving the reduction, subject to the limitations of this subrule. If the person achieving the reduction is not an individual, an authorized representative of the person must release control of the banked emissions in writing before another person, other than the commission, can utilize the banked emissions. The banking of offsets creates no property right in those offsets. The commission may proportionally reduce or cancel banked offsets if it is determined that reduction or cancellation is necessary to demonstrate reasonable further progress or to attain the ambient air quality standards. Prior to reduction or cancellation, the commission shall notify the person who banked the offsets.

22.5(6) Control technology review.

a. Lowest achievable emission rate. A new or modified major source in a nonattainment area shall comply with the lowest achievable emission rate.

b. For phased construction projects, the determination of the lowest achievable emissions rate shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to the commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of the LAER for the source.

c. State implementation plan, new source performance standards, and emission standards for hazardous air pollutants. A major stationary source or major modification shall meet each applicable emissions limitation under the state implementation plan and each applicable emissions standard of performance under 40 CFR Parts 60 (amended through November 24, 1998), 61 (amended through October 14, 1997), and 63 (amended through December 28, 1998).

22.5(7) Compliance of existing sources. If a new major source or major modification is subject to rule 22.5(455B), then all major sources owned or operated by the applicant (or by any entity controlling, controlled by, or under common control by the applicant) in Iowa shall be either in compliance with applicable emission standards or under a compliance schedule approved by the commission.

22.5(8) Alternate site analysis. The permit application shall contain a submittal of an alternative site analysis. Such submittal shall include analysis of alternative sites, sizes, production processes and environmental control techniques for the proposed source. The analysis must demonstrate that benefits of the proposed source significantly outweigh the environmental and social costs that would result from its location, construction or modification. Such analysis shall be completed prior to permit issuance.

22.5(9) Additional conditions for permit approval.

a. For the air pollution control requirements applicable to subrule 22.5(6), the permit shall require the source to monitor, keep records, and provide reports necessary to determine compliance with and deviations from applicable requirements.

b. The state shall not issue the permit if the administrator has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed stationary source or modification is to be constructed.

22.5(10) Public availability of information. No permit shall be issued until notice and opportunity for public comment are made available in accordance with the procedure described in 40 CFR 51.161 (as amended through November 7, 1986).

567—22.6(455B) Nonattainment area designations. Section 107(d) of the federal Clean Air Act, 42 U.S.C. §7457(d), requires each state to submit to the administrator of the federal Environmental Protection Agency a list of areas that exceed the ambient air quality standards, that are lower than those standards, or that cannot be classified on the basis of current data. A list of Iowa's nonattainment area designations is found at 40 CFR Part 81.316 as amended through March 19, 1998. The commission uses the document entitled "Criteria for Revising Nonattainment Area Designations"* (June 14, 1979) to determine when and to what extent the list will be revised and resubmitted.

*Filed with Administrative Rules Coordinator, also available from the department.

567—22.7(455B) Alternative emission control program.

22.7(1) Applicability. The owner or operator of any source located in an area with attainment or unclassified status (as published at 40 CFR §81.316 amended March 19, 1998) or located in an area with an approved State Implementation Plan (SIP) demonstrating attainment by the statutory deadline may apply for an alternative set of emission limits if:

- a. The applicant is presently in compliance with EPA approved SIP requirements, or
- b. The applicant is subject to a consent order to meet an EPA approved compliance schedule and the final compliance date will not be delayed by the use of alternative emission limits.

22.7(2) Demonstration requirements. The applicant for the alternative emission control program shall have the burden of demonstrating that:

- a. The alternative emission control program will not interfere with the attainment and maintenance of ambient air quality standards, including the reasonable further progress or prevention of significant deterioration requirements of the Clean Air Act;
- b. The alternative emission limits are equivalent to existing emission limits in pollution reduction, enforceability, and environmental impact; (In the case of a particulate nonattainment area, the difference between the allowable emission rate and the actual emission rate, as of January 1, 1978, cannot be credited in the emissions tradeoff.)
- c. The pollutants being exchanged are comparable and within the same pollutant category;
- d. Hazardous air pollutants designated in 40 CFR Part 61, as amended through October 14, 1997, will not be exchanged for nonhazardous air pollutants;
- e. The alternative program will not result in any delay in compliance by any source.

Specific situations may require additional demonstration as specified at 44 FR 71780-71788, December 11, 1979, or as requested by the director.

22.7(3) Approval process.

- a. The director shall review all alternative emission control program proposals and shall make recommendations on all completed demonstrations to the commission.
- b. After receiving recommendations from the director and public comments made available through the hearing process, the commission may approve or disapprove the alternative emission control program proposal.
- c. If approved by the commission, the program will be forwarded to the EPA regional administrator as a revision to the State Implementation Plan. The alternative emission control program must receive the approval of the EPA regional administrator prior to becoming effective.

567—22.8(455B) Permit by rule.

22.8(1) Permit by rule for spray booths. Spray booths which comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in 567—22.100(455B).

a. Definition. “Sprayed material” is material sprayed from spray equipment when used in the surface coating process in the spray booth, including but not limited to paint, solvents, and mixtures of paint and solvents.

b. Facilities which facilitywide spray one gallon per day or less of sprayed material are exempt from all requirements, except that they must submit the certification in 22.8(1) “*e*” to the department and keep records of daily sprayed material use. The facility must keep the records of daily sprayed material use for 18 months from the date to which the records apply.

c. Facilities which facilitywide spray more than one gallon per day but never more than three gallons per day are exempt from all requirements, except that they must submit the certification in 22.8(1) “*e*” to the department, keep records of daily sprayed material use, and vent emissions from spray booth(s) through stack(s) which is at least 22 feet tall, measured from ground level. The facility must keep the records of daily sprayed material use for 18 months from the date to which the records apply.

d. Facilities which facilitywide spray more than three gallons per day must comply with all applicable statutes and rules.

e. Facilities which claim to be permitted by provisions of this rule must submit to the department a written statement as follows:

“I certify that all paint booths at the facility and listed below are in compliance with all applicable requirements of 567 IAC 22.8(1) and all other applicable requirements, including but not limited to the allowable emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in 567—subrule 23.4(13). I understand that this equipment shall be deemed permitted under the terms of 567 IAC 22.8(1) only if all applicable requirements of 567 IAC 22.8(1) are met. This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete.”

The certification must be signed by one of the following individuals.

(1) For corporations, a principal executive officer of at least the level of vice president, or a responsible official as defined at 567 IAC 22.100(455B).

(2) For partnerships, a general partner.

(3) For sole proprietorships, the proprietor.

(4) For municipal, state, county, or other public facilities, the principal executive officer or the ranking elected official.

22.8(2) Reserved.

567—22.9 to 22.99 Reserved.

567—22.100(455B) Definitions for Title V operating permits. For purposes of rules 22.100(455B) to 22.116(455B), the following terms shall have the meaning indicated in this rule:

“*Act*” means the Clean Air Act, 42 U.S.C. Sections 7401, et seq.

“Actual emissions” means the actual rate of emissions of a 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 two-year period which immediately precedes that date and which is representative of normal source operations. The director may allow the use of a different time period upon a demonstration that it is more representative of normal source operations. 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. Actual emissions for acid rain affected sources are calculated using a one-year period.

2. Lacking specific information to the contrary, the director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

3. For any emissions unit which has not begun normal operations on a particular date, actual emissions shall equal the potential to emit of the unit on that date.

4. For purposes of calculating early reductions of hazardous air pollutants, actual emissions shall not include excess emissions resulting from a malfunction or from startups and shutdowns associated with a malfunction.

Actual emissions for purposes of determining fees shall be the actual emissions calculated over a period of one year.

“Administrator” means the administrator for the United States Environmental Protection Agency (EPA) or designee.

“Affected facility” means, with reference to a stationary source, any apparatus which emits or may emit any regulated air pollutant or contaminant.

“Affected source” means a source that includes one or more affected units subject to any emissions reduction requirement or limitation under Title IV of the Act.

“Affected state” means any state which is contiguous to the permitting state and whose air quality may be affected through the modification, renewal or issuance of a Title V permit; or which is within 50 miles of the permitted source.

“Affected unit” means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation under Title IV of the Act.

“Allowable emissions” means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:

1. The applicable new source performance standards or national emissions standards for hazardous air pollutants, contained in 567—subrules 23.1(2) and 23.1(3);

2. The applicable existing source emission standard contained in 567—Chapter 23; or

3. The emissions rate specified in the air construction permit for the source.

“Allowance” means an authorization by the administrator under Title IV of the Act or rules promulgated thereunder to emit during or after a specified calendar year up to one ton of sulfur dioxide.

“Applicable requirement” includes the following:

1. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rule making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52;

2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rule making under Title I, including Parts C and D, of the Act;

3. Any standard or other requirement under Section 111 of the Act (subrule 23.1(2)), including Section 111(d);

4. Any standard or other requirement under Section 112 of the Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Act;

5. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

6. Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Act;

7. Any standard or other requirement governing solid waste incineration, under Section 129 of the Act;

8. Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act;

9. Any standard or other requirement for tank vessels under Section 183(f) of the Act;

10. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under Section 328 of the Act;

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the administrator has determined that such requirements need not be contained in a Title V permit; and

12. Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Act.

“*CFR*” means the Code of Federal Regulations, with standard references in this chapter by Title and Part, so that “40 CFR 51” means “Title 40 of the Code of Federal Regulations, Part 51.”

“*Consumer Price Index*” means for any calendar year the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

“*Country grain elevator*” means any grain elevator that receives more than 50 percent of its grain, as defined by 40 CFR 60.301(a) as amended through August 3, 1978, produced by farms in the vicinity. This definition does not include grain terminal elevators or pertain to grain storage elevators, as defined in paragraph 23.1(2) “*ooo*.”

“*Designated representative*” means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended to October 24, 1997, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in rules 22.100(455B) to 22.208(455B), it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

“*Draft Title V permit*” means the version of a Title V permit for which the department offers public participation or affected state review.

“*Emergency generator*” means any generator of which the sole function is to provide emergency backup power during an interruption of electrical power from the electric utility. An emergency generator does not include:

1. Peaking units at electric utilities;
2. Generators at industrial facilities that typically operate at low rates, but are not confined to emergency purposes; or

3. Any standby generators that are used during time periods when power is available from the electric utility.

An emergency is an unforeseeable condition that is beyond the control of the owner or operator.

“Emissions allowable under the permit” means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

“Emissions unit” means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Act. This term is not meant to alter or affect the definition of the term “unit” for purposes of Title IV of the Act or any related regulations.

“EPA conditional method” means any method of sampling and analyzing for air pollutants that has been validated by the administrator but that has not been published as an EPA reference method.

“EPA reference method” means any method of sampling and analyzing for an air pollutant as described in 40 CFR 51, Appendix M (as amended through May 30, 1995); 40 CFR 52, Appendices D (as amended through February 6, 1975) and E (as amended through February 6, 1975); 40 CFR 60, Appendices A (as amended through March 12, 1996), B (as amended through December 15, 1994), C (as amended through December 16, 1975), and F (as amended through February 11, 1991); 40 CFR 61, Appendix B (as amended through June 3, 1992); 40 CFR 63, Appendix A (as amended through December 7, 1995); and 40 CFR 75, Appendices A (as amended through May 22, 1996), B (as amended through May 17, 1995), and H (as amended through July 30, 1993).

“Equipment leaks” means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems.

“Existing hazardous air pollutant source” means any source as defined in 40 CFR 61 (as amended through April 21, 1997) and 40 CFR 63.72 (as amended through December 29, 1992) with respect to Section 112(i)(5) of the Act, the construction or reconstruction of which commenced prior to proposal of an applicable Section 112(d) standard.

“Facility” means, with reference to a stationary source, any apparatus which emits or may emit any air pollutant or contaminant.

“Federal implementation plan” means a plan promulgated by the administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a state implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques, and provides for attainment of the relevant national ambient air quality standard.

“Federally enforceable” means all limitations and conditions which are enforceable by the administrator including, but not limited to, the requirements of the new source performance standards and national emission standards for hazardous air pollutants contained in 567—subrules 23.1(2) and 23.1(3); the requirements of such other state rules or orders approved by the administrator for inclusion in the SIP; and any construction, Title V or other federally approved operating permit conditions.

“Final Title V permit” means the version of a Title V permit issued by the department that has completed all required review procedures.

“Fugitive emissions” are those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

“*Hazardous air pollutant*” means any of the following air pollutants listed in Section 112 of the Act:

cas #	chemical name
75343	1,1-Dichloroethane
57147	1,1-Dimethyl hydrazine
71556	1,1,1-Trichloroethane
79005	1,1,2-Trichloroethane
79345	1,1,2,2-Tetrachloroethane
106887	1,2-Butylene oxide
96128	1,2-Dibromo-3-chloropropane
106934	1,2-Dibromoethane
107062	1,2-Dichloroethane
78875	1,2-Dichloropropane
122667	1,2-Diphenylhydrazine
120821	1,2,4-Trichlorobenzene
106990	1,3-Butadiene
542756	1,3-Dichloropropylene
106467	1,4-Dichlorobenzene
123911	1,4-Dioxane
53963	2-Acetylaminofluorene
532274	2-Chloroacetophenone
79469	2-Nitropropane
540841	2,2,4-Trimethylpentane
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin (TC-DD)
94757	2,4-D salts and esters
95807	2,4-Diaminotoluene
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
91941	3,3'-Dichlorobenzidine
119904	3,3'-Dimethoxybenzidine
119937	3,3'-Dimethylbenzidine
92671	4-Aminobiphenyl
60117	4-Dimethylaminoazobenzene
92933	4-Nitrobiphenyl
100027	4-Nitrophenol
101144	4,4'-Methylenebis(2-chloroaniline)
101779	4,4'-methylenedianiline
534521	4,6-Dinitro-o-cresol, and salts

75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
62533	Aniline
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
1332214	Asbestos (friable)
71432	Benzene
92875	Benzidine
98077	Benzoic trichloride
100447	Benzyl chloride
0	Beryllium Compounds
57578	Beta-Propiolactone
92524	Biphenyl
111444	Bis(2-chloroethyl) ether
542881	Bis(chloromethyl) ether
75252	Bromoform
74839	Bromomethane
0	Cadmium Compounds
156627	Calcium cyanamide
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
108907	Chlorobenzene
510156	Chlorobenzilate
75003	Chloroethane
67663	Chloroform

74873	Chloromethane
107302	Chloromethyl methyl ether
126998	Chloroprene
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
1319773	Cresol/Cresylic acid (isomers & mixture)
98828	Cumene
0	Cyanide Compounds ¹
72559	DDE
117817	Di(2-ethylhexyl) phthalate
334883	Diazomethane
132649	Dibenzofuran
84742	Dibutyl phthalate
75092	Dichloromethane
62737	Dichlorvos
111422	Diethanolamine
64675	Diethyl sulfate
68122	Dimethyl formamide
131113	Dimethyl phthalate
77781	Dimethyl sulfate
79447	Dimethylcarbamyl chloride
106898	Epichlorohydrin
140885	Ethyl acrylate
100414	Ethylbenzene
107211	Ethylene glycol
75218	Ethylene oxide
96457	Ethylene thiourea
151564	Ethyleneimine
0	Fine Mineral Fibers ³
50000	Formaldehyde
0	Glycol Ethers ²
76448	Heptachlor
87683	Hexachloro-1,3-butadiene
118741	Hexachlorobenzene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine

7647010	Hydrochloric acid
7664393	Hydrogen fluoride
123319	Hydroquinone
78591	Isophorone
0	Lead Compounds
58899	Lindane (all isomers)
108394	m-Cresol
108383	m-Xylene
108316	Maleic anhydride
0	Manganese Compounds
0	Mercury Compounds
67561	Methanol
72435	Methoxychlor
78933	Methyl ethyl ketone
60344	Methyl hydrazine
74884	Methyl iodide
108101	Methyl isobutyl ketone
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tertbutyl ether
101688	Methylene bis(phenylisocyanate)
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
91203	Naphthalene
0	Nickel Compounds
98953	Nitrobenzene
121697	N,N-Dimethylaniline
90040	o-Anisidine
95487	o-Cresol
95534	o-Toluidine
95476	o-Xylene
106445	p-Cresol
106503	p-Phenylenediamine
106423	p-Xylene
56382	Parathion
87865	Pentachlorophenol
108952	Phenol
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus (yellow or white)
85449	Phthalic anhydride

1336363	Polychlorinated biphenyls
0	Polycyclic Organic Matter ⁴
1120714	Propane sultone
123386	Propionaldehyde
114261	Propoxur
75569	Propylene oxide
75558	Propyleneimine
91225	Quinoline
106514	Quinone
82688	Quintozene
0	Radionuclides (including Radon) ⁵
0	Selenium Compounds
100425	Styrene
96093	Styrene oxide
127184	Tetrachloroethylene
7550450	Titanium tetrachloride
108883	Toluene
584849	Toluene-2,4-diisocyanate
8001352	Toxaphene
79016	Trichloroethylene
121448	Triethylamine
1582098	Trifluralin
51796	Urethane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride
1330207	Xylene (mixed isomers)

NOTE: For all listings above which contain the word “compounds” and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical’s infrastructure.

¹X'CN where X=H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

²Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R(OCH₂CH₂)_n-OR' where n=1,2, or 3; R=alkyl or aryl groups; R'=R,H, or groups which, when removed, yield glycol ethers with the structure R(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol category.

³Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

⁴Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100 degrees C.

⁵A type of atom which spontaneously undergoes radioactive decay.

“*High risk pollutant*” means one of the following hazardous air pollutants listed in Table 1 in 40 CFR 63.74 as amended through October 21, 1994.

cas #	chemical name	weighting factor
53963	2-Acetylaminofluorene	100
107028	Acrolein	100
79061	Acrylamide	10
107131	Acrylonitrile	10
0	Arsenic compounds	100
1332214	Asbestos	100
71432	Benzene	10
92875	Benzidine	1000
0	Beryllium compounds	10
542881	Bis(chloromethyl) ether	1000
106990	1,3-Butadiene	10
0	Cadmium compounds	10
57749	Chlordane	100
532274	2-Chloroacetophenone	100
0	Chromium compounds	100
107302	Chloromethyl methyl ether	10
0	Coke oven emissions	10
334883	Diazomethane	10
132649	Dibenzofuran	10
96128	1,2-Dibromo-3-chloropropane	10
111444	Dichloroethyl ether(Bis(2-chloroethyl)ether)	10
79447	Dimethylcarbamoyl chloride	100
122667	1,2-Diphenylhydrazine	10
106934	Ethylene dibromide	10
151564	Ethylenimine (Aziridine)	100
75218	Ethylene oxide	10
76448	Heptachlor	100
118741	Hexachlorobenzene	100
77474	Hexachlorocyclopentadiene	100
302012	Hydrazine	100
0	Manganese compounds	10
0	Mercury compounds	100
60344	Methyl hydrazine	10
624839	Methyl isocyanate	10
0	Nickel compounds	10
62759	N-Nitrosodimethylamine	100
684935	N-Nitroso-N-methylurea	1000
56382	Parathion	10
75445	Phosgene	10

7803512	Phosphine	10
7723140	Phosphorus	10
75558	1,2-Propylenimine	100
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	100,000
8001352	Toxaphene (chlorinated camphene)	100
75014	Vinyl chloride	10

“*Major source*” means any stationary source (or any group of stationary sources located on one or more contiguous or adjacent properties and under common control of the same person or of persons under common control) belonging to a single major industrial grouping that is any of the following:

1. A major stationary source of air pollutants, as defined in Section 302 of the Act, that directly emits or has the potential to emit 100 tons per year (tpy) or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Act, unless the source belongs to one of the stationary source categories listed in this chapter.

2. A major source of hazardous air pollutants according to Section 112 of the Act as follows:

For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tpy or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Act and these rules or 25 tpy or more of any combination of such hazardous air pollutants. Notwithstanding the previous sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emission from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

For Title V purposes, all fugitive emissions of hazardous air pollutants are to be considered in determining whether a stationary source is a major source.

For radionuclides, “major source” shall have the meaning specified by the administrator by rule.

3. A major stationary source as defined in Part D of Title I of the Act, including:

For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate,” 50 tpy or more in areas classified as “serious,” 25 tpy or more in areas classified as “severe” and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

For ozone transport regions established pursuant to Section 184 of the Act, sources with potential to emit 50 tpy or more of volatile organic compounds;

For carbon monoxide nonattainment areas (1) that are classified as “serious” and (2) in which stationary sources contribute significantly to carbon monoxide levels, and sources with the potential to emit 50 tpy or more of carbon monoxide;

For particulate matter (PM-10), nonattainment areas classified as “serious,” sources with the potential to emit 70 tpy or more of PM-10.

For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

“*Maximum achievable control technology (MACT)*” means the following regarding regulated hazardous air pollutant sources:

1. For existing sources, the emissions limitation reflecting the maximum degree of reduction in emissions that the administrator or the department, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements, determines is achievable by sources in the category of stationary sources, that shall not be less stringent than the MACT floor.

2. For new sources, the emission limitation which is not less stringent than the emission limitation achieved in practice by the best-controlled similar source, and which reflects the maximum degree of reduction in emissions that the administrator or the department, taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impacts and energy requirements, determines is achievable by sources in the Title IV affected source category.

“*Maximum achievable control technology (MACT) floor*” means the following:

1. For existing sources, the average emission limitation achieved by the best 12 percent of the existing sources in the United States (for which the administrator or the department has or could reasonably obtain emission information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate applicable to the source category and prevailing at the time, for categories and subcategories of stationary sources with 30 or more sources in the category or subcategory, or the average emission limitation achieved by the best performing 5 sources in the United States (for which the administrator or the department has or could reasonably obtain emissions information) for a category or subcategory or stationary source with fewer than 30 sources in the category or subcategory.

2. For new sources, the emission limitation achieved in practice by the best-controlled similar source.

“*New Title IV affected source or unit*” means a unit that commences commercial operation on or after November 15, 1990, including any such unit that serves a generator with a nameplate capacity of 25 MWe or less or that is a simple combustion turbine.

“*Nonattainment area*” means an area so designated by the administrator, acting pursuant to Section 107 of the Act.

“*Permit modification*” means a revision to a Title V operating permit that cannot be accomplished under the provisions for administrative permit amendments found at rule 22.111(455B). A permit modification for purposes of the acid rain portion of the permit shall be governed by the regulations pertaining to acid rain found at rules 22.120(455B) to 22.147(455B). This definition of “permit modification” shall be used solely for purposes of this chapter governing Title V operating permits.

“*Permit revision*” means any permit modification or administrative permit amendment.

“*Permitting authority*” means the Iowa department of natural resources or the director thereof.

“Potential to emit” means the maximum capacity of a stationary source 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 on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term “capacity factor” as used in Title IV of the Act or the regulations relating to acid rain.

For the purpose of determining potential to emit for country grain elevators, the “maximum capacity” means the greatest amount of grain received by the elevator during one year of the previous five-year period, multiplied by an adjustment factor of 1.2.

For purposes of calculating potential to emit for emergency generators, “maximum capacity” means one of the following:

1. 500 hours of operation annually, if the generator has actually been operated less than 500 hours per year for the past five years;
2. 8,760 hours of operation annually, if the generator has actually been operated more than 500 hours in one of the past five years; or
3. The number of hours specified in a state or federally enforceable limit.

“Proposed Title V permit” means the version of a permit that the permitting authority proposes to issue and forwards to the administrator for review in compliance with 22.107(7)“a.”

“Regulated air contaminant” shall mean the same thing as “regulated air pollutant.”

“Regulated air pollutant” means the following:

1. Nitrogen oxides or any volatile organic compounds;
2. Any pollutant for which a national ambient air quality standard has been promulgated;
3. Any pollutant that is subject to any standard promulgated under Section 111 of the Act;
4. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
5. Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including the following:

- Any pollutant subject to requirements under Section 112(j) of the Act. If the administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act; and

- Any pollutant for which the requirements of Section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the Section 112(g)(2) requirement.

6. With respect to Title V, particulate matter, except for PM₁₀, is not considered a regulated air pollutant for the purpose of determining whether a source is considered to be a major source.

“Regulated air pollutant or contaminant (for fee calculation),” which is used only for purposes of rule 22.106(455B), means any “regulated air pollutant or contaminant” except the following:

1. Carbon monoxide;
2. Particulate matter, excluding PM₁₀;
3. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;
4. Any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act.

“*Renewal*” means the process by which a permit is reissued at the end of its term.

“*Responsible official*” means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

- The delegation of authority to such representative is approved in advance by the permitting authority.

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA); or

4. For Title IV affected sources:

- The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

- The designated representative for any other purposes under this chapter or the Act.

“*Section 502(b)(10) changes*” are changes that contravene an express permit term and which are made pursuant to rule 22.110(455B). Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

“*State implementation plan (SIP)*” means the plan adopted by the state of Iowa and approved by the administrator which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as are adopted by the administrator, pursuant to the Act.

“*Stationary source*” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Act.

“*Stationary source categories*” means any of the following classes of sources:

1. Coal cleaning plants with thermal dryers;
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric, or 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 using the 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 250 million Btu's per hour heat input;
22. Petroleum storage and transfer units with a total storage capacity exceeding 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 250 million Btu's per hour heat input;
27. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Act, but only with respect to those air pollutants which have been regulated for that category.

"Title V permit" means an operating permit under Title V of the Act.

"12-month rolling period" means a period of 12 consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

567—22.101(455B) Applicability of Title V operating permit requirements.

22.101(1) Except as provided in rule 22.102(455B), any person who owns or operates any of the following sources shall obtain a Title V operating permit:

- a. Any affected source subject to the provisions of Title IV of the Act;
- b. Any major source;
- c. Any source subject to a standard or other requirement under 567—subrule 23.1(2) (standards of performance for new stationary sources), 567—subrule 23.1(5) (emission guidelines), unless the source is specifically exempted, or Section 111 of the Act; or 567—subrule 23.1(3) (emissions standards for hazardous air pollutants), 567—subrule 23.1(4) (emission standards for hazardous air pollutants for source categories) or Section 112 of the Act. A source is not required to obtain a permit solely because it is subject to the provisions of Section 112(r) of the Act. Any source required to obtain a Title V operating permit solely because of the requirement imposed by this paragraph, and which is not a major source, is required to obtain a Title V permit only for the emissions units and related equipment causing the source to be subject to the Title V program;
- d. Any solid waste incinerator unit required to obtain a Title V permit under Section 129(e) of the Act;
- e. Any source category designated by the administrator pursuant to 40 CFR 70.3 as amended through June 20, 1996.

22.101(2) Title V deferred stationary sources. The requirement to obtain a Title V permit is deferred for all sources listed in 22.101(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act, unless by the final promulgation of a federal standard to which the source is subject under the provisions of 40 CFR Part 60 (as amended through November 24, 1998), 40 CFR Part 63 (as amended through December 28, 1998), or 567—subrule 23.1(5), a source is required to obtain a Title V permit. Each source receiving a deferral under the provisions of this rule shall submit a Title V permit application to the department within 12 months of the date when the requirement to obtain a Title V permit is no longer deferred for that source.

22.101(3) Election to apply for permit. Any source exempt under rule 22.102(455B) may elect to apply for a Title V permit.

567—22.102(455B) Source categories exempt from obtaining Title V operating permit. The following source categories are exempt from the obligation to obtain a Title V operating permit:

22.102(1) Residential wood heaters required to obtain a Title V permit solely because they are subject to 40 CFR 60, Subpart AAA, as amended to November 24, 1998.

22.102(2) Asbestos demolition and renovation projects required to obtain a Title V permit solely because they are subject to 40 CFR 61, Subpart M, as amended to June 19, 1995.

22.102(3) Any decorative chromium electroplating operation or chromium anodizing operation using fume suppressants as an emission reduction technology; and any decorative chromium electroplating operation using a trivalent chromium bath incorporating a wetting agent as a bath ingredient if the source is not by itself a major source and is not located at a major source, as defined under 40 CFR 70.2 (as amended through July 21, 1992).

22.102(4) Any batch cold solvent cleaning machine as defined in 40 CFR 63 Subpart T (as amended through June 5, 1995) that is not itself a major source and that is not located at a major source as defined under 40 CFR 70.2 (as amended through July 21, 1992).

567—22.103(455B) Insignificant activities.

22.103(1) *Insignificant activities excluded from Title V operating permit application.* The following are insignificant activities for purposes of Title V permitting if not needed to determine the applicability of or to impose any applicable requirement. In accordance with 40 CFR 70.5 (as amended through July 21, 1992), these activities need not be included in the Title V permit application or in the calculation of fees pursuant to 22.106(455B). However, if the inclusion of emissions from these activities makes the source subject to the Title V permit requirement or if these activities are needed to impose any applicable requirement, these activities must be included in the permit application.

a. Mobile internal combustion and jet engines, marine vessels, and locomotives.

b. Equipment, other than anaerobic lagoons, used for cultivating land, harvesting crops, or raising livestock. This exemption is not applicable if the equipment is used to remove substances from grain which were applied to the grain by another person. This exemption also is not applicable to equipment used by a person to manufacture commercial feed, as defined in Iowa Code section 198.3, when that feed is normally not fed to livestock:

(1) Owned by that person or another person, and

- (2) Located in a feedlot, as defined in Iowa Code section 172D.1(6), or in a confinement building owned or operated by that person, and
- (3) Located in this state.
 - c. Equipment or control equipment which eliminates all emissions to the atmosphere.
 - d. Equipment (other than anaerobic lagoons) or control equipment which emits odors unless such equipment or control equipment also emits particulate matter or any other air pollutant or contaminant.
 - e. Alterations to equipment which have been determined by the department to effect no change in the emissions from that equipment.
 - f. Residential wood heaters, cookstoves, or fireplaces.
 - g. Laboratory equipment used exclusively for chemical and physical analyses.
 - h. Recreational fireplaces.
 - i. Barbecue pits and cookers except at a meat packing plant or a prepared meat manufacturing facility.
 - j. Stacks or vents to prevent escape of sewer gases through plumbing traps for systems handling domestic sewage only. Systems which include any industrial waste are not exempt.
 - k. Retail gasoline and diesel fuel handling facilities.

22.103(2) *Insignificant activities which must be included in Title V operating permit applications.*

a. The following are insignificant if not needed to determine the applicability of or to impose any applicable requirement and if the total plantwide potential emissions from these insignificant activities do not exceed the level specified in paragraph 22.103(2) "b."

- (1) An emission unit which has the potential to emit less than:
 - 4000 lbs per year of carbon monoxide,
 - 1600 lbs per year of nitrogen oxides,
 - 1600 lbs per year of sulfur dioxides,
 - 1000 lbs per year of particulate matter,
 - 600 lbs per year of PM-10,
 - 1600 lbs per year of volatile organic compounds,
 - 1600 lbs per year of ozone,
 - 24 lbs per year of lead,
 - 120 lbs per year of fluorides,
 - 280 lbs per year of sulfuric acid mists,
 - 400 lbs per year of total reduced sulfur compounds,
 - 20 lbs per year of any hazardous air pollutant except high-risk pollutants, or
 - 20 lbs per year of any high-risk air pollutant divided by the weighting factor established in the definition of "High risk pollutant" in 567—22.100(455B).
- (2) A storage tank which contains no volatile organic compounds above a vapor pressure of 0.75 pounds per square inch at the normal operating temperature of the tank when other emissions from the tank do not exceed the levels in subparagraph 22.103(2) "a"(1).
- (3) Insignificant activities which are exempted because of size or production rate must be listed in the application.

b. Emissions rate in tons per year:

Carbon monoxide	100.0
Nitrogen dioxide	40.0
Sulfur dioxide	40.0
Particulate matter	25.0
PM-10	15.0
Volatile organic compounds	40.0
Ozone	40.0
Lead	0.6
Fluorides	3.0
Sulfuric acid mist	7.0
Total reduced sulfur compounds	10.0
Sum of hazardous air pollutants (aggregate of the weighted high-risk and non-high-risk hazardous air pollutants)	0.5

c. Regardless of the classification of an activity as insignificant, an application for a Title V operating permit cannot omit information needed to determine the applicability of, or to impose, any applicable requirement.

d. The following are insignificant if not needed to determine the applicability of or to impose any applicable requirement.

(1) Fuel-burning equipment for indirect heating and reheating furnaces using natural or liquefied petroleum gas with a capacity of less than 10 million Btu per hour input per combustion unit.

(2) Fuel-burning equipment for indirect heating with a capacity of less than 1 million Btu per hour input per combustion unit when burning coal, untreated wood, or fuel oil.

(3) Incinerators with a rated refuse burning capacity of less than 25 pounds per hour.

(4) Gasoline, diesel fuel, or oil storage tanks with a capacity of 1,000 gallons or less and an annual throughput of less than 40,000 gallons.

567—22.104(455B) Requirement to have a Title V permit. No source may operate after the time that it is required to submit a timely and complete application, except in compliance with a properly issued Title V operating permit. However, if a source submits a timely and complete application for permit issuance (including renewal), the source's failure to have a permit is not a violation of this chapter until the director takes final action on the permit application, except as noted in this rule. In that case, all terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

22.104(1) This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the director, any additional information identified as being needed to process the application.

22.104(2) Sources making permit revisions pursuant to rule 22.110(455B) shall not be in violation of this rule.

567—22.105(455B) Title V permit applications.

22.105(1) Duty to apply. For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, at least four copies of a complete and timely permit application in accordance with this rule.

a. Timely application. Each source applying for a Title V permit shall submit an application:

(1) By November 15, 1994, if source was existing on or before April 20, 1994, for the first time submittals of Title V permit applications. However, a source may choose to defer submittal of Part 2 of the permit application until December 31, 1995. The department will mail notice of the deadline for Part 2 of the permit application to all applicants who have filed Part 1 of the application by October 17, 1995.

(2) At least 6 months but not more than 18 months prior to the date of permit expiration if the application is for a permit renewal.

(3) By January 1, 1996, (for sulfur dioxide) or by January 1, 1998, (for nitrogen oxides) if the application is for an initial Phase II acid rain permit.

(4) For a change that is subject to the requirements for a significant permit modification (see rule 22.113(455B)), the permittee shall submit to the department an application for a significant permit modification not later than three months after commencing operation of the changed source unless the existing Title V permit would prohibit such construction or change in operation, in which event the operation of the changed source may not commence until the department revises the permit.

(5) Within 12 months of commencing operation for a source subject to 112(g) of the Act or subject to rule 22.4(455B) (prevention of significant deterioration permitting) or subject to rule 22.5(455B) (nonattainment area permitting). Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a Title V permit revision before commencing operation.

(6) Within 12 months of becoming subject to this rule for a new source or a source which has become subject to the Title V permit requirement after April 20, 1994.

b. Complete application. To be deemed complete, an application must provide all information required pursuant to subrule 22.105(2), except that applications for permit revision need supply such information only if it is related to the proposed change.

22.105(2) Standard application form and required information. To apply for a Title V permit, applicants shall complete the standard permit application form available only from the department of natural resources, and supply all information required by the filing instructions found on that form. The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the fee amount required by rule 22.106(455B). If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraph 22.101(1) "c," then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

a. Identifying information, including company name and address (or plant or source name if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

b. A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the applicant.

c. The following emissions-related information shall be submitted to the department on the emissions inventory portion of the application:

(1) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit except where such units are exempted. The source shall submit additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the approved fee schedule.

(2) Identification and description of all points of emissions in sufficient detail to establish the basis for fees and the applicability of any and all requirements.

(3) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any.

(4) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.

(5) Identification and description of air pollution control equipment.

(6) Identification and description of compliance monitoring devices or activities.

(7) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants.

(8) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Section 123 of the Act).

(9) Calculations on which the information in subparagraphs (1) to (8) above is based.

(10) Fugitive emissions from a source shall be included in the permit application in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

d. The following air pollution control requirements:

(1) Citation and description of all applicable requirements, and

(2) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

e. Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of these rules or to determine the applicability of such requirements.

f. An explanation of any proposed exemptions from otherwise applicable requirements.

g. Additional information as determined to be necessary by the director to define alternative operating scenarios identified by the source pursuant to subrule 22.108(12) or to define permit terms and conditions relating to operational flexibility and emissions trading pursuant to subrule 22.108(11) and rule 22.112(455B).

h. A compliance plan that contains the following:

(1) A description of the compliance status of the source with respect to all applicable requirements.

(2) The following statements regarding compliance status: For applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with such requirements. For applicable requirements that will become effective during the permit term, a statement that the stationary source will meet such requirements on a timely basis. For requirements for which the stationary source is not in compliance at the time of permit issuance, a narrative description of how the stationary source will achieve compliance with such requirements.

(3) A compliance schedule that contains the following:

1. For applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with such requirements. For applicable requirements that will become effective during the permit term, a statement that the stationary source will meet such requirements on a timely basis. A statement that the stationary source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

2. A compliance schedule for sources that are not in compliance with all applicable requirements 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 applicable requirements for which the stationary source will be in noncompliance at the time of permit issuance.

3. This compliance schedule shall resemble and be at least as stringent as any compliance schedule contained in any judicial consent decree or administrative order to which the source is subject. Any compliance schedule shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(4) A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a compliance schedule in the permit.

i. Requirements for compliance certification, including the following:

(1) A certification of compliance for the prior year with all applicable requirements certified by a responsible official consistent with subrule 22.107(4) and Section 114(a)(3) of the Act.

(2) A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods.

(3) A schedule for submission of compliance certifications for each compliance period (one year unless required for a shorter time period by an applicable requirement) during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement or by the director.

(4) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(5) Notwithstanding any other provisions of these rules, for the purposes of submission of compliance certifications, an owner or operator is not prohibited from using monitoring as required by subrules 22.108(3), 22.108(4) or 22.108(5) and incorporated into a Title V operating permit in addition to any specified compliance methods.

j. The compliance plan content requirements specified in these rules shall apply and be included in the acid rain portion of a compliance plan for a Title IV affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, with regard to the schedule and method(s) the source shall use to achieve compliance with the acid rain emissions limitations.

22.105(3) *Hazardous air pollutant early reduction application.* Anyone requesting a compliance extension from a standard issued under Section 112(d) of the Act must submit with its Title V permit application information that complies with the requirements established in 567—paragraph 23.1(4)“*d.*”

22.105(4) *Acid rain application content.* The acid rain application content shall be as prescribed in the acid rain rules found at rules 22.128(455B) and 22.129(455B).

567—22.106(455B) Title V permit fees.

22.106(1) *Fee established.* Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than \$29 per ton without adopting the change pursuant to formal rule making.

22.106(2) *Fee calculation.* The fee amount shall be calculated based on the first 4,000 tons of each regulated air pollutant or contaminant emitted each year from each major source.

22.106(3) *Fee and documentation due dates.*

a. The fee shall be submitted annually by July 1. For emissions located in Polk County or Linn County, the fee shall be submitted with three copies of the following forms. For emissions in all remaining counties, the fee shall be submitted with two copies of the following forms:

1. Form 1.0 “Facility identification”;
2. Form 5.0 “Title V annual emissions summary/fee”;
3. Part 3 “Application certification.”

b. For emissions located in Polk County or Linn County, three copies of the following forms shall be submitted annually by March 31 documenting actual emissions for the previous calendar year. For emissions in all other counties, two copies of the following forms shall be submitted:

1. Form 1.0 “Facility identification”;
2. Form 4.0 “Emission unit—actual operations and emissions” for each emission unit;
3. Form 5.0 “Title V annual emissions summary/fee”;
4. Part 3 “Application certification.”

If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. If revised forms are not available by January 1, forms from the previous year may be used and the year of emissions documented changed. The department shall calculate the total statewide Title V emissions for the prior calendar year and make this information available to the public no later than April 30 of each year.

22.106(4) *Phase I acid rain sources.* No fee shall be required to be paid for emissions which occur during the years 1993 through 1999 inclusive, with respect to any Phase I acid rain affected unit under Section 404 of the Act.

22.106(5) *Operation in Iowa.* The fee for a portable emissions unit or stationary source which operates both in Iowa and out of state shall be calculated only for emissions from the source while operating in Iowa.

22.106(6) *Title V deferred stationary sources.* No fee shall be required to be paid for emissions until the year in which sources deferred under subrule 22.101(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

22.106(7) *Insignificant activities.* No fee shall be required to be paid for insignificant activities, as defined in rule 22.103(455B).

567—22.107(455B) Title V permit processing procedures.

22.107(1) *Action on application.*

a. Conditions for action on application. A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

(1) The permitting authority has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under rule 22.109(455B);

(2) Except for modifications qualifying for minor permit modification procedures under rule 22.112(455B), the permitting authority has complied with the requirements for public participation under subrule 22.107(6);

(3) The permitting authority has complied with the requirements for notifying and responding to affected states under subrule 22.107(7);

(4) The conditions of the permit provide for compliance with all applicable requirements and the requirements of this chapter;

(5) The administrator has received a copy of the proposed permit and any notices required under subrule 22.107(7), and has not objected to issuance of the permit under subrule 22.107(7) within the time period specified therein;

(6) If the administrator has properly objected to the permit pursuant to the provisions of 40 CFR 70.8(d) as amended to July 21, 1992, or subrule 22.107(7), then the permitting authority may issue a permit only after the administrator's objection has been resolved; and

(7) No permit for a solid waste incineration unit combusting municipal waste subject to the provisions of Section 129(e) of the Act may be issued by an agency, instrumentality or person that is also responsible, in whole or part, for the design and construction or operation of the unit.

b. Time for action on application. The permitting authority shall take final action on each complete permit application (including a request for permit modification or renewal) within 18 months of receiving a complete application, except in the following instances:

(1) When otherwise provided under Title V or Title IV of the Act for the permitting of affected sources under the acid rain program.

(2) In the case of initial permit applications, the permitting authority may take up to three years from the effective date of the program to take final action on an application.

(3) Any complete permit applications containing an early reduction demonstration under Section 112(i)(5) of the Act shall be acted upon within nine months of receipt of the complete application.

c. Prioritization of applications. The director shall give priority to action on Title V applications involving construction or modification for which a construction permit pursuant to subrule 22.1(1) or Title I of the Act, Parts C and D, is also required. The director also shall give priority to action on Title V applications involving early reduction of hazardous air pollutants pursuant to 567—paragraph 23.1(4)“d.”

d. Completeness of applications. The department shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. If, while processing an application that has been determined to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the permitting authority may request in writing such information and set a reasonable deadline for a response. The source’s ability to operate without a permit, as set forth in rule 22.104(455B), shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the permitting authority. For modifications processed through minor permit modification procedures, a completeness determination shall not be required.

e. Decision to deny a permit application. The director shall decide to issue or deny the permit. The director shall notify the applicant as soon as practicable that the application has been denied. Upon denial of the permit the provisions of paragraph 22.107(1)“d” shall no longer be applicable. The new application shall be regarded as an entirely separate application containing all the required information and shall not depend on references to any documents contained in the previous denied application.

f. Fact sheet. A draft permit and fact sheet shall be prepared by the permitting authority. The fact sheet shall include the rationale for issuance or denial of the permit; a brief description of the type of facility; a summary of the type and quantity of air pollutants being emitted; a brief summary of the legal and factual basis for the draft permit conditions, including references to applicable statutes and rules; a description of the procedures for reaching final decision on the draft permit including the comment period, the address where comments will be received, and procedures for requesting a hearing and the nature of the hearing; and the name and telephone number for a person to contact for additional information. The permitting authority shall provide the fact sheet to EPA and to any other person who requests it.

g. Relation to construction permits. The submittal of a complete application shall not affect the requirement that any source have a construction permit under Title I of the Act and subrule 22.1(1).

22.107(2) Confidential information. If a source has submitted information with an application under a claim of confidentiality to the department, the source shall also submit a copy of such information directly to the administrator. Requests for confidentiality must comply with 561—Chapter 2.

22.107(3) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date the source filed a complete application but prior to release of a draft permit. Applicants who have filed a complete application shall have 60 days following notification by the department to file any amendments. Any MACT determinations in permit applications will be evaluated based on the standards, limitations or levels of technology existing on the date the initial application is deemed complete.

22.107(4) *Certification of truth, accuracy, and completeness.* Any application form, report, or compliance certification submitted pursuant to these rules shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under these rules shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

22.107(5) *Early reduction application evaluation.* Hazardous air pollutant early reduction application evaluation review shall follow the procedures established in 567—paragraph 23.1(4)“d.”

22.107(6) *Public notice and public participation.*

a. The permitting authority shall provide public notice and an opportunity for public comments, including an opportunity for a hearing, before taking any of the following actions: issuance, denial or renewal of a permit; or significant modification or revocation or reissuance of a permit.

b. Notice shall be given by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice. Notice also shall be given to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list. The department may use other means if necessary to ensure adequate notice to the affected public.

c. The public notice shall include the following:

- (1) Identification of the Title V source.
- (2) Name and address of the permittee.
- (3) Name and address of the permitting authority processing the permit.
- (4) The activity or activities involved in the permit action.
- (5) The emissions change involved in any permit modification.
- (6) The air pollutants or contaminants to be emitted.
- (7) The time and place of any possible public hearing.
- (8) A statement that any person may submit written and signed comments, or may request a public hearing, or both, on the proposed permit. A statement of procedures to request a public hearing shall be included.

(9) The name, address, and telephone number of a person from whom additional information may be obtained. Information entitled to confidential treatment pursuant to Section 114(c) of the Act or state law shall not be released pursuant to this provision. However, the contents of a Title V permit shall not be entitled to protection under Section 114(c) of the Act.

(10) Locations where copies of the permit application and the proposed permit may be reviewed, including the closest department office, and the times at which they shall be available for public inspection.

d. At least 30 days shall be provided for public comment. Notice of any public hearing shall be given at least 30 days in advance of the hearing.

e. Any person may request a public hearing. A request for a public hearing shall be in writing and shall state the person's interest in the subject matter and the nature of the issues proposed to be raised at the hearing. The director shall hold a public hearing upon finding, on the basis of requests, a significant degree of relevant public interest in a draft permit. A public hearing also may be held at the director's discretion.

f. The director shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the director's responses shall be made available to the public.

g. The permitting authority shall provide notice and opportunity for participation by affected states as provided by subrule 22.107(7).

22.107(7) Permit review by EPA and affected states.

a. Transmission of information to the administrator. Except as provided in subrule 22.107(2) or waived by the administrator, the director shall provide to the administrator a copy of each permit application or modification application, including any attachments and compliance plans; each proposed permit; and each final permit. For purposes of this subrule, the application information may be submitted in a computer-readable format compatible with the administrator's national database management system.

b. Review by affected states. The director shall provide notice of each draft permit to any affected state on or before the time that public notice is provided to the public pursuant to subrule 22.107(6), except to the extent that subrule 22.112(3) requires the timing of the notice to be different. If the director refuses to accept a recommendation of any affected state, submitted during the public or affected state review period, then the director shall notify the administrator and the affected state in writing. The notification shall include the director's reasons for not accepting the recommendation(s). The director shall not be required to accept recommendations that are not based on applicable requirements.

c. EPA objection. No permit for which an application must be transmitted to the administrator shall be issued if the administrator objects in writing to its issuance as not in compliance with the applicable requirements within 45 days after receiving a copy of the proposed permit and necessary supporting information under 22.107(7) "a." Within 90 days after the date of an EPA objection made pursuant to this rule, the director shall submit a response to the objection, if the objection has not been resolved.

22.107(8) Public petitions to the administrator regarding Title V permits.

a. If the administrator does not object to a proposed permit, any person may petition the administrator within 60 days after the expiration of the administrator's 45-day review period to make an objection pursuant to 40 CFR 70.8(d) as amended to July 21, 1992.

b. Any person who petitions the administrator pursuant to the provisions of 40 CFR 70.8(d) as amended to July 21, 1992, shall notify the department by certified mail of such petition immediately, and in no case more than 10 days following the date the petition is submitted to EPA. Such notice shall include a copy of the petition submitted to EPA and a separate written statement detailing the grounds for the objection(s) and whether the objection(s) was raised during the public comment period. A petition for review shall not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day EPA review period and prior to the administrator's objection.

c. If the administrator objects to the permit as a result of a petition filed pursuant to 40 CFR 70.8(d) as amended to July 21, 1992, then the director shall not issue a permit until the administrator's objection has been resolved. However, if the director has issued a permit prior to receipt of the administrator's objection, and the administrator modifies, terminates, or revokes such permit, consistent with the procedures in 40 CFR 70.7 as amended to July 21, 1992, then the director may thereafter issue only a revised permit that satisfies the administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.

22.107(9) *A Title V permit application may be denied if:*

- a. The director finds that a source is not in compliance with any applicable requirement; or
- b. An applicant knowingly submits false information in a permit application.

22.107(10) *Retention of permit records.* The director shall keep all records associated with each permit for a minimum of five years.

567—22.108(455B) Permit content. Each Title V permit shall include the following elements:

22.108(1) Enforceable emission limitations and standards. Each permit issued pursuant to this chapter shall include emissions limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of permit issuance.

a. The permit shall specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

b. The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

c. If an applicable implementation plan allows a determination of an alternative emission limit at a Title V source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process, and the state elects to use such process, then any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

d. If an early reduction demonstration is approved as part of the Title V permit application, the permit shall include enforceable alternative emissions limitations for the source reflecting the reduction which qualified the source for the compliance extension.

e. Fugitive emissions from a source shall be included in the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

f. For all major sources, all applicable requirements for all relevant emissions units in the major source shall be included in the permit.

22.108(2) Permit duration. The permit shall specify a fixed term not to exceed five years except:

a. Permits issued to Title IV affected sources shall have a fixed term of five years.

b. Permits issued to solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

22.108(3) Monitoring. Each permit shall contain the following requirements with respect to monitoring:

a. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Section 114(a)(3) or 504(b) of the Act;

b. Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to subrule 22.108(5). Such monitoring shall be determined by application of the "Periodic Monitoring Guidance" (June 18, 2001) available from the department;

c. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods; and

d. As required, Compliance Assurance Monitoring (CAM) consistent with 40 CFR Part 64 (as amended through October 22, 1997).

22.108(4) Record keeping. With respect to record keeping, the permit shall incorporate all applicable record-keeping requirements and require, where applicable, the following:

a. Records of required monitoring information that include the following:

- (1) The date, place as defined in the permit, and time of sampling or measurements;
- (2) The date(s) the analyses were performed;
- (3) The company or entity that performed the analyses;
- (4) The analytical techniques or methods used;
- (5) The results of such analyses; and
- (6) The operating conditions as existing at the time of sampling or measurement; and

b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart and other recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

22.108(5) Reporting. With respect to reporting, the permit shall incorporate all applicable reporting requirements and shall require the following:

a. Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with subrule 22.107(4).

b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The director shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements.

22.108(6) Risk management plan. Pursuant to Section 112(r)(7)(E) of the Act, if the source is required to develop and register a risk management plan pursuant to Section 112(r) of the Act, the permit shall state the requirement for submission of the plan to the air quality bureau of the department. The permit shall also require filing the plan with appropriate authorities and an annual certification to the department that the plan is being properly implemented.

22.108(7) A permit condition prohibiting emissions exceeding any allowances that the affected source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.

a. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

b. No limit shall be placed on the number of allowances held by the Title IV affected source. The Title IV affected source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

c. Any such allowances shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.

d. Any permit issued pursuant to the requirements of these rules and Title V of the Act to a unit subject to the provisions of Title IV of the Act shall include conditions prohibiting all of the following:

(1) Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owners or operators of the unit or the designated representative of the owners or operators.

(2) Exceedences of applicable emission rates.

(3) The use of any allowance prior to the year for which it was allocated.

(4) Contravention of any other provision of the permit.

22.108(8) Severability clause. The permit shall contain a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

22.108(9) Other provisions. The Title V permit shall contain provisions stating the following:

a. The permittee must comply with all conditions of the Title V permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for a permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

b. Need to halt or reduce activity not a defense. 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 the permit.

c. The permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

d. The permit does not convey any property rights of any sort, or any exclusive privilege.

e. The permittee shall furnish to the director, within a reasonable time, any information that the director may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee also shall furnish to the director copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee shall furnish such records directly to the administrator of EPA along with a claim of confidentiality.

22.108(10) Fees. The permit shall include a provision to ensure that the Title V permittee pays fees to the director pursuant to rule 22.106(455B).

22.108(11) Emissions trading. A provision of the permit shall state that no permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

22.108(12) Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application and as approved by the director. Such terms and conditions:

a. Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating; and

b. Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of the department's rules.

22.108(13) Terms and conditions, if the permit 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. Such terms and conditions:

a. Shall include all terms required under subrules 22.108(1) to 22.108(13) and subrule 22.108(15) to determine compliance;

b. Must meet all applicable requirements of the Act and regulations promulgated thereunder and all requirements of this chapter; and

c. May extend the permit shield described in subrule 22.108(18) to all terms and conditions that allow such increases and decreases in emissions.

22.108(14) Federally enforceable requirements.

a. All terms and conditions in a Title V permit, including any provisions designed to limit a source's potential to emit, are enforceable by the administrator and citizens under the Act.

b. Notwithstanding paragraph "a" of this subrule, the director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of 40 CFR 70.7 or 70.8 (as amended through July 21, 1992).

22.108(15) Compliance requirements. All Title V permits shall contain the following elements with respect to compliance:

a. Consistent with the provisions of subrules 22.108(3) to 22.108(5), compliance certification, testing, monitoring, reporting, and record-keeping requirements sufficient to ensure compliance with the terms and conditions of the permit. Any documents, including reports, required by a permit shall contain a certification by a responsible official that meets the requirements of subrule 22.107(4).

b. Inspection and entry provisions which require that, upon presentation of proper credentials, the permittee shall allow the director or the director's authorized representative to:

(1) Enter upon the permittee's premises where a Title V source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(3) Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(4) Sample or monitor, at reasonable times, substances or parameters for the purpose of ensuring compliance with the permit or other applicable requirements.

c. A schedule of compliance consistent with subparagraphs 22.105(2)"h" and "j" and subrule 22.105(3).

d. Progress reports, consistent with an applicable schedule of compliance and with the provisions of paragraphs 22.105(2)"h" and "j," to be submitted at least every six months, or more frequently if specified in the applicable requirement or by the department in the permit. Such progress reports shall contain the following:

(1) Dates for achieving the activities, milestones or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

e. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(1) The frequency of submissions of compliance certifications, which shall not be less than annually.

(2) The means to monitor the compliance of the source with its emissions limitations, standards, and work practices, in accordance with the provisions of all applicable department rules.

(3) A requirement that the compliance certification include: the identification of each term or condition of the permit that is the basis of the certification; the compliance status; whether compliance was continuous or intermittent; the method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with all applicable department rules; and other facts as the director may require to determine the compliance status of the source.

(4) A requirement that all compliance certifications be submitted to the administrator and the director.

f. Such additional provisions as the director may require.

g. Such additional provisions as may be specified pursuant to Sections 114(a)(3) and 504(b) of the Act.

h. If there is a federal implementation plan applicable to the source, a provision that compliance with the federal implementation plan is required.

22.108(16) Emergency provisions.

a. For the purposes of a Title V permit, an “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

b. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph 22.108(16) “*c*” are met.

c. Requirements for affirmative defense. The affirmative defense of emergency shall be demonstrated by the source through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

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

(3) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements of the permit; and

(4) The permittee submitted notice of the emergency to the director by certified mail within two working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph 22.108(5) “*b*.” This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

d. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

e. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

22.108(17) Permit reopenings.

a. A Title V permit issued to a major source shall require that revisions be made to incorporate applicable standards and regulations adopted by the administrator pursuant to the Act, provided that:

(1) The reopening and revision on this ground is not required if the permit has a remaining term of less than three years;

(2) The reopening and revision on this ground is not required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended pursuant to 40 CFR 70.4(b)(10)(i) or (ii) as amended to June 20, 1996; or

(3) The additional applicable requirements are implemented in a general permit that is applicable to the source and the source receives approval for coverage under that general permit.

b. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of such standards and regulations. Any permit revision required pursuant to this sub-rule shall be treated as a permit renewal.

22.108(18) Permit shield.

a. The director may expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(1) Such applicable requirements are included and are specifically identified in the permit; or

(2) The director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

b. A Title V permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

c. A permit shield shall not alter or affect the following:

(1) The provisions of Section 303 of the Act (emergency orders), including the authority of the administrator under that section;

(2) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(3) The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act;

(4) The ability of the department or the administrator to obtain information from the facility pursuant to Section 114 of the Act.

22.108(19) Emission trades. For emission trades at facilities solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements, permit applications under this provision are required to include proposed replicable procedures and proposed permit terms that ensure the emission trades are quantifiable and enforceable.

567—22.109(455B) General permits.

22.109(1) Applicability. The director may issue a general permit for multiple sources that contain a number of operations and processes which emit pollutants with similar characteristics and that have substantially similar requirements regarding emissions, operations, monitoring and record keeping. General permits shall not be issued to Title IV affected sources except as provided in regulations promulgated by the administrator under Title IV of the Act.

22.109(2) *Issuance of general permits.* General permits may be issued by the director and codified in this chapter following notice and opportunity for public participation consistent with the procedures contained in subrule 22.107(6). Public participation shall be provided for a new general permit, for any revision of an existing general permit, and for renewal of an existing general permit. Permit review by the administrator and affected states shall be provided consistent with subrule 22.107(7). Each general permit shall identify criteria by which sources may qualify to operate under the general permit and shall comply with all requirements applicable to other Title V permits.

22.109(3) *Applications.* Any source that would qualify for a general permit must apply for either (a) coverage under the terms of the general permit or (b) an individual Title V permit. Applications for authority to operate under the terms of a general permit shall be made on the "General Permit Application Form" and shall specify the general permit concerned by citing the subrule containing that general permit. These applications may deviate from the Title V individual permit application but shall include all information necessary to determine qualification for, and to ensure compliance with, the general permit. If a source is later determined not to qualify for the terms and conditions of the general permit, then the source shall be subject to enforcement action for operation without a Title V operating permit.

22.109(4) *General permit content.* A general permit shall include all of the following:

- a. The terms and conditions required for all sources authorized to operate under the permit;
- b. Emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of the permit issuance;
- c. A compliance plan;
- d. Monitoring, record keeping, and reporting requirements to ensure compliance with the terms and conditions of the general permit. These requirements shall ensure the use of consistent terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable emissions limitations, standards, and other requirements contained in the general permit;
- e. The requirement to submit at least every six months the results of any required monitoring;
- f. References to the authority for the term or condition;
- g. A provision specifying permit duration as a fixed term not to exceed five years;
- h. A severability clause provision pursuant to subrule 22.108(8);
- i. A provision for payment of fees pursuant to subrule 22.108(10);
- j. A provision for emissions trading pursuant to subrules 22.108(11) and 22.108(13);
- k. Other provisions pursuant to subrule 22.108(9);
- l. Statement that the Title V permit is to be kept at the site of the source as well as at the corporate offices; and
- m. The process for individual sources to apply for coverage under the general permit.

22.109(5) *Action on general permit application.*

- a. Once the director has issued a general permit, any source which is a member of the class of sources covered by the general permit may apply to the director for authority to operate under the general permit.
- b. Review of a general permit application. The director shall grant the conditions and terms of a general permit to all sources that apply and qualify under the identified criteria.
- c. The director may grant a source's request for authorization to operate under a general permit without repeating the public participation procedures followed in subrule 22.109(2). However, such a grant shall not be a final permit action for purposes of judicial review.

22.109(6) *General permit renewal.* The director shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall expire when the general permit expires regardless of when the authorization began during the five-year period.

22.109(7) *Relationship to individual permits.* Any source covered by a general permit may request to be excluded from coverage by applying for an individual Title V permit. Coverage under the general permit shall terminate on the date the individual Title V permit is issued.

22.109(8) *Permit shield for general permit.* Each general permit issued under this chapter shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance. Any permit under this chapter that does not expressly state that a permit shield exists shall be presumed not to provide such a shield. Notwithstanding the above provisions, the source shall be subject to enforcement action for operation without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

22.109(9) *Revocations of authority to operate.*

a. The director may require any source or a class of sources authorized to operate under a general permit to individually apply for and obtain a Title V permit at any time if:

- (1) The source is not in compliance with the terms and conditions of the general permit;
- (2) The director has determined that the emissions from the source or class of sources is contributing significantly to ambient air quality standard violations and that these emissions are not adequately addressed by the terms and conditions of the general permit; or
- (3) The director has information which indicates that the cumulative effects on human health and the environment from the sources covered under the general permit are unacceptable.

b. The director shall provide written notice to all sources operating under that general permit of the proposed revocation of that general permit. Such notice shall include an explanation of the basis for the proposed action.

567—22.110(455B) Changes allowed without a Title V permit revision.

22.110(1) A source with a Title V permit may make Section 502(b)(10) changes to the permitted installation/facility without a Title V permit revision if:

a. The changes are not major modifications under any provision of any program required by Section 110 of the Act, modifications under Section 111 of the Act, modifications under Section 112 of the Act, or major modifications of this chapter;

b. The changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions);

c. The changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions);

d. The changes are not subject to any requirement under Title IV of the Act (revisions affecting Title IV permitting are addressed in rules 22.140(455B) through 22.144(455B));

e. The changes comply with all applicable requirements; and

f. For each such change, the permitted source provides to the department and the administrator by certified mail, at least 30 days in advance of the proposed change, a written notification, including the following, which shall be attached to the permit by the source, the department, and the administrator:

- (1) A brief description of the change within the permitted facility,
- (2) The date on which the change will occur,
- (3) Any change in emission as a result of the change,
- (4) The pollutants emitted subject to the emissions trade,
- (5) If the emissions trading provisions of the state implementation plan are invoked, then the Title V permit requirements with which the source shall comply; a description of how the emission increases and decreases will comply with the terms and conditions of the Title V permit;
- (6) A description of the trading of emissions increases and decreases for the purpose of complying with a federally enforceable emissions cap as specified in and in compliance with the Title V permit; and
- (7) Any permit term or condition no longer applicable as a result of the change.

22.110(2) Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

22.110(3) Notwithstanding any other part of this rule, the director may, upon review of a notice, require a stationary source to apply for a Title V permit if the change does not meet the requirements of subrule 22.110(1).

22.110(4) The permit shield provided in subrule 22.108(18) shall not apply to any change made pursuant to this rule. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the state implementation plan authorizing the emissions trade.

567—22.111(455B) Administrative amendments to Title V permits.

22.111(1) An administrative permit amendment is a permit revision that does any of the following:

- a.* Corrects typographical errors;
- b.* Identifies a change in the name, address, or telephone number of any person identified in the permit, or provides a similar minor administrative change at the source;
- c.* Requires more frequent monitoring or reporting by the permittee; or
- d.* Allows for a change in ownership or operational control of a source where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the director.

22.111(2) Administrative permit amendments to portions of permits containing provisions pursuant to Title IV of the Act shall be governed by regulations promulgated by the administrator under Title IV of the Act.

22.111(3) The director shall take no more than 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 notice to the public or affected states provided that the director designates any such permit revisions as having been made pursuant to this rule.

22.111(4) The director shall submit to the administrator a copy of each Title V permit revised under this rule.

22.111(5) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

567—22.112(455B) Minor Title V permit modifications.

22.112(1) Minor Title V permit modification procedures may be used only for those permit modifications that satisfy all of the following:

- a.* Do not violate any applicable requirement;
- b.* Do not involve significant changes to existing monitoring, reporting, or record-keeping requirements in the Title V permit;
- c.* Do not require or change a case-by-case determination of an emission limitation or other standard, or an increment analysis;
- d.* Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include any federally enforceable emissions caps which the source would assume to avoid classification as a modification under any provision of Title I of the Act; and an alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Act;
- e.* Are not modifications under any provision of Title I of the Act; and
- f.* Are not required to be processed as a significant modification under rule 22.113(455B).

22.112(2) An application for minor permit revision shall be on the minor Title V modification application form and shall include at least 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 permit;
- c.* Certification by a responsible official, pursuant to subrule 22.107(4), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and
- d.* Completed forms to enable the department to notify the administrator and affected states as required by subrule 22.107(7).

22.112(3) The department shall notify the administrator and affected states within five working days of receipt of a complete permit modification application. Notification shall be in accordance with the provisions of subrule 22.107(7). The department shall promptly send to the administrator any notification required by subrule 22.107(7).

22.112(4) The director shall not issue a final Title V permit modification until after the administrator's 45-day review period or until the administrator has notified the director that the administrator will not object to issuance of the Title V permit modification, whichever is first. Within 90 days of the director's receipt of an application under the minor permit modification procedures, or 15 days after the end of the administrator's 45-day review period provided for in subrule 22.107(7), whichever is later, the director shall:

- a. Issue the permit modification as proposed;
- b. Deny the permit modification application;
- c. Determine that the requested permit modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or
- d. Revise the draft permit modification and transmit to the administrator the proposed permit modification, as required by subrule 22.107(7).

22.112(5) Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files the application. After the source makes the change allowed by the preceding sentence, and until the director takes any of the actions specified in paragraphs 22.112(4) "a" to "c," the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

22.112(6) Permit shield. The permit shield under subrule 22.108(18) shall not extend to minor Title V permit revisions.

567—22.113(455B) Significant Title V permit modifications.

22.113(1) Significant Title V modification procedures shall be used for applications requesting Title V permit modifications that do not qualify as minor Title V modifications or as administrative amendments. These include, but are not limited to, all significant changes in monitoring permit terms, every relaxation of reporting or record-keeping permit terms, and any change in the method of measuring compliance with existing requirements.

22.113(2) Significant Title V permit modifications shall meet all requirements of this chapter, including those for applications, public participation, review by affected states, and review by the administrator, as those requirements that apply to Title V permit issuance and renewal.

22.113(3) Unless the director determines otherwise, review of significant Title V permit modification applications shall be completed within nine months of receipt of a complete application.

22.113(4) For a change that is subject to the requirements for a significant permit modification (see rule 22.113(455B)), the permittee shall submit to the department an application for a significant permit modification not later than three months after commencing operation of the changed source unless the existing Title V permit would prohibit such construction or change in operation, in which event the operation of the changed source may not commence until the department revises the permit.

567—22.114(455B) Title V permit reopenings.

22.114(1) Each issued Title V permit shall include provisions specifying the conditions under which the permit may be reopened and revised prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

- a. The department receives notice that the administrator has granted a petition for disapproval of a permit pursuant to 40 CFR 70.8(d) as amended to July 21, 1992, provided that the reopening may be stayed pending judicial review of that determination;

b. The department or the administrator determines that the Title V permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the Title V permit;

c. Additional applicable requirements under the Act become applicable to a Title V source, provided that the reopening on this ground is not required if the permit has a remaining term of less than three years, the effective date of the requirement is later than the date on which the permit is due to expire, or the additional applicable requirements are implemented in a general permit that is applicable to the source and the source receives approval for coverage under that general permit. Such a reopening shall be complete not later than 18 months after promulgation of the applicable requirement.

d. Additional requirements, including excess emissions requirements, become applicable to a Title IV affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

e. The department or the administrator determines that the permit must be revised or revoked to ensure compliance by the source with the applicable requirements.

22.114(2) Proceedings to reopen and reissue a Title V permit shall follow the procedures applicable to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

22.114(3) A notice of intent shall be provided to the Title V source at least 30 days in advance of the date the permit is to be reopened, except that the director may provide a shorter time period in the case of an emergency.

22.114(4) Within 90 days of receipt of a notice from the administrator that cause exists to reopen a permit, the director shall forward to the administrator and the source a proposed determination of termination, modification, revocation, or reissuance of the permit, as appropriate.

567—22.115(455B) Suspension, termination, and revocation of Title V permits.

22.115(1) Permits may be terminated, modified, revoked, or reissued for cause. The following examples shall be considered cause for the suspension, modification, revocation, or reissuance of a Title V permit:

a. The director has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

b. The person applying for the permit failed to disclose a material fact required by the permit application form or the rules applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

c. The terms and conditions of the permit have been or are being violated.

d. The permittee has failed to pay the Title V permit fees.

e. The permittee has failed to pay an administrative, civil or criminal penalty imposed for violations of the permit.

22.115(2) If the director suspends, terminates or revokes a Title V permit under this rule, the notice of such action shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the action sought, and the proceeding shall in all other respects comply with the requirements of rule 561—7.16(17A,455A).

567—22.116(455B) Title V permit renewals.

22.116(1) An application for Title V permit renewal shall be subject to the same procedural requirements that apply to initial permit issuance, including those for public participation and review by the administrator and affected states.

22.116(2) Except as provided in rule 22.104(455B), permit expiration terminates a source's right to operate unless a timely and complete application for renewal has been submitted in accordance with rule 22.105(455B). Any testing required for renewal shall be completed before the application is submitted.

567—22.117 to 22.119 Reserved.

567—22.120(455B) Acid rain program—definitions. The terms used in rules 22.120(455B) to 22.147(455B) shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. 7651, et seq., (November 15, 1990) and in this rule.

“Acid rain compliance option” means one of the methods of compliance used by an affected unit under the acid rain program as described in a compliance plan submitted and approved in accordance with rules 22.131(455B) and 22.132(455B) and rules implementing Section 407 of the Act.

“Acid rain emissions limitation” means:

For purposes of sulfur dioxide emissions:

1. The tonnage equivalent of the basic Phase II allowance allocations authorized to be allocated to an affected unit for use in a calendar year;

2. As adjusted:

- By allowances allocated by the administrator pursuant to Section 403, Section 405(a)(2), (a)(3), (b)(2), (c)(4), (d)(3), and (h)(2), and Section 406 of the Act;

- By allowances allocated by the administrator pursuant to Subpart D of 40 CFR Part 72 as amended through October 24, 1997; and thereafter

- By allowance transfers to or from the compliance subaccount for that unit that were recorded or properly submitted for recordation by the allowance transfer deadline as provided in 40 CFR 73.35 as amended through April 4, 1995, after deductions and other adjustments are made pursuant to 40 CFR 73.34(c) as amended through April 4, 1995; and

For purposes of nitrogen oxides emissions, the applicable limitation established by regulations promulgated by the administrator pursuant to Section 407 of the Act, as modified by an acid rain permit application submitted to the department, and an acid rain permit issued by the department, in accordance with rules implementing Section 407 of the Act.

“Acid rain emissions reduction requirement” means a requirement under the acid rain program to reduce the emissions of sulfur dioxide or nitrogen oxides from a unit to a specified level or by a specified percentage.

“Acid rain permit” means the legally binding written document, or portion of such document, issued by the department (following an opportunity for appeal pursuant to 561—Chapter 7 as adopted by reference at 567—Chapter 7), including any permit revisions, specifying the acid rain program requirements applicable to an affected source, to each affected unit at an affected source, and to the owners and operators and the designated representative of the affected source or the affected unit.

“*Acid rain program*” means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with Title IV of the Act, rules 22.120(455B) to 22.147(455B), 40 CFR Parts 72, 75, 77, 78 as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998, and regulations implementing Sections 407 and 410 of the Act.

“*Act*” means the Clean Air Act, 42 U.S.C. §7401, et seq., as amended by Public Law No. 101-549 (November 15, 1990).

“*Actual SO₂ emissions rate*” means the annual average sulfur dioxide emissions rate for the unit (expressed in lb/mmBtu), for the specified calendar year; provided that, if the unit is listed in the National Allowance Database (NADB), the “1985 actual SO₂ emissions rate” for the unit shall be the rate specified by the administrator in the NADB under the data field “SO₂RTE.”

“*Administrator*” means the administrator of the United States Environmental Protection Agency or the administrator’s duly authorized representative.

“*Affected source*” means a source that includes one or more affected units.

“*Affected unit*” means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation.

“*Affiliate*” shall have the meaning set forth in Section 2(a)(11) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(11), as of November 15, 1990.

“*Allocate*” or “*allocation*” means the initial crediting of an allowance by the administrator to an allowance tracking system unit account or general account.

“*Allowance*” means an authorization by the administrator under the acid rain program to emit up to one ton of sulfur dioxide during or after a specified calendar year.

“*Allowance deduction*” or “*deduct*” when referring to allowances means the permanent withdrawal of allowances by the administrator from an allowance tracking system compliance subaccount to account for the number of the tons of SO₂ emissions from an affected unit for the calendar year, for tonnage emissions estimates calculated for periods of missing data as provided in rule 567—25.2(455B), or for any other allowance surrender obligations of the acid rain program.

“*Allowances held*” or “*hold allowances*” means the allowances recorded by the administrator, or submitted to the administrator for recordation in accordance with 40 CFR 73.50 as amended through January 11, 1993, in an allowance tracking system account.

“*Allowance tracking system*” or “*ATS*” means the acid rain program system by which the administrator allocates, records, deducts, and tracks allowances.

“*Allowance tracking system account*” means an account in the allowance tracking system established by the administrator for purposes of allocating, holding, transferring, and using allowances.

“*Allowance transfer deadline*” means midnight of January 30 or, if January 30 is not a business day, midnight of the first business day thereafter and is the deadline by which allowances may be submitted for recordation in an affected unit’s compliance subaccount for the purposes of meeting the unit’s acid rain emissions limitation requirements for sulfur dioxide for the previous calendar year.

“*Alternative contemporaneous annual emission limitation*” means the maximum allowable NO_x emission rate (on a lb/mmBtu, annual average basis) assigned to an individual unit in a NO_x emissions averaging plan pursuant to 40 CFR 76.10, as amended through December 19, 1996.

“*Alternative technology*” means a control technology for reducing NO_x emissions that is outside the scope of the definition of low NO_x burner technology. Alternative technology does not include overfire air as applied to wall-fired boilers or separated overfire air as applied to tangentially fired boilers.

“*Approved clean coal technology demonstration project*” means a project using funds appropriated under the Department of Energy’s “Clean Coal Technology Demonstration Program,” up to a total amount of \$2.5 billion for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

“Arch-fired boiler” means a dry bottom boiler with circular burners, or coal and air pipes, oriented downward and mounted on waterwalls that are at an angle significantly different from the horizontal axis and the vertical axis. This definition shall include only the following units: Holtwood unit 6, and Sunbury units 1A, 1B, 2A, and 2B. This definition shall exclude dry bottom turbo-fired boilers.

“Authorized account representative” means a responsible natural person who is authorized, in accordance with 40 CFR Part 73 as amended through September 28, 1998, to transfer and otherwise dispose of allowances held in an allowance tracking system general account; or, in the case of a unit account, the designated representative of the owners and operators of the affected unit.

“Basic Phase II allowance allocations” means:

(1) For calendar years 2000 to 2009 inclusive, allocations of allowances made by the administrator pursuant to Section 403 and Section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i); and (j).

(2) For each calendar year beginning in 2010, allocations of allowances made by the administrator pursuant to Section 403 and Section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i); and (j).

“Boiler” means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or any other medium.

“Cell burner boiler” means a wall-fired boiler that utilizes two or three circular burners combined into a single vertically oriented assembly that results in a compact, intense flame. Any low NO_x retrofit of a cell burner boiler that reuses the existing cell burner, close-coupled wall opening configuration would not change the designation of the unit as a cell burner boiler.

“Certificate of representation” means the completed and signed submission required by 40 CFR 72.20 as amended through October 24, 1997, for certifying the appointment of a designated representative for an affected source or a group of identified affected sources authorized to represent the owners and operators of such source(s) and of the affected units at such source(s) with regard to matters under the acid rain program.

“Certifying official” means:

(1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(2) For partnership or sole proprietorship, a general partner or the proprietor, respectively; and

(3) For a local government entity or state, federal, or other public agency, either a principal executive officer or ranking elected official.

“Coal” means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials Designation ASTM D388-92 “Standard Classification of Coals by Rank.”

“Coal-derived fuel” means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal (e.g., pulverized coal, coal refuse, liquefied or gasified coal, washed coal, chemically cleaned coal, coal-oil mixtures, and coke).

“Coal-fired” means the combustion of fuel consisting of coal or any coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than natural gas), alone or in combination with any other fuel, where a unit is “coal-fired” if it uses coal or coal-derived fuel as its primary fuel (expressed in mmBtu); provided that, if the unit is listed in the NADB, the primary fuel is the fuel listed in the NADB under the data field “PRIMEFUEL.”

“*Coal-fired utility unit*” means a utility unit in which the combustion of coal (or any coal-derived fuel) on a Btu basis exceeds 50.0 percent of its annual heat input during the following calendar year: for Phase I units, in calendar year 1990 and, for Phase II units, in the calendar year 1995 or, for a Phase II unit that did not combust any fuel that resulted in the generation of electricity in calendar year, and any calendar year during the period from 1990 through 1995. For the purposes of rules 22.120(455B) through 22.147(455B), this definition shall apply notwithstanding the definition at 40 CFR 72.2, as amended through October 24, 1997.

“*Cogeneration unit*” means a unit that has equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam) for industrial, commercial, heating or cooling purposes, through the sequential use of energy.

“*Combustion controls*” means technology that minimizes NO_x formation by staging fuel and combustion air flows in a boiler. This definition shall include low NO_x burners, overfire air, or low NO_x burners with overfire air.

“*Commence commercial operation*” means to have begun to generate electricity for sale, including the sale of test generation.

“*Commence construction*” means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

“*Commence operation*” means to have begun any mechanical, chemical, or electronic process, including start-up of an emissions control technology or emissions monitor or of a unit’s combustion chamber.

“*Common stack*” means the exhaust of emissions from two or more units through a single flue.

“*Compliance certification*” means a submission to the department or the administrator that is required by rules 22.120(455B) to 22.147(455B), by 40 CFR Parts 72, 75, 77, 78 as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998, or by regulations implementing Sections 407 or 410 of the Act to report an affected source or an affected unit’s compliance or noncompliance with a provision of the acid rain program and that is signed and verified by the designated representative in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997, rules 22.146(455B) and 22.147(455B), and the acid rain program regulations generally.

“*Compliance plan*,” for purposes of the acid rain program, means the document submitted for an affected source in accordance with rules 22.128(455B) and 22.129(455B) specifying the method(s) (including one or more acid rain compliance options under rule 22.132(455B) or rules implementing Section 407 of the Act) by which each affected unit at the source will meet the applicable acid rain emissions limitation and acid rain emissions reduction requirements.

“*Compliance subaccount*” means the subaccount in an affected unit’s allowance tracking system account, established pursuant to 40 CFR 73.31 (a) or (b) as amended through July 30, 1993, in which are held, from the date that allowances for the current calendar year are recorded under 40 CFR 73.34(a) as amended through April 4, 1995, until December 31, allowances available for use by the unit in the current calendar year and, after December 31 until the date that deductions are made under 40 CFR 73.35(b) as amended through April 4, 1995, allowances available for use by the unit in the preceding calendar year, for the purpose of meeting the unit’s acid rain emissions limitation for sulfur dioxide.

“*Compliance use date*” means the first calendar year for which an allowance may be used for purposes of meeting a unit’s acid rain emissions limitation for sulfur dioxide.

“*Construction*” means fabrication, erection, or installation of a unit or any portion of a unit.

“*Cyclone boiler*” means a boiler with one or more water-cooled horizontal cylindrical chambers in which coal combustion takes place. The horizontal cylindrical chamber(s) is (are) attached to the bottom of the furnace. One or more cylindrical chambers are arranged either on one furnace wall or on two opposed furnace walls. Gaseous combustion products exiting from the chamber(s) turn 90 degrees to go up through the boiler while coal ash exits the bottom of the boiler as a molten slag.

“Demonstration period” means a period of time not less than 15 months, approved under 40 CFR 76.10, as amended through December 19, 1996, for demonstrating that the affected unit cannot meet the applicable emission limitation under 40 CFR Sections 76.5 or 76.7 as amended through December 19, 1996, or 76.6, as amended through June 12, 1997, and establishing the minimum NO_x emission rate that the unit can achieve during long-term load dispatch operation.

“Department” means the Iowa department of natural resources and is the state acid rain permitting authority.

“Designated representative” means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in rules 22.100(455B) to 22.116(455B), it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

“Diesel fuel” means a low sulfur fuel oil of grades 1-D or 2-D, as defined by the American Society for Testing and Materials ASTM D975-91, “Standard Specification for Diesel Fuel Oils.”

“Direct public utility ownership” means direct ownership of equipment and facilities by one or more corporations, the principal business of which is sale of electricity to the public at retail. Percentage ownership of such equipment and facilities shall be measured on the basis of book value.

“Draft acid rain permit” means the version of the acid rain permit, or the acid rain portion of a Title V operating permit, that the department offers for public comment.

“Dry bottom” means the boiler has a furnace bottom temperature below the ash melting point and the bottom ash is removed as a solid.

“Economizer” means the lowest temperature heat exchange section of a utility boiler where boiler feed water is heated by the flue gas.

“Emissions” means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the administrator by the designated representative and as determined by the administrator, in accordance with the emissions monitoring requirements of rule 25.2(455B).

“Excess emissions” means:

1. Any tonnage of sulfur dioxide emitted by an affected unit during a calendar year that exceeds the acid rain emissions limitation for sulfur dioxide for the unit; and
2. Any tonnage of nitrogen oxide emitted by an affected unit during a calendar year that exceeds the annual tonnage equivalent of the acid rain emissions limitation for nitrogen oxides applicable to the affected unit taking into account the unit’s heat input for the year.

“Existing unit” means a unit (including a unit subject to Section 111 of the Act) that commenced commercial operation before November 15, 1990, and that on or after November 15, 1990, served a generator with a nameplate capacity of greater than 25 MWe. Existing unit does not include simple combustion turbines or any unit that on or after November 15, 1990, served only generators with a nameplate capacity of 25 MWe or less. Any existing unit that is modified, reconstructed, or repowered after November 15, 1990, shall continue to be an existing unit.

“Facility” means any institutional, commercial, or industrial structure, installation, plant, source, or building.

“Flue gas” means the combustion products arising from the combustion of fossil fuel in a utility boiler.

“*Fossil fuel*” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

“*Fossil fuel-fired*” means the combustion of fossil fuel or any derivative of fossil fuel, alone or in combination with any other fuel, independent of the percentage of fossil fuel consumed in any calendar year (expressed in mmBtu).

“*Fuel oil*” means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) as defined by the American Society for Testing and Materials in ASTM D396-90a, Standard Specification for Fuel Oils, and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid or gaseous state.

“*Gas-fired*” means the combustion of natural gas, or a coal-derived gaseous fuel with a sulfur content no greater than natural gas, for at least 90 percent of the average annual heat input during the previous three calendar years and for at least 85 percent of the annual heat input in each of those calendar years; and any fuel other than coal or any other coal-derived fuel for the remaining heat input, if any.

“*General account*” means an allowance tracking system account that is not a unit account.

“*Generator*” means a device that produces electricity and was or would have been required to be reported as a generating unit pursuant to the United States Department of Energy Form 860 (1990 edition).

“*Generator output capacity*” means the full-load continuous rating of a generator under specific conditions as designed by the manufacturer.

“*Group 1 boiler*” means a tangentially fired boiler or a dry bottom wall-fired boiler (other than a unit applying cell burner technology), as defined by this rule.

“*Group 2 boiler*” means a wet bottom wall-fired boiler, a cyclone boiler, a boiler applying cell burner technology, a vertically fired boiler, an arch-fired boiler, or any other type of utility boiler (such as a fluidized bed or stoker boiler), as defined by this rule that is not a Group 1 boiler.

“*Heat input*” means the product (expressed in mmBtu/time) of the gross calorific value of the fuel (expressed in Btu/lb) and the fuel feed rate into the combustion device (expressed in mass of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

“*Independent power production facility (IPP)*” means a source that:

1. Is nonrecourse project financed, as defined by the secretary of energy at 10 CFR Part 715 as amended to October 24, 1991;
2. Is used for the generation of electricity, 80 percent or more of which is sold at wholesale; and
3. Is a new unit required to hold allowances under Title IV of the Act; but only if direct public utility ownership of the equipment comprising the facility does not exceed 50 percent.

“*Life-of-the-unit, firm power contractual arrangement*” means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified generating unit and pays its proportional amount of such unit’s total costs, pursuant to a contract:

1. For the life of the unit;
2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
3. For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

“Low nitrogen oxides burners” and *“low nitrogen oxides burner technology”* mean commercially available combustion modification NO_x controls that minimize NO_x formation by introducing coal and its associated combustion air into a boiler such that initial combustion occurs in a manner that promotes rapid coal devolatilization in a fuel-rich (i.e., oxygen deficient) environment and introduces additional air to achieve a final fuel-lean (i.e., oxygen rich) environment to complete the combustion process. This definition shall include the staging of any portion of the combustion air using air nozzles or registers located inside any waterwall hole that includes a burner. This definition shall exclude the staging of any portion of the combustion air using air nozzles or ports located outside any waterwall hole that includes a burner (commonly referred to as nitrogen oxides ports or separated overfire air ports).

“Maximum Continuous Steam Flow at 100% of Load” means the maximum capacity of a boiler as reported in item 3 (Maximum Continuous Steam Flow at 100% Load in thousands pounds per hour), Section C (design parameters), Part III (boiler information) of the U.S. Department of Energy’s Form EIA-767 for 1995.

“Nameplate capacity” means the maximum electrical generating output (expressed in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the NADB under the data field “NAMECAP” if the generator is listed in the NADB or as measured in accordance with the United States Department of Energy standards if the generator is not listed in the NADB.

“National Allowance Data Base” or *“NADB”* means the data base established by the administrator under Section 402(4)(C) of the Act.

“Natural gas” means a naturally occurring fluid mixture of hydrocarbons containing little or no sulfur (e.g., methane, ethane, or propane), produced in geological formations beneath the earth’s surface, and maintaining a gaseous state at standard atmospheric temperature and pressure conditions under ordinary conditions.

“New unit” means a unit that commences commercial operation on or after November 15, 1990, including any such unit that serves a generator with a nameplate capacity of 25 MWe or less or that is a simple combustion turbine.

“Non-plug-in combustion controls” means the replacement, in a cell burner boiler, of the portions of the waterwalls containing the cell burners by new portions of the waterwalls containing low NO_x burners with overfire air.

“Offset plan” means a plan pursuant to 40 CFR Part 77 as amended through October 24, 1997, for offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

“Oil-fired” means the combustion of: fuel oil for more than 10 percent of the average annual heat input during the previous three calendar years or for more than 15 percent of the annual heat input in any one of those calendar years; and any solid, liquid, or gaseous fuel, other than coal or any other coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than natural gas), for the remaining heat input, if any.

“Operating period” means a period of time of not less than three consecutive months and that occurs not more than one month prior to applying for an alternative emission limitation demonstration period under 40 CFR 76.10, as amended through December 19, 1996, during which the owner or operator of an affected unit that cannot meet the applicable emission limitation:

1. Operates the installed NO_x emission controls in accordance with primary vendor specifications and procedures, with the unit operating under normal conditions; and

2. Records and reports quality-assured continuous emission monitoring (CEM) and unit operating data according to the methods and procedures in 40 CFR Part 75, as amended through November 20, 1996.

“*Owner*” means any of the following persons:

1. Any holder of any portion of the legal or equitable title in an affected unit; or
2. Any holder of a leasehold interest in an affected unit; or
3. Any purchaser of power from an affected unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit; or
4. With respect to any allowance tracking system general account, any person identified in the submission required by 40 CFR 73.31(c) as amended through July 30, 1993, that is subject to the binding agreement for the authorized account representative to represent that person’s ownership interest with respect to allowances.

“*Owner or operator*” means any person who is an owner or who operates, controls, or supervises an affected unit or affected source and shall include, but not be limited to, any holding company, utility system, or plant manager of an affected unit or affected source.

“*Permit revision*” means a permit modification, fast-track modification, administrative permit amendment, or automatic permit amendment, as provided in rules 22.140(455B) to 22.144(455B).

“*Phase II*” means the acid rain program period beginning January 1, 2000, and continuing into the future thereafter.

“*Phase II unit*” means any affected unit that is subject to an acid rain emissions reduction requirement or acid rain emissions limitation during Phase II only.

“*Plug-in combustion controls*” means the replacement, in a cell burner boiler, of existing cell burners by low NO_x burners or low NO_x with overfire air.

“*Potential electrical output capacity*” means the MWe capacity rating for the units which shall be equal to 33 percent of the maximum design heat input capacity of the steam generating unit, as calculated according to Appendix D of 40 CFR Part 72 as amended through March 23, 1993.

“*Power distribution system*” means the portion of an electricity grid owned or operated by a utility that is dedicated to delivering electric energy to customers.

“*Power purchase commitment*” means a commitment or obligation of a utility to purchase electric power from a facility pursuant to:

1. A power sales agreement;
2. A state regulatory authority order requiring a utility to:
 - Enter into a power sales agreement with the facility;
 - Purchase from the facility; or
 - Enter into arbitration concerning the facility for the purpose of establishing terms and conditions of the utility’s purchase of power;
3. A letter of intent or similar instrument committing to purchase power (actual electrical output or generator output capacity) from the source at a previously offered or lower price and a power sales agreement applicable to the source is executed within the time frame established by the terms of the letter of intent but no later than November 15, 1992, or, where the letter of intent does not specify a time frame, a power sales agreement applicable to the source is executed on or before November 15, 1992; or
4. A utility competitive bid solicitation that has resulted in the selection of the qualifying facility of independent power production facility as the winning bidder.

“*Power sales agreement*” is a legally binding agreement between a QF, IPP, or firm associated with such facility and a regulated electric utility that establishes the terms and conditions for the sale of power from the facility to the utility.

“*Primary fuel*” or “*primary fuel supply*” means the main fuel type (expressed in mmBtu) consumed by an affected unit for the applicable calendar year.

“*Primary vendor*” means the vendor of the NO_x emission control system who has primary responsibility for providing the equipment, service, and technical expertise necessary for detailed design, installation, and operation of the controls, including process data, mechanical drawings, operating manuals, or any combination thereof.

“*Proposed acid rain permit*” means the version of an acid rain permit that the department submits to the administrator after the public comment period, but prior to completion of the EPA permit review period under 40 CFR 70.8(c) as amended to July 21, 1992.

“*Qualifying facility (QF)*” means a qualifying small power production facility within the meaning of Section 3(17)(C) of the Federal Power Act or a qualifying cogeneration facility within the meaning of Section 3(18)(B) of the Federal Power Act.

“*Qualifying power purchase commitment*” means a power purchase commitment in effect as of November 15, 1990, without regard to changes to that commitment so long as:

1. The identity of the electric output purchaser, the identity of the steam purchaser and the location of the facility remain unchanged as of the date the facility commences commercial operation; and
2. The terms and conditions of the power purchase commitment are not changed in such a way as to allow the costs of compliance with the acid rain program to be shifted to the purchaser.

“*Qualifying repowering technology*” means:

1. Replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the secretary of energy, a derivative of one 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; or

2. Any oil- or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the department of energy.

“*Reburning*” means reducing the coal and combustion air to the main burners and injecting a reburn fuel (such as gas or oil) to create a fuel-rich secondary combustion zone above the main burner zone and final combustion air to create a fuel-lean burnout zone. The formation of NO_x is inhibited in the main burner zone due to the reduced combustion intensity, and NO_x is destroyed in the fuel-rich secondary combustion zone by conversion to molecular nitrogen.

“*Receive*” or “*receipt of*” means the date the administrator or the department comes into possession of information or correspondence (sent in writing), as indicated in an official correspondence log, or by a notation made on the information or correspondence, by the administrator or the department in the regular course of business.

“*Recordation*,” “*record*,” or “*recorded*” means, with regard to allowances, the transfer of allowances by the administrator from one allowance tracking system account or subaccount to another.

“*Schedule of compliance*” means an enforceable sequence of actions, measures, or operations designed to achieve or maintain compliance, or correct noncompliance, with an applicable requirement of the acid rain program, including any applicable acid rain permit requirement.

“*Secretary of energy*” means the secretary of the United States Department of Energy or the secretary’s duly authorized representative.

“*Selective catalytic reduction*” means a noncombustion control technology that destroys NO_x by injecting a reducing agent (e.g., ammonia) into the flue gas that, in the presence of a catalyst (e.g., vanadium, titanium, or zeolite), converts NO_x into molecular nitrogen and water.

“*Selective noncatalytic reduction*” means a noncombustion control technology that destroys NO_x by injecting a reducing agent (e.g., ammonia, urea, or cyanuric acid) into the flue gas, downstream of the combustion zone that converts NO_x to molecular nitrogen, water, and when urea or cyanuric acid is used, to carbon dioxide.

“*Simple combustion turbine*” means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel. This term includes combined cycle units without auxiliary firing. This term excludes combined cycle units with auxiliary firing, unless the unit did not use the auxiliary firing from 1985 through 1987 and does not use auxiliary firing at any time after November 15, 1990.

“*Solid waste incinerator*” means a source as defined in Section 129(g)(1) of the Act.

“*Source*” means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Act. For purposes of Section 502(c) of the Act, a source, including a source with multiple units, shall be considered a single facility.

“*Stack*” means a structure that includes one or more flues and the housing for the flues.

“*State*” means one of the 48 contiguous states and the District of Columbia and includes any non-federal authorities, including local agencies, interstate associations, and statewide agencies with approved state operating permit programs. The term “state” shall have its conventional meaning where such meaning is clear from the context.

“*State Title V operating permit program*” means a Title V operating permit program that the administrator has approved as meeting the requirements of Titles IV and V of the Act and 40 CFR Parts 70 as amended to October 22, 1997, and 72 as amended to October 24, 1997.

“*Stoker boiler*” means a boiler that burns solid fuel in a bed, on a stationary or moving grate, which is located at the bottom of the furnace.

“*Submit*” or “*serve*” means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation: in person; by United States Postal Service certified mail with the official postmark or, if service is by the administrator or the department, by any other mail service by the United States Postal Service; or by other means with an equivalent time and date mark used in the regular course of business to indicate the date of dispatch or transmission and a record of prompt delivery. Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

“*Tangentially fired boiler*” means a boiler that has coal and air nozzles mounted in each corner of the furnace where the vertical furnace walls meet. Both pulverized coal and air are directed from the furnace corners along a line tangential to a circle lying in a horizontal plane of the furnace.

“*Title V operating permit*” means a permit issued under rules 22.100(455B) to 22.116(455B) implementing Title V of the Act.

“*Ton*” or “*tonnage*” means any short ton (i.e., 2,000 pounds). For the purpose of determining compliance with the acid rain emissions limitations and reduction requirements, total tons for a year shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with rule 567—25.2(455B), with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed not to equal any ton.

“*Total planned net output capacity*” means the planned generator output capacity, excluding that portion of the electrical power which is designed to be used at the power production facility, as specified under one or more qualifying power purchase commitments or contemporaneous documents as of November 15, 1990. Total installed net output capacity shall be the generator output capacity, excluding that portion of the electrical power actually used at the power production facility, as installed.

“Turbo-fired boiler” means a pulverized coal, wall-fired boiler with burners arranged on walls so that the individual flames extend down toward the furnace bottom and then turn back up through the center of the furnace.

“Unit” means a fossil fuel-fired combustion device.

“Unit account” means an allowance tracking system account, established by the administrator for an affected unit pursuant to 40 CFR 73.31 (a) or (b) as amended through July 30, 1993.

“Utility” means any person that sells electricity.

“Utility competitive bid solicitation” is a public request from a regulated utility for offers to the utility for meeting future generating needs. A qualifying facility, independent power production facility, may be regarded as having been “selected” in such solicitation if the utility has named the facility as a project with which the utility intends to negotiate a power sales agreement.

“Utility regulatory authority” means an authority, board, commission, or other entity (limited to the local, state, or federal level, whenever so specified) responsible for overseeing the business operations of utilities located within its jurisdiction, including, but not limited to, utility rates and charges to customers.

“Utility unit” means a unit owned or operated by a utility:

1. That serves a generator that produces electricity for sale, or
2. That during 1985, served a generator that produced electricity for sale.
3. Notwithstanding “1” and “2” of this definition, a unit that was in operation during 1985, but did not serve a generator that produced electricity for sale during 1985, and did not commence commercial operation on or after November 15, 1990, is not a utility unit for purposes of the acid rain program.
4. Notwithstanding “1” and “2” of this definition, a unit that cogenerates steam and electricity is not a utility unit for purposes of the acid rain program, unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990, and supplies more than one-third of its potential electrical output capacity and more than 25 MWe output to any power distribution system for sale.

“Vertically fired boiler” means a dry bottom boiler with circular burners, or coal and air pipes, oriented downward and mounted on waterwalls that are horizontal or at an angle. This definition shall include dry bottom roof-fired boilers and dry bottom top-fired boilers, and shall exclude dry bottom arch-fired boilers and dry bottom turbo-fired boilers.

“Wall-fired boiler” means a boiler that has pulverized coal burners arranged on the walls of the furnace. The burners have discrete, individual flames that extend perpendicularly into the furnace area.

“Wet bottom” means that the ash is removed from the furnace in a molten state. The term “wet bottom boiler” shall include wet bottom wall-fired boilers, including wet bottom turbo-fired boilers; and wet bottom boilers otherwise meeting the definition of vertically fired boilers, including wet bottom arch-fired boilers, wet bottom roof-fired boilers, and wet bottom top-fired boilers. The term “wet bottom boiler” shall exclude cyclone boilers and tangentially fired boilers.

567—22.121(455B) Measurements, abbreviations, and acronyms. Measurements, abbreviations, and acronyms used in rules 22.120(455B) to 22.147(455B) are defined as follows:

“*ASTM*” means American Society for Testing and Materials.

“*Btu*” means British thermal unit.

“*CFR*” means Code of Federal Regulations.

“*DOE*” means Department of Energy.

“*EPA*” means Environmental Protection Agency.

“*mmBtu*” means million Btu.

“*MWe*” means megawatt electrical.

“*SO₂*” means sulfur dioxide.

567—22.122(455B) Applicability.

22.122(1) Each of the following units shall be an affected unit, and any source that includes such a unit shall be an affected source, subject to the requirements of the acid rain program:

- a.* A unit listed in Table 1 of 40 CFR 73.10(a) (as adopted October 24, 1997).
- b.* An existing unit that is identified in Table 2 or 3 of 40 CFR 73.10 as amended through September 28, 1998, and any other existing utility unit, except a unit under subrule 22.122(2).
- c.* A utility unit, except a unit under subrule 22.122(2), that:
 - (1) Is a new unit;
 - (2) Did not serve a generator with a nameplate capacity greater than 25 MWe on November 15, 1990, but serves such a generator after November 15, 1990;
 - (3) Was a simple combustion turbine on November 15, 1990, but adds or uses auxiliary firing after November 15, 1990;
 - (4) Was an exempt cogeneration facility under paragraph 22.122(2)“*d*” but during any three-calendar-year period after November 15, 1990, sold, to a utility power distribution system, an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs electric output, on a gross basis;

(5) Was an exempt qualifying facility under paragraph 22.122(2) “e” but, at any time after the later of November 15, 1990, or the date the facility commences commercial operation, fails to meet the definition of qualifying facility;

(6) Was an exempt independent power production facility under paragraph 22.122(2) “f” but, at any time after the later of November 15, 1990, or the date the facility commences commercial operation, fails to meet the definition of independent power production facility; or

(7) Was an exempt solid waste incinerator under paragraph 22.122(2) “g” but during any three-calendar-year period after November 15, 1990, consumes 20 percent or more (on a Btu basis) fossil fuel.

(8) Is a coal-fired substitution unit that is designated in a substitution plan that was not approved and not active as of January 1, 1995, or is a coal-fired compensating unit.

22.122(2) The following types of units are not affected units subject to the requirements of the acid rain program:

a. A simple combustion turbine that commenced operation before November 15, 1990.

b. Any unit that commenced commercial operation before November 15, 1990, and that did not, as of November 15, 1990, and does not currently, serve a generator with a nameplate capacity of greater than 25 MWe.

c. Any unit that, during 1985, did not serve a generator that produced electricity for sale and that did not, as of November 15, 1990, and does not currently, serve a generator that produces electricity for sale.

d. A cogeneration facility which:

(1) For a unit that commenced construction on or prior to November 15, 1990, was constructed for the purpose of supplying equal to or less than one-third its potential electrical output capacity or equal to or less than 219,000 MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). If the purpose of construction is not known, it will be presumed to be consistent with the actual operation from 1985 through 1987. However, if in any three-calendar-year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the acid rain program; or

(2) For units that commenced construction after November 15, 1990, supplies equal to or less than one-third its potential electrical output capacity or equal to or less than 219,000 MWe-hrs actual electric output on an annual basis to any utility power distribution system for sale (on a gross basis). However, if in any three-calendar-year period after November 15, 1990, such unit sells to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis), that unit shall be an affected unit, subject to the requirements of the acid rain program.

e. A qualifying facility that:

(1) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least 15 percent of its total planned net output capacity; and

(2) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding 130 percent of the total planned net output capacity. If the emissions rates of the units are not the same, the administrator may exercise discretion to designate which units are exempt.

f. An independent power production facility that:

(1) Has, as of November 15, 1990, one or more qualifying power purchase commitments to sell at least 15 percent of its total planned net output capacity; and

(2) Consists of one or more units designated by the owner or operator with total installed net output capacity not exceeding 130 percent of its total planned net output capacity. If the emissions rates of the units are not the same, the administrator may exercise discretion to designate which units are exempt.

g. A solid waste incinerator, if more than 80 percent (on a Btu basis) of the annual fuel consumed at such incinerator is other than fossil fuels. For a solid waste incinerator which began operation before January 1, 1985, the average annual fuel consumption of nonfossil fuels for calendar years 1985 through 1987 must be greater than 80 percent for such an incinerator to be exempt. For a solid waste incinerator which began operation after January 1, 1985, the average annual fuel consumption of non-fossil fuels for the first three years of operation must be greater than 80 percent for such an incinerator to be exempt. If, during any three-calendar-year period after November 15, 1990, such incinerator consumes 20 percent or more (on a Btu basis) fossil fuel, such incinerator will be an affected source under the acid rain program.

h. A nonutility unit.

22.122(3) A certifying official of any unit may petition the administrator for a determination of applicability under 40 CFR 72.6(c) as amended through October 24, 1997. The administrator's determination of applicability shall be binding upon the department, unless the petition is found to have contained significant errors or omissions.

567—22.123(455B) Acid rain exemptions.

22.123(1) *New unit exemption.* The new unit exemption, as specified in 40 CFR §72.7, as amended through October 24, 1997, except for 40 CFR §72.7(c)(1)(i), is adopted by reference. This exemption applies to new utility units.

22.123(2) *Retired unit exemption.* The retired unit exemption, as specified in 40 CFR §72.8, as amended through October 24, 1997, is adopted by reference. This exemption applies to any affected unit that is permanently retired.

22.123(3) *Industrial utility-unit exemption.* The industrial utility-unit exemption, as specified in 40 CFR §72.14, as amended through October 24, 1997, is adopted by reference. This exemption applies to any noncogeneration utility unit.

567—22.124(455B) Retired units exemption. Rescinded IAB 9/9/98, effective 10/14/98.

567—22.125(455B) Standard requirements.**22.125(1) Permit requirements.**

a. The designated representative of each affected source and each affected unit at the source shall:

(1) Submit a complete acid rain permit application under this chapter in accordance with the deadlines specified in rule 22.128(455B);

(2) Submit in a timely manner any supplemental information that the department determines is necessary in order to review an acid rain permit application and issue or deny an acid rain permit.

b. The owners and operators of each affected source and each affected unit at the source shall:

(1) Operate the unit in compliance with a complete acid rain permit application or a superseding acid rain permit issued by the department; and

(2) Have an acid rain permit.

22.125(2) Monitoring requirements.

a. The owners and operators and, to the extent applicable, designated representative of each affected source and each affected unit at the source shall comply with the monitoring requirements as provided in rule 567—25.2(455B) and Section 407 of the Act and regulations implementing Section 407 of the Act.

b. The emissions measurements recorded and reported in accordance with rule 567—25.2(455B) and Section 407 of the Act and regulations implementing Section 407 of the Act shall be used to determine compliance by the unit with the acid rain emissions limitations and emissions reduction requirements for sulfur dioxide and nitrogen oxides under the acid rain program.

c. The requirements of rule 567—25.2(455B) and regulations implementing Section 407 of the Act shall not affect the responsibility of the owners and operators to monitor emissions of other pollutants or other emissions characteristics at the unit under other applicable requirements of the Act and other provisions of the operating permit for the source.

22.125(3) Sulfur dioxide requirements.

a. The owners and operators of each source and each affected unit at the source shall:

(1) Hold allowances, as of the allowance transfer deadline, in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c) as amended through April 4, 1995) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and

(2) Comply with the applicable acid rain emissions limitation for sulfur dioxide.

b. Each ton of sulfur dioxide emitted in excess of the acid rain emissions limitations for sulfur dioxide shall constitute a separate violation of the Act.

c. An affected unit shall be subject to the requirements under paragraph 22.125(3) "a" as follows: starting January 1, 2000, an affected unit under paragraph 22.122(1) "b"; or starting on the later of January 1, 2000, or the deadline for monitor certification under rule 567—25.2(455B), an affected unit under paragraph 22.122(1) "c."

d. Allowances shall be held in, deducted from, or transferred among allowance tracking system accounts in accordance with the acid rain program.

e. An allowance shall not be deducted, in order to comply with the requirements under paragraph 22.125(3) "a," prior to the calendar year for which the allowance was allocated.

f. An allowance allocated by the administrator under the acid rain program is a limited authorization to emit sulfur dioxide in accordance with the acid rain program. No provision of the acid rain program, the acid rain permit application, the acid rain permit, or the written exemption under rules 22.123(455B) and 22.124(455B) and no provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization.

g. An allowance allocated by the administrator under the acid rain program does not constitute a property right.

22.125(4) *Nitrogen oxides requirements.* The owners and operators of the source and each affected unit at the source shall comply with the applicable acid rain emissions limitation for nitrogen oxides, as specified in 40 CFR Sections 76.5 and 76.7 as amended through December 19, 1996; 76.6 as amended through June 12, 1997; and 76.8, 76.11, 76.12, and 76.15 as amended through April 13, 1995; or by alternative emission limitations provided for by 40 CFR 76.10, amended through December 19, 1996, as long as the alternative emission limitation has been petitioned and demonstrated according to 40 CFR 76.14 as amended through April 13, 1995, and approved by the department.

22.125(5) *Excess emissions requirements.*

a. The designated representative of an affected unit that has excess emissions in any calendar year shall submit a proposed offset plan to the administrator, as required under 40 CFR Part 77 as amended through October 24, 1997, and submit a copy to the department.

b. The owners and operators of an affected unit that has excess emissions in any calendar year shall:

(1) Pay to the administrator without demand the penalty required, and pay to the administrator upon demand the interest on that penalty, as required by 40 CFR Part 77 as amended through October 24, 1997; and

(2) Comply with the terms of an approved offset plan, as required by 40 CFR Part 77 as amended through October 24, 1997.

22.125(6) *Record-keeping and reporting requirements.*

a. Unless otherwise provided, the owners and operators of the source and each affected unit at the source shall keep on site at the source each of the following documents for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the administrator or the department.

(1) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24 as amended through October 24, 1997; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative.

(2) All emissions monitoring information, in accordance with rule 567—25.2(455B).

(3) Copies of all reports, compliance certifications, and other submissions and all records made or required under the acid rain program.

(4) Copies of all documents used to complete an acid rain permit application and any other submission under the acid rain program or to demonstrate compliance with the requirements of the acid rain program.

b. The designated representative of an affected source and each affected unit at the source shall submit the reports and compliance certifications required under the acid rain program, including those under rules 22.146(455B) and 22.147(455B) and rule 567—25.2 (455B).

22.125(7) Liability.

a. Any person who knowingly violates any requirement or prohibition of the acid rain program, a complete acid rain permit application, an acid rain permit, or a written exemption under rules 22.123(455B) or 22.124(455B), including any requirement for the payment of any penalty owed to the United States, shall be subject to enforcement by the administrator pursuant to Section 113(c) of the Act and by the department pursuant to Iowa Code section 455B.146.

b. Any person who knowingly makes a false, material statement in any record, submission, or report under the acid rain program shall be subject to criminal enforcement by the administrator pursuant to Section 113(c) of the Act and 18 U.S.C. 1001 and by the department pursuant to Iowa Code section 455B.146.

c. No permit revision shall excuse any violation of the requirements of the acid rain program that occurs prior to the date that the revision takes effect.

d. Each affected source and each affected unit shall meet the requirements of the acid rain program.

e. Any provision of the acid rain program that applies to an affected source (including a provision applicable to the designated representative of an affected source) shall also apply to the owners and operators of such source and of the affected units at the source.

f. Any provision of the acid rain program that applies to an affected unit (including a provision applicable to the designated representative of an affected unit) shall also apply to the owners and operators of such unit. Except as provided under rule 22.132(455B) (Phase II repowering extension plans), Section 407 of the Act and regulations implementing Section 407 of the Act, and except with regard to the requirements applicable to units with a common stack under rule 567—25.2(455B), the owners and operators and the designated representative of one affected unit shall not be liable for any violation by any other affected unit of which they are not owners or operators or the designated representative and that is located at a source of which they are not owners or operators or the designated representative.

g. Each violation of a provision of rules 22.120(455B) to 22.147(455B) and 40 CFR Parts 72, 75, 77, 78 as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998, and regulations implementing Sections 407 and 410 of the Act by an affected source or affected unit, or by an owner or operator or designated representative of such source or unit, shall be a separate violation of the Act.

22.125(8) Effect on other authorities. No provision of the acid rain program, an acid rain permit application, an acid rain permit, or a written exemption under rule 22.123(455B) or 22.124(455B) shall be construed as:

a. Except as expressly provided in Title IV of the Act, exempting or excluding the owners and operators and, to the extent applicable, the designated representative of an affected source or affected unit from compliance with any other provision of the Act, including the provisions of Title I of the Act relating to applicable National Ambient Air Quality Standards or State Implementation Plans;

b. Limiting the number of allowances a unit can hold; provided that the number of allowances held by the unit shall not affect the source's obligation to comply with any other provisions of the Act;

c. Requiring a change of any kind in any state law regulating electric utility rates and charges, affecting any state law regarding such state rule, or limiting such state rule, including any prudence review requirements under such state law;

d. Modifying the Federal Power Act or affecting the authority of the Federal Energy Regulatory Commission under the Federal Power Act; or

e. Interfering with or impairing any program for competitive bidding for power supply in a state in which such program is established.

567—22.126(455B) Designated representative—submissions.

22.126(1) The designated representative shall submit a certificate of representation, and any superseding certificate of representation, to the administrator in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997, and, concurrently, shall submit a copy to the department. Whenever the term “designated representative” is used in this rule, the term shall be construed to include the alternate designated representative.

22.126(2) Each submission under the acid rain program shall be submitted, signed, and certified by the designated representative for all sources on behalf of which the submission is made.

22.126(3) In each submission under the acid rain program, the designated representative shall certify by signature:

a. The following statement, which shall be included verbatim in such submission: “I am authorized to make this submission on behalf of the owners and operators of the affected source or affected units for which the submission is made.”

b. The following statement, which shall be included verbatim in such submission: “I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.”

22.126(4) The department will accept or act on a submission made on behalf of owners or operators of an affected source and an affected unit only if the submission has been made, signed, and certified in accordance with subrules 22.126(2) and 22.126(3).

22.126(5) The designated representative of a source shall serve notice on each owner and operator of the source and of an affected unit at the source:

a. By the date of submission, of any acid rain program submissions by the designated representative;

b. Within ten business days of receipt of a determination, of any written determination by the administrator or the department; and

c. Provided that the submission or determination covers the source or the unit.

22.126(6) The designated representative of a source shall provide each owner and operator of an affected unit at the source a copy of any submission or determination under subrule 22.126(5), unless the owner or operator expressly waives the right to receive such a copy.

567—22.127(455B) Designated representative—objections.

22.127(1) Except as provided in 40 CFR 72.23 as amended through January 11, 1993, no objection or other communication submitted to the administrator or the department concerning the authorization, or any submission, action or inaction, of the designated representative shall affect any submission, action, or inaction of the designated representative, or the finality of any decision by the department, under the acid rain program. In the event of such communication, the department is not required to stay any submission or the effect of any action or inaction under the acid rain program.

22.127(2) The department will not adjudicate any private legal dispute concerning the authorization or any submission, action, or inaction of any designated representative, including private legal disputes concerning the proceeds of allowance transfers.

567—22.128(455B) Acid rain applications—requirement to apply.

22.128(1) Duty to apply. The designated representative of any source with an affected unit shall submit a complete acid rain permit application by the applicable deadline in subrules 22.128(2) and 22.128(3), and the owners and operators of such source and any affected unit at the source shall not operate the source or unit without a permit that states its acid rain program requirements.

22.128(2) Deadlines.

a. For any source with an existing unit described under paragraph 22.122(1)“*b*,” the designated representative shall submit a complete acid rain permit application governing such unit to the department on or before January 1, 1996.

b. For any source with a new unit described under subparagraph 22.122(1)“*c*”(1), the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the later of January 1, 2000, or the date on which the unit commences operation.

c. For any source with a unit described under subparagraph 22.122(1)“*c*”(2), the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the later of January 1, 2000, or the date on which the unit begins to serve a generator with a nameplate capacity greater than 25 MWe.

d. For any source with a unit described under subparagraph 22.122(1)“*c*”(3), the designated representative shall submit a complete acid rain permit application governing such unit to the department at least 24 months before the later of January 1, 2000, or the date on which the auxiliary firing commences operation.

e. For any source with a unit described under subparagraph 22.122(1)“*c*”(4), the designated representative shall submit a complete acid rain permit application governing such unit to the department before the later of January 1, 1998, or March 1 of the year following the three-calendar-year period in which the unit sold to a utility power distribution system an annual average of more than one-third of its potential electrical output capacity and more than 219,000 MWe-hrs actual electric output (on a gross basis).

f. For any source with a unit described under subparagraph 22.122(1)“*c*”(5), the designated representative shall submit a complete acid rain permit application governing such unit to the department before the later of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of qualifying facility.

g. For any source with a unit described under subparagraph 22.122(1)“*c*”(6), the designated representative shall submit a complete acid rain permit application governing such unit to the department before the later of January 1, 1998, or March 1 of the year following the calendar year in which the facility fails to meet the definition of an independent power production facility.

h. For any source with a unit described under subparagraph 22.122(1)“*c*”(7), the designated representative shall submit a complete acid rain permit application governing such unit to the department before the later of January 1, 1998, or March 1 of the year following the three-calendar-year period in which the incinerator consumed 20 percent or more fossil fuel (on a Btu basis).

i. For a Phase II unit with a Group 1 or a Group 2 boiler, the designated representative shall submit a complete permit application and compliance plan for NO_x emissions to the department no later than January 1, 1998.

22.128(3) Duty to reapply. The designated representative shall submit a complete acid rain permit application for each source with an affected unit at least six months prior to the expiration of an existing acid rain permit governing the unit.

22.128(4) Submission of copies. The original and four copies of all permit applications shall be presented or mailed to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322.

567—22.129(455B) Information requirements for acid rain permit applications. A complete acid rain permit application shall be submitted on a form approved by the department, which includes the following elements:

- 22.129(1)** Identification of the affected source for which the permit application is submitted;
- 22.129(2)** Identification of each affected unit at the source for which the permit application is submitted;
- 22.129(3)** A complete compliance plan for each unit, in accordance with rules 22.131(455B) and 22.132(455B);
- 22.129(4)** The standard requirements under rule 22.125(455B); and
- 22.129(5)** If the unit is a new unit, the date that the unit has commenced or will commence operation and the deadline for monitor certification.

567—22.130(455B) Acid rain permit application shield and binding effect of permit application.

22.130(1) Once a designated representative submits a timely and complete acid rain permit application, the owners and operators of the affected source and the affected units covered by the permit application shall be deemed in compliance with the requirement to have an acid rain permit under paragraph 22.125(1)“*b*” and subrule 22.128(1); provided that any delay in issuing an acid rain permit is not caused by the failure of the designated representative to submit in a complete and timely fashion supplemental information, as required by the department, necessary to issue a permit.

22.130(2) Prior to the date on which an acid rain permit is issued as a final agency action subject to judicial review, an affected unit governed by and operated in accordance with the terms and requirements of a timely and complete acid rain permit application shall be deemed to be operating in compliance with the acid rain program.

22.130(3) A complete acid rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an acid rain permit from the date of submission of the permit application until the issuance or denial of such permit as a final agency action subject to judicial review.

567—22.131(455B) Acid rain compliance plan and compliance options—general.

22.131(1) For each affected unit included in an acid rain permit application, a complete compliance plan shall include:

a. For sulfur dioxide emissions, a certification that, as of the allowance transfer deadline, the designated representative will hold allowances in the unit’s compliance subaccount (after deductions under 40 CFR 73.34(c) as amended through April 4, 1995) not less than the total annual emissions of sulfur dioxide from the unit. The compliance plan may also specify, in accordance with rule 22.131(455B), one or more of the acid rain compliance options.

b. For nitrogen oxides emissions, a certification that the unit will comply with the applicable limitation established by subrule 22.125(4) or shall specify one or more acid rain compliance options, in accordance with Section 407 of the Act, and 40 CFR Sections 76.9 amended through April 13, 1995, and 76.16 amended through December 19, 1996.

22.131(2) The compliance plan may include a multiunit compliance option under rule 22.132(455B) or Section 407 of the Act or regulations implementing Section 407.

a. A plan for a compliance option that includes units at more than one affected source shall be complete only if:

(1) Such plan is signed and certified by the designated representative for each source with an affected unit governed by such plan; and

(2) A complete permit application is submitted covering each unit governed by such plan.

b. The department's approval of a plan under paragraph 22.131(2)"*a*" that includes units in more than one state shall be final only after every permitting authority with jurisdiction over any such unit has approved the plan with the same modifications or conditions, if any.

22.131(3) Conditional approval. In the compliance plan, the designated representative of an affected unit may propose, in accordance with rules 22.131(455B) and 22.132(455B), any acid rain compliance option for conditional approval; provided that an acid rain compliance option under Section 407 of the Act may be conditionally proposed only to the extent provided in regulations implementing Section 407 of the Act.

a. To activate a conditionally approved acid rain compliance option, the designated representative shall notify the department in writing that the conditionally approved compliance option will actually be pursued beginning January 1 of a specified year. If the conditionally approved compliance option includes a plan described in paragraph 22.131(2)"*a*," the designated representative of each source governed by the plan shall sign and certify the notification. Such notification shall be subject to the limitations on activation under rule 22.132(455B) and regulations implementing Section 407 of the Act.

b. The notification under paragraph 22.131(3)"*a*" shall specify the first calendar year and the last calendar year for which the conditionally approved acid rain compliance option is to be activated. A conditionally approved compliance option shall be activated, if at all, before the date of any enforceable milestone applicable to the compliance option. The date of activation of the compliance option shall not be a defense against failure to meet the requirements applicable to that compliance option during each calendar year for which the compliance option is activated.

c. Upon submission of a notification meeting the requirements of paragraphs 22.131(3)"*a*" and "*b*," the conditionally approved acid rain compliance option becomes binding on the owners and operators and the designated representative of any unit governed by the conditionally approved compliance option.

d. A notification meeting the requirements of paragraphs 22.131(3)"*a*" and "*b*" will revise the unit's permit in accordance with rule 22.143(455B) (administrative permit amendment).

22.131(4) Termination of compliance option.

a. The designated representative for a unit may terminate an acid rain compliance option by notifying the department in writing that an approved compliance option will be terminated beginning January 1 of a specified year. Such notification shall be subject to the limitations on termination under rule 22.132(455B) and regulations implementing Section 407 of the Act. If the compliance option includes a plan described in paragraph 22.131(2)"*a*," the designated representative for each source governed by the plan shall sign and certify the notification.

b. The notification under paragraph 22.131(4)"*a*" shall specify the calendar year for which the termination will take effect.

c. Upon submission of a notification meeting the requirements of paragraphs 22.131(4)“a” and “b,” the termination becomes binding on the owners and operators and the designated representative of any unit governed by the acid rain compliance option to be terminated.

d. A notification meeting the requirements of paragraphs 22.131(4)“a” and “b” will revise the unit’s permit in accordance with rule 22.143(455B) (administrative permit amendment).

567—22.132(455B) Repowering extensions. Rescinded IAB 4/8/98, effective 5/13/98.

567—22.133(455B) Acid rain permit contents—general.

22.133(1) Each acid rain permit (including any draft acid rain permit) will contain the following elements:

a. All elements required for a complete acid rain permit application under rule 22.129(455B), as approved or adjusted by the department;

b. The applicable acid rain emissions limitation for sulfur dioxide; and

c. The applicable acid rain emissions limitation for nitrogen oxides.

22.133(2) Each acid rain permit is deemed to incorporate the definitions of terms under rule 22.120(455B).

567—22.134(455B) Acid rain permit shield. Each affected unit operated in accordance with the acid rain permit that governs the unit and that was issued in compliance with Title IV of the Act, as provided in rules 22.120(455B) to 22.146(455B), rule 567—25.2(455B), or 40 CFR Parts 72, 75, 77, 78 as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998, and the regulations implementing Section 407 of the Act, shall be deemed to be operating in compliance with the acid rain program, except as provided in paragraph 22.125(7) “f.”

567—22.135(455B) Acid rain permit issuance procedures—general. The department will issue or deny all acid rain permits in accordance with rules 22.100(455B) to 22.116(455B), including the completeness determination, draft permit, administrative record, statement of basis, public notice and comment period, public hearing, proposed permit, permit issuance, permit revision, and appeal procedures as amended by rules 22.135(455B) to 22.145(455B).

567—22.136(455B) Acid rain permit issuance procedures—completeness. The department will submit a written notice of application completeness to the administrator within ten working days following a determination by the department that the acid rain permit application is complete.

567—22.137(455B) Acid rain permit issuance procedures—statement of basis.

22.137(1) The statement of basis will briefly set forth significant factual, legal, and policy considerations on which the department relied in issuing or denying the draft acid rain permit.

22.137(2) The statement of basis will include the reasons, and supporting authority, for approval or disapproval of any compliance options requested in the permit application, including references to applicable statutory or regulatory provisions and to the administrative record.

22.137(3) The department will submit to the administrator a copy of the draft acid rain permit and the statement of basis and all other relevant portions of the Title V operating permit that may affect the draft acid rain permit.

567—22.138(455B) Issuance of acid rain permits.

22.138(1) Proposed permit. After the close of the public comment and EPA 45-day review period (pursuant to subrules 22.107(6) and 22.107(7)), the department will address any objections by the administrator, incorporate all necessary changes and issue or deny the acid rain permit.

22.138(2) The department will submit the proposed acid rain permit or denial of a proposed acid rain permit to the administrator in accordance with rules 22.100(455B) to 22.116(455B), the provisions of which shall be treated as applying to the issuance or denial of a proposed acid rain permit.

22.138(3) Following the administrator's review of the proposed acid rain permit or denial of a proposed acid rain permit, the department, or under 40 CFR 70.8(c) as amended to July 21, 1992, the administrator, will incorporate any required changes and issue or deny the acid rain permit in accordance with rules 22.133(455B) and 22.134(455B).

22.138(4) No acid rain permit including a draft or proposed permit shall be issued unless the administrator has received a certificate of representation for the designated representative of the source in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997.

22.138(5) Permit issuance deadline and effective date.

a. On or before December 31, 1997, the department will issue an acid rain permit to each affected source whose designated representative submitted a timely and complete acid rain permit application by January 1, 1996, in accordance with rule 22.126(455B) and meets the requirements of rules 22.135(455B) to 22.139(455B) and rules 22.100(455B) to 22.116(455B).

b. Nitrogen oxides. Not later than January 1, 1999, the department will reopen the acid rain permit to add the acid rain program nitrogen oxides requirements; provided that the designated representative of the affected source submitted a timely and complete acid rain permit application for nitrogen oxides in accordance with rule 22.126(455B). Such reopening shall not affect the term of the acid rain portion of a Title V operating permit.

c. Each acid rain permit issued in accordance with paragraph 22.138(5) "a" shall take effect by the later of January 1, 2000, or, where the permit governs a unit under paragraph 22.122(1) "c," the deadline for monitor certification under rule 567—25.2(455B).

d. Each acid rain permit shall have a term of five years commencing on its effective date.

e. An acid rain permit shall be binding on any new owner or operator or designated representative of any source or unit governed by the permit.

22.138(6) Each acid rain permit shall contain all applicable acid rain requirements, shall be a portion of the Title V operating permit that is complete and segregable from all other air quality requirements, and shall not incorporate information contained in any other documents, other than documents that are readily available.

22.138(7) Invalidation of the acid rain portion of a Title V operating permit shall not affect the continuing validity of the rest of the Title V operating permit, nor shall invalidation of any other portion of the Title V operating permit affect the continuing validity of the acid rain portion of the permit.

567—22.139(455B) Acid rain permit appeal procedures.

22.139(1) Appeals of the acid rain portion of a Title V operating permit issued by the department that do not challenge or involve decisions or actions of the administrator under 40 CFR Parts 72, 75, 77, 78 as amended through October 24, 1997, 73 as amended through September 28, 1998, and 76 as amended through May 1, 1998, and Sections 407 and 410 of the Act and regulations implementing Sections 407 and 410 shall be conducted according to the procedures in Iowa Code chapter 17A and 561—Chapter 7, as adopted by reference at 567—Chapter 7. Appeals of the acid rain portion of such a permit that challenge or involve such decisions or actions of the administrator shall follow the procedures under 40 CFR Part 78 as amended through October 24, 1997, and Section 307 of the Act. Such decisions or actions include, but are not limited to, allowance allocations, determinations concerning alternative monitoring systems, and determinations of whether a technology is a qualifying repowering technology.

22.139(2) No administrative appeal or judicial appeal of the acid rain portion of a Title V operating permit shall be allowed more than 30 days following respective issuance of the acid rain portion of the permit that is subject to administrative appeal or issuance of the final agency action subject to judicial appeal.

22.139(3) The administrator may intervene as a matter of right in any state administrative appeal of an acid rain permit or denial of an acid rain permit.

22.139(4) No administrative appeal concerning an acid rain requirement shall result in a stay of the following requirements:

a. The allowance allocations for any year during which the appeal proceeding is pending or is being conducted;

b. Any standard requirement under rule 22.125(455B);

c. The emissions monitoring and reporting requirements applicable to the affected units at an affected source under rule 567—25.2(455B);

d. Uncontested provisions of the decision on appeal; and

e. The terms of a certificate of representation submitted by a designated representative under Subpart B of 40 CFR Part 72 as amended through October 24, 1997.

22.139(5) The department will serve written notice on the administrator of any state administrative or judicial appeal concerning an acid rain provision of any Title V operating permit or denial of an acid rain portion of any Title V operating permit within 30 days of the filing of the appeal.

22.139(6) The department will serve written notice on the administrator of any determination or order in a state administrative or judicial proceeding that interprets, modifies, voids, or otherwise relates to any portion of an acid rain permit. Following any such determination or order, the administrator will have an opportunity to review and veto the acid rain permit or revoke the permit for cause in accordance with subrules 22.107(7) and 22.107(8).

567—22.140(455B) Permit revisions—general.

22.140(1) Rules 22.140(455B) to 22.145(455B) shall govern revisions to any acid rain permit issued by the department.

22.140(2) A permit revision may be submitted for approval at any time. No permit revision shall affect the term of the acid rain permit to be revised. No permit revision shall excuse any violation of an acid rain program requirement that occurred prior to the effective date of the revision.

22.140(3) The terms of the acid rain permit shall apply while the permit revision is pending.

22.140(4) Any determination or interpretation by the state (including the department or a state court) modifying or voiding any acid rain permit provision shall be subject to review by the administrator in accordance with 40 CFR 70.8(c) as amended to July 21, 1992, as applied to permit modifications, unless the determination or interpretation is an administrative amendment approved in accordance with rule 22.143(455B).

22.140(5) The standard requirements of rule 22.125(455B) shall not be modified or voided by a permit revision.

22.140(6) Any permit revision involving incorporation of a compliance option that was not submitted for approval and comment during the permit issuance process, or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for such compliance option under rule 22.132(455B) and Section 407 of the Act and regulations implementing Section 407 of the Act.

22.140(7) For permit revisions not described in rules 22.141(455B) and 22.142(455B), the department may, in its discretion, determine which of these rules is applicable.

567—22.141(455B) Permit modifications.

22.141(1) Permit modifications shall follow the permit issuance requirements of rules 22.135(455B) to 22.139(455B) and subrules 22.113(2) and 22.113(3).

22.141(2) For purposes of applying subrule 22.141(1), a permit modification shall be treated as an acid rain permit application, to the extent consistent with rules 22.140(455B) to 22.145(455B).

22.141(3) The following permit revisions are permit modifications:

- a. Relaxation of an excess emission offset requirement after approval of the offset plan by the administrator;
- b. Incorporation of a final nitrogen oxides alternative emissions limitation following a demonstration period;
- c. Determinations concerning failed repowering projects under subrule 22.132(6); and
- d. At the option of the designated representative submitting the permit revision, the permit revisions listed in subrule 22.142(2).

567—22.142(455B) Fast-track modifications.

22.142(1) Fast-track modifications shall follow the following procedures:

a. The designated representative shall serve a copy of the fast-track modification on the administrator, the department, and any person entitled to a written notice under subrules 22.107(6) and 22.107(7). Within five business days of serving such copies, the designated representative shall also give public notice by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice.

b. The public shall have a period of 30 days, commencing on the date of publication of the notice, to comment on the fast-track modification. Comments shall be submitted in writing to the air quality bureau of the department and to the designated representative.

c. The designated representative shall submit the fast-track modification to the department on or before commencement of the public comment period.

d. Within 30 days of the close of the public comment period, the department will consider the fast-track modification and the comments received and approve, in whole or in part or with changes or conditions as appropriate, or disapprove the modification. A fast-track modification shall be effective immediately upon issuance, in accordance with subrule 22.113(2) as applied to significant modifications.

22.142(2) The following permit revisions are, at the option of the designated representative submitting the permit revision, either fast-track modifications under this rule or permit modifications under rule 22.141(455B):

- a.* Incorporation of a compliance option that the designated representative did not submit for approval and comment during the permit issuance process;
- b.* Addition of a nitrogen oxides averaging plan to a permit; and
- c.* Changes in a repowering plan, nitrogen oxides averaging plan, or nitrogen oxides compliance deadline extension.

567—22.143(455B) Administrative permit amendment.

22.143(1) Administrative amendments shall follow the procedures set forth at rule 22.111(455B). The department will submit the revised portion of the permit to the administrator within ten working days after the date of final action on the request for an administrative amendment.

22.143(2) The following permit revisions are administrative amendments:

- a.* Activation of a compliance option conditionally approved by the department; provided that all requirements for activation under subrule 22.131(3) and rule 22.132(455B) are met;
- b.* Changes in the designated representative or alternative designated representative; provided that a new certificate of representation is submitted to the administrator in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997;
- c.* Correction of typographical errors;
- d.* Changes in names, addresses, or telephone or facsimile numbers;
- e.* Changes in the owners or operators; provided that a new certificate of representation is submitted within 30 days to the administrator and the department in accordance with Subpart B of 40 CFR Part 72 as amended through October 24, 1997;
- f.* Termination of a compliance option in the permit; provided that all requirements for termination under subrule 22.131(4) shall be met and this procedure shall not be used to terminate a repowering plan after December 31, 1999;
- g.* Changes in the date, specified in a new unit's acid rain permit, of commencement of operation or the deadline for monitor certification; provided that they are in accordance with rule 22.125(455B);
- h.* The addition of or change in a nitrogen oxides alternative emissions limitation demonstration period; provided that the requirements of regulations implementing Section 407 of the Act are met; and
- i.* Incorporation of changes that the administrator has determined to be similar to those in paragraphs "a" through "h" of this subrule.

567—22.144(455B) Automatic permit amendment. The following permit revisions shall be deemed to amend automatically, and become a part of the affected unit's acid rain permit by operation of law without any further review:

22.144(1) Upon recordation by the administrator under 40 CFR Part 73 as amended through September 28, 1998, all allowance allocations to, transfers to, and deductions from an affected unit's allowance tracking system account; and

22.144(2) Incorporation of an offset plan that has been approved by the administrator under 40 CFR Part 77 as amended through October 24, 1997.

567—22.145(455B) Permit reopenings.

22.145(1) As provided in rule 22.114(455B), the department will reopen an acid rain permit for cause, including whenever additional requirements become applicable to any affected unit governed by the permit.

22.145(2) In reopening an acid rain permit for cause, the department will issue a draft permit changing the provisions, or adding the requirements, for which the reopening was necessary. The draft permit shall be subject to the requirements of rules 22.135(455B) to 22.139(455B).

22.145(3) Any reopening of an acid rain permit shall not affect the term of the permit.

567—22.146(455B) Compliance certification—annual report.

22.146(1) Applicability and deadline. For each calendar year in which a unit is subject to the acid rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the administrator and the department, within 60 days after the end of the calendar year, an annual compliance certification report for the unit in compliance with 40 CFR 72.90 as amended through October 24, 1997.

22.146(2) The submission of complete compliance certifications in accordance with subrule 22.146(1) and rule 567—25.2(455B) shall be deemed to satisfy the requirement to submit compliance certifications under paragraph 22.108(15) “e” with regard to the acid rain portion of the source’s Title V operating permit.

567—22.147(455B) Compliance certification—units with repowering extension plans. Re-scinded IAB 4/8/98, effective 5/13/98.

567—22.148(455B) Sulfur dioxide opt-ins. The department adopts by reference the provisions of 40 CFR Part 74, Acid Rain Opt-Ins, as amended through April 4, 1995.

567—22.149 to 22.199 Reserved.

567—22.200(455B) Definitions for voluntary operating permits. For the purposes of rules 22.200(455B) to 22.208(455B), the definitions shall be the same as the definitions found at rule 22.100(455B).

567—22.201(455B) Eligibility for voluntary operating permits.

22.201(1) Except as provided in 567—subrules 22.201(2) and 22.205(2), any person who owns or operates a major source otherwise required to obtain a Title V operating permit may instead obtain a voluntary operating permit following successful demonstration of the following:

a. That the potential to emit, as limited by the conditions of air quality permits obtained from the department, of each regulated air pollutant shall be limited to less than 100 tons per 12-month rolling period. The fugitive emissions of each regulated air pollutant from a stationary source shall not be considered in determining the potential to emit unless the source belongs to one of the stationary source categories listed in this chapter; and

b. That the actual emissions of each regulated air pollutant have been and are predicted to be less than 100 tons per 12-month rolling period. The fugitive emissions of each regulated air pollutant from a stationary source shall not be considered in determining the actual emissions unless the source belongs to one of the stationary source categories listed in this chapter; and

c. That the potential to emit of each regulated hazardous air pollutant, including fugitive emissions, shall be less than 10 tons per 12-month rolling period and the potential to emit of all regulated hazardous air pollutants, including fugitive emissions, shall be less than 25 tons per 12-month rolling period; and

d. That the actual emissions of each regulated hazardous air pollutant, including fugitive emissions, have been and are predicted to be less than 10 tons per 12-month rolling period and the actual emissions of all regulated hazardous air pollutants, including fugitive emissions, have been and are predicted to be less than 25 tons per 12-month rolling period.

22.201(2) Exceptions.

a. Any affected source subject to the provisions of Title IV of the Act or sources required to obtain a Title V operating permit under paragraph 22.101(1)“e” or any solid waste incinerator unit required to obtain a Title V operating permit under Section 129(e) of the Act is not eligible for a voluntary operating permit.

b. Sources which are not major sources but subject to a standard or other requirement under 567—subrule 23.1(2) (standards of performance for new stationary sources) or Section 111 of the Act; or 567—subrule 23.1(3) (emissions standards for hazardous air pollutants), 567—subrule 23.1(4) (emissions standards for hazardous air pollutants for source categories) or Section 112 of the Act are eligible for a voluntary operating permit. These sources shall be required to obtain a Title V operating permit when the deferment period specified in 567—subrule 22.101(2) has expired or no longer applies.

567—22.202(455B) Requirement to have a Title V permit. No source may operate after the time that it is required to submit a timely and complete application for an operating permit, except in compliance with a properly issued Title V operating permit or a properly issued voluntary operating permit or operating permit by rule for small sources. However, if a source submits a timely and complete application for permit issuance (including renewal), the source’s failure to have a permit is not a violation of this chapter until the director takes final action on the permit application, except as noted in this rule. In that case, all terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the director, any additional information identified as being needed to process the application.

567—22.203(455B) Voluntary operating permit applications.

22.203(1) Duty to apply. Any source which would qualify for a voluntary operating permit and which would not qualify under the provisions of rule 22.300(455B), Operating permit by rule for small sources, must apply for either a voluntary operating permit or a Title V operating permit. Any source determined not to be eligible for a voluntary operating permit shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in rule 22.202(455B) and rule 22.300(455B). For each source applying for a voluntary operating permit, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, an original and one copy of a timely and complete permit application in accordance with this rule.

a. Timely application. Each source applying for a voluntary operating permit shall submit an application:

(1) By July 1, 1996, if the source is existing on or before July 1, 1995, unless otherwise required to obtain a Title V permit under rule 22.101(455B);

(2) At least 6 months but not more than 12 months prior to the date of expiration if the application is for renewal;

(3) Within 12 months of becoming subject to rule 22.101(455B) for a new source or a source which would otherwise become subject to the Title V permit requirement after July 1, 1995.

b. Complete application. To be deemed complete, an application must provide all information required pursuant to subrule 22.203(2).

c. Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to the issuance of a permit. Applicants who have filed a complete application shall have 30 days following notification by the department to file any amendments to the application.

d. Certification of truth, accuracy, and completeness. Any application form, report, or compliance certification submitted pursuant to these rules shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under these rules shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

22.203(2) Standard application form and required information. To apply for a voluntary operating permit, applicants shall complete the Voluntary Operating Permit Application Form and supply all information required by the Filing Instructions. The information submitted must be sufficient to evaluate the source, its application, predicted actual emissions from the source, and the potential to emit of the source; and to determine all applicable requirements. The applicant shall submit the information called for by the application form for all emissions units, including those having insignificant activities according to the provisions of rules 22.102(455B) and 22.103(455B). The standard application form and any attachments shall require that the following information be provided:

a. Identifying information, including company name and address (or plant or source name if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact;

b. A description of source processes and products (by two-digit Standard Industrial Classification Code);

c. The following emissions-related information shall be submitted to the department on the emissions inventory portion of the application:

(1) All emissions of any regulated air pollutants from each emissions unit and information sufficient to determine which requirements are applicable to the source;

(2) Emissions in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method, if any;

(3) The following information to the extent it is needed to determine or regulate emissions, including toxic emissions: fuels, fuel use, raw materials, production rates and operating schedules;

(4) Identification and description of air pollution control equipment;

(5) Identification and description of compliance monitoring devices or activities;

(6) Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants;

(7) Other information required by any applicable requirement; and

(8) Calculations on which the information in (1) to (7) above is based.

(9) Fugitive emissions sources shall be included in the permit application in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

d. Requested permit conditions sufficient to limit the operation of the source according to the requirements of rule 22.201(455B).

e. Requirements for compliance certification. This shall include the following:

- (1) Certification of compliance for the prior year with all applicable requirements with an exception for violations of subrules 22.1(1) and 22.105(1);
- (2) A list of the emission points, control equipment, and emission units in violation of subrule 22.1(1);
- (3) Construction permit applications for emission points and associated equipment listed in subparagraph 22.203(2)“*e*”(2); and
- (4) Compliance certification certified by a responsible official consistent with 22.203(1)“*d*.”

567—22.204(455B) Voluntary operating permit fees. Each source in compliance with a current voluntary operating permit shall be exempt from Title V operating permit fees.

567—22.205(455B) Voluntary operating permit processing procedures.

22.205(1) Action on application.

a. Completeness of applications. The department shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. If, while processing an application that has been determined to be complete, the permitting authority determines that additional information is necessary to evaluate or take formal action on that application, the permitting authority may request in writing such information and set a reasonable deadline for a response.

b. Public notice and public participation.

- (1) The department shall provide public notice and an opportunity for public comment, including an opportunity for a hearing, before issuing or renewing a permit.
- (2) Notice of the intended issuance or renewal of a permit shall be given by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice. The department shall also provide the administrator a copy of the notice. The department may use other means if necessary to ensure adequate notice to the affected public.
- (3) The public notice shall include: identification of the source; name and address of the permittee; the activity or activities involved in the permit action; the air pollutants or contaminants to be emitted; a statement that a public hearing may be requested, or the time and place of any public hearing which has been set; the name, address, and telephone number of a department representative who may be contacted for further information; and the location of copies of the permit application and the proposed permit which are available for public inspection.
- (4) At least 30 days shall be provided for public comment.

22.205(2) Denial of voluntary operating permit applications.

a. A voluntary operating permit application may be denied if:

- (1) The director finds that a source is not in compliance with any applicable requirement except for subrule 22.1(1); or
- (2) An applicant knowingly submits false information in a permit application.
- (3) An applicant is unable to certify that the source was in compliance with all applicable requirements, except for subrule 22.1(1), for the year preceding the application.

b. Once agency action has occurred denying a voluntary operating permit, the source shall apply for a Title V operating permit. Any source determined not to be eligible for a voluntary operating permit shall be subject to enforcement action for operating without a Title V operating permit pursuant to rule 22.104(455B).

567—22.206(455B) Permit content.

22.206(1) Each voluntary operating permit shall include all of the following provisions:

- a.* The terms and conditions required for all sources authorized to operate under the permit;
- b.* Emission limitations and standards, including those operational requirements and limitations that ensure compliance with all applicable requirements at the time of the permit issuance;
- c.* A certified statement from the source that each emissions unit is in compliance;
- d.* Monitoring, record keeping, and reporting requirements to ensure compliance with the terms and conditions of the permit. These requirements shall ensure the use of consistent terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable emissions limitations, standards, and other requirements contained in the permit;
- e.* The requirement to submit the results of any required monitoring at intervals to be specified in the permit;
- f.* References to the authority for the term or condition;
- g.* A provision specifying permit duration as a fixed term not to exceed five years;
- h.* A statement that the voluntary operating permit is to be kept at the site of the source;
- i.* A statement that the permittee must comply with all conditions of the voluntary operating permit and that any permit noncompliance is grounds for enforcement action, for a permit termination or revocation, and for an immediate requirement to obtain a Title V operating permit;
- j.* A statement that 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 the permit;
- k.* A statement that the permit may be revoked or terminated for cause;
- l.* A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;
- m.* A statement that the permittee shall furnish to the director, within a reasonable time, any information that the director may request in writing to determine whether cause exists for revoking or terminating the permit or to determine compliance with the permit; and that, upon request, the permittee also shall furnish to the director copies of records required by the permit to be kept.

22.206(2) The following shall apply to voluntary operating permits:

- a.* Fugitive emissions from a source shall be included in the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.
- b.* Federally enforceable requirements.
 - (1) All terms and conditions in a voluntary operating permit, including any provisions designed to limit a source's potential to emit, are enforceable by the administrator and citizens under the Act.
 - (2) Notwithstanding paragraph "a" of this subrule, the director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.

c. All emission limitations, all controls, and all other requirements included in a voluntary permit shall be at least as stringent as any other applicable limitation or requirement in the state implementation plan or enforceable as a practical matter under the state implementation plan. For the purposes of this paragraph, “enforceable as a practical matter under the state implementation plan” shall mean that the provisions of the permit shall specify technically accurate limitations and the portions of the source subject to each limitation; the time period for the limitation (hourly, daily, monthly, annually); and the method to determine compliance including appropriate monitoring, record keeping and reporting.

d. The director shall not issue a voluntary operating permit that waives any limitation or requirement contained in or issued pursuant to the state implementation plan or that is otherwise federally enforceable.

e. The limitations, controls, and requirements in a voluntary operating permit shall be permanent, quantifiable, and otherwise enforceable.

f. Emergency provisions. For the purposes of a voluntary operating permit, an “emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

567—22.207(455B) Relation to construction permits.

22.207(1) *Construction permits issued after the voluntary operating permit is issued.* If the issuance of a construction permit acts to make the source no longer eligible for a voluntary operating permit, then the source shall, in accordance with subparagraph 22.105(1) “a”(6), not operate without a Title V operating permit, and the source shall be subject to enforcement action for operating without a Title V operating permit.

22.207(2) *Relation of construction permits to voluntary operating permit renewal.* At the time of renewal of a voluntary operating permit, the conditions of construction permits issued during the term of the voluntary operating permit shall be incorporated into the voluntary operating permit. Each application for renewal of a voluntary operating permit shall include a list of construction permits issued during the term of the voluntary operating permit and shall state the effect of each of these construction permits on the conditions of the voluntary operating permit. Applications for renewal shall be accompanied by copies of all construction permits issued during the term of the voluntary operating permit.

567—22.208(455B) Suspension, termination, and revocation of voluntary operating permits.

22.208(1) Permits may be terminated, modified, revoked or reissued for cause. The following examples shall be considered cause for the suspension, modification, revocation, or reissuance of a voluntary permit:

a. The director has reasonable cause to believe that the permit was obtained by fraud or misrepresentation.

b. The person applying for the permit failed to disclose a material fact required by the permit application form or the rules applicable to the permit, of which the applicant had or should have had knowledge at the time the application was submitted.

- c. The terms and conditions of the permit have been or are being violated.
- d. The permittee has failed to pay an administrative, civil or criminal penalty for violations of the permit.

22.208(2) If the director suspends, terminates or revokes a voluntary permit under this rule, the notice of such action shall be served on the applicant or permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the action sought, and the proceeding shall in all other respects comply with the requirements of rule 561—7.16(17A,455A).

567—22.209 to 22.299 Reserved.

567—22.300(455B) Operating permit by rule for small sources. Except as provided in 567—subrules 22.201(2) and 22.300(11), any source which otherwise would be required to obtain a Title V operating permit may instead register for an operation permit by rule for small sources. Sources which comply with the requirements contained in this rule will be deemed to have an operating permit by rule for small sources. Sources which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source thresholds for regulated air pollutants and hazardous air pollutants as defined in 567—22.100(455B).

22.300(1) Definitions for operating permit by rule for small sources. For the purposes of rule 22.300(455B), the definitions shall be the same as the definitions found at rule 22.100(455B).

22.300(2) Registration for operating permit by rule for small sources.

a. Except as provided in subrules 22.300(3) and 22.300(11), any person who owns or operates a stationary source and meets the following criteria may register for an operating permit by rule for small sources:

(1) The potential to emit air contaminants is equal to or in excess of the threshold for a major stationary source of regulated air pollutants or hazardous air pollutants, and

(2) For every 12-month rolling period, the actual emissions of the stationary source are less than or equal to the emission limitations specified in subrule 22.300(6).

b. Eligibility for an operating permit by rule for small sources does not eliminate the source's responsibility to meet any and all applicable federal requirements including, but not limited to, a maximum achievable control technology (MACT) standard.

c. Nothing in this rule shall prevent any stationary source which has had a Title V operating permit or a voluntary operating permit from qualifying to comply with this rule in the future in lieu of maintaining an application for a Title V operating permit or a voluntary operating permit or upon rescission of a Title V operating permit or a voluntary operating permit if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in subrule 22.300(6).

d. The department reserves the right to require proof that the expected emissions from the stationary source, in conjunction with all other emissions, will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28.

22.300(3) Exceptions to eligibility.

a. Any affected source subject to the provisions of Title IV of the Act or any solid waste incinerator unit required to obtain a Title V operating permit under Section 129(e) of the Act is not eligible for an operating permit by rule for small sources.

b. Sources which meet the registration criteria established in 22.300(2)“a” and meet all applicable requirements of rule 22.300(455B), and are subject to a standard or other requirement under 567—subrule 23.1(2) (standards of performance for new stationary sources) or Section 111 of the Act are eligible for an operating permit by rule for small sources. These sources shall be required to obtain a Title V operating permit when the deferment period specified in subrule 22.101(2) has expired or no longer applies.

c. Sources which meet the registration criteria established in 22.300(2)“a” and meet all applicable requirements of rule 22.300(455B), and are subject to a standard or other requirement under 567—subrule 23.1(3) (emissions standards for hazardous air pollutants), 567—subrule 23.1(4) (emissions standards for hazardous air pollutants for source categories) or Section 112 of the Act are eligible for an operating permit by rule for small sources. These sources shall be required to obtain a Title V operating permit when the deferment period specified in subrule 22.101(2) has expired or no longer applies.

22.300(4) Stationary source with de minimus emissions. Stationary sources with de minimus emissions must submit the standard registration form and must meet and fulfill all registration and reporting requirements as found in 22.300(8). Only the record-keeping and reporting provisions listed in 22.300(4)“b” shall apply to a stationary source with de minimus emissions or operations as specified in 22.300(4)“a”:

a. *De minimus emission and usage limits.* For the purpose of this rule a stationary source with de minimus emissions means:

(1) In every 12-month rolling period, the stationary source emits less than or equal to the following quantities of emissions:

1. 5 tons per year of a regulated air pollutant (excluding HAPs), and
2. 2 tons per year of a single HAP, and
3. 5 tons per year of any combination of HAPs.

(2) In every 12-month rolling period, at least 90 percent of the stationary source’s emissions are associated with an operation for which the throughput is less than or equal to one of the quantities specified in paragraphs “1” to “9” below:

1. 1,400 gallons of any combination of solvent-containing materials but no more than 550 gallons of any one solvent-containing material, provided that the materials do not contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (perchloroethylene), or trichloroethylene;

2. 750 gallons of any combination of solvent-containing materials where the materials contain the following: methyl chloroform (1,1,1-trichloroethane), methylene chloride (dichloromethane), tetrachloroethylene (per-chloroethylene), or trichloroethylene, but not more than 300 gallons of any one solvent-containing material;

3. 365 gallons of solvent-containing material used at a paint spray unit(s);
4. 4,400,000 gallons of gasoline dispensed from equipment with Phase I and II vapor recovery systems;
5. 470,000 gallons of gasoline dispensed from equipment without Phase I and II vapor recovery systems;
6. 1,400 gallons of gasoline combusted;
7. 16,600 gallons of diesel fuel combusted;
8. 500,000 gallons of distillate oil combusted; or
9. 71,400,000 cubic feet of natural gas combusted.

b. Record keeping for de minimis sources. Upon registration with the department the owner or operator of a stationary source eligible to register for an operating permit by rule for small sources shall comply with all applicable record-keeping requirements of this rule. The record-keeping requirements of this rule shall not replace any record-keeping requirement contained in a construction permit or in a local, state, or federal rule or regulation.

(1) De minimis sources shall always maintain an annual log of each raw material used and its amount. The annual log and all related material safety data sheets (MSDS) for all materials shall be maintained for a period of not less than the most current five years. The annual log will begin on the date the small source operating permit application is submitted, then on an annual basis, based on a calendar year.

(2) Within 30 days of a written request by the state or the U.S. EPA, the owner or operator of a stationary source not maintaining records pursuant to subrule 22.300(7) shall demonstrate that the stationary source's emissions or throughput is not in excess of the applicable quantities set forth in paragraph "a" above.

22.300(5) Provision for air pollution control equipment. The owner or operator of a stationary source may take into account the operation of air pollution control equipment on the capacity of the source to emit an air contaminant if the equipment is required by federal, state, or local air pollution control agency rules and regulations or permit terms and conditions that are federally enforceable. The owner or operator of the stationary source shall maintain and operate such air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

22.300(6) Emission limitations.

a. No stationary source subject to this rule shall emit in every 12-month rolling period more than the following quantities of emissions:

- (1) 50 percent of the major source thresholds for regulated air pollutants (excluding hazardous air pollutants), and
- (2) 5 tons per year of a single hazardous air pollutant, and
- (3) 12.5 tons per year of any combination of hazardous air pollutants.

b. The owner or operator of a stationary source subject to this rule shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the limits specified in paragraph "a" of this subrule.

22.300(7) *Record-keeping requirements for non-de minimis sources.* Upon registration with the department the owner or operator of a stationary source eligible to register for an operating permit by rule for small stationary sources shall comply with all applicable record-keeping requirements in this rule. The record-keeping requirements of this rule shall not replace any record-keeping requirement contained in any operating permit, a construction permit, or in a local, state, or federal rule or regulation.

a. A stationary source previously covered by the provisions in 22.300(4) shall comply with the applicable provisions of subrule 22.300(7) (record-keeping requirements) and subrule 22.300(8) (reporting requirements) if the stationary source exceeds the quantities specified in paragraph 22.300(4) “*a.*”

b. The owner or operator of a stationary source subject to this rule shall keep and maintain records, as specified in 22.300(7) “*c.*” below, for each permitted emission unit and each piece of emission control equipment sufficient to determine actual emissions. Such information shall be maintained on site for five years, and be made available to local, state, or U.S. EPA staff upon request.

c. Record-keeping requirements for emission units and emission control equipment. Record-keeping requirements for emission units are specified below in 22.300(7) “*c.*”(1) through 22.300(7) “*c.*”(4). Record-keeping requirements for emission control equipment are specified in 22.300(7) “*c.*”(5).

(1) Coating/solvent emission unit. The owner or operator of a stationary source subject to this rule that contains a coating/solvent emission unit not permitted under 22.8(1) (permit by rule for spray booths) or uses a coating, solvent, ink or adhesive shall keep and maintain the following records:

1. A current list of all coatings, solvents, inks and adhesives in use. This list shall include: material safety data sheets (MSDS), manufacturer’s product specifications, and material VOC content reports for each solvent (including solvents used in cleanup and surface preparation), coating, ink, and adhesive used showing at least the product manufacturer, product name and code, VOC and hazardous air pollutant content;

2. A description of any equipment used during and after coating/solvent application, including type, make and model; maximum design process rate or throughput; and control device(s) type and description (if any);

3. A monthly log of the consumption of each solvent (including solvents used in cleanup and surface preparation), coating, ink, and adhesive used; and

4. All purchase orders, invoices, and other documents to support information in the monthly log.

(2) Organic liquid storage unit. The owner or operator of a stationary source subject to this rule that contains an organic liquid storage unit shall keep and maintain the following records:

1. A monthly log identifying the liquid stored and monthly throughput; and

2. Information on the tank design and specifications including control equipment.

(3) Combustion emission unit. The owner or operator of a stationary source subject to this rule that contains a combustion emission unit shall keep and maintain the following records:

1. Information on equipment type, make and model, maximum design process rate or maximum power input/output, minimum operating temperature (for thermal oxidizers) and capacity and all source test information; and

2. A monthly log of fuel type, fuel usage, fuel heating value (for nonfossil fuels; in terms of Btu/lb or Btu/gal), and percent sulfur for fuel oil and coal.

(4) General emission unit. The owner or operator of a stationary source subject to this rule that contains an emission unit not included in subparagraph (1), (2), or (3) above shall keep and maintain the following records:

1. Information on the process and equipment including the following: equipment type, description, make and model; and maximum design process rate or throughput;

2. A monthly log of operating hours and each raw material used and its amount; and

3. Purchase orders, invoices, or other documents to support information in the monthly log.

(5) Emission control equipment. The owner or operator of a stationary source subject to this rule that contains emission control equipment shall keep and maintain the following records:

1. Information on equipment type and description, make and model, and emission units served by the control equipment;

2. Information on equipment design including, where applicable: pollutant(s) controlled; control effectiveness; and maximum design or rated capacity; other design data as appropriate including any available source test information and manufacturer's design/repair/maintenance manual; and

3. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.

22.300(8) *Registration and reporting requirements.*

a. Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources, apply for a voluntary operating permit, or apply for a Title V operating permit. Any source determined not to be eligible for an operating permit by rule for small sources, and operating without a valid Title V or a valid voluntary operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in rules 22.104(455B) and 22.202(455B). For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, one original and one copy of a timely and complete registration form in accordance with this rule.

(1) Timely registration. Each source registering for an operating permit by rule for small sources shall submit a registration form:

1. By August 1, 1996, if the source became subject to rule 22.101(455B) on or before August 1, 1995, unless otherwise required to obtain a Title V permit under rule 22.101(455B).

2. Within 12 months of becoming subject to rule 22.101(455B) (the requirement to obtain a Title V operating permit) for a new source or a source which would otherwise become subject to the Title V permit requirement after August 1, 1995.

(2) Complete registration form. To be deemed complete the registration form must provide all information required pursuant to 22.300(8)“b.”

(3) Duty to supplement or correct registration. Any registrant who fails to submit any relevant facts or who has submitted incorrect information in an operating permit by rule for small sources registration shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, the registrant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete registration.

(4) Certification of truth, accuracy, and completeness. Any registration form, report, or supplemental information submitted pursuant to these rules shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under these rules shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

b. At the time of registration for an operating permit by rule for small sources each owner or operator of a stationary source shall submit to the department a standard registration form and required attachments. To register for an operating permit by rule for small sources, applicants shall complete the registration form and supply all information required by the filing instructions. The information submitted must be sufficient to evaluate the source, its registration, predicted actual emissions from the source; and to determine whether the source is subject to the exceptions listed in subrule 22.300(3). The standard registration form and attachments shall require that the following information be provided:

(1) Identifying information, including company name and address (or plant or source name if different from the company name), owner’s name and responsible official, and telephone number and names of plant site manager or contact;

(2) A description of source processes and products;

(3) The following emissions-related information shall be submitted to the department on the standard registration form:

1. The total actual emissions of each regulated air pollutant. Actual emissions shall be reported for one contiguous 12-month period within the 18 months preceding submission of the registration to the department;

2. Identification and description of each emission unit with the potential to emit a regulated air pollutant;

3. Identification and description of air pollution control equipment;

4. Limitations on source operations affecting emissions or any work practice standards, where applicable, for all regulated pollutants;

5. Fugitive emissions sources shall be included in the registration form in the same manner as stack emissions if the source is one of the source categories defined as a stationary source category in rule 22.100(455B).

(4) Requirements for certification. Facilities which claim to meet the requirements set forth in this rule to qualify for an operating permit by rule for small sources must submit to the department, with a complete registration form, a written statement as follows:

"I certify that all equipment at the facility with a potential to emit any regulated pollutant is included in the registration form, and submitted to the department as required in 22.300(8) "b." I understand that the facility will be deemed to have been granted an operating permit by rule for small sources under the terms of 567 IAC 22.300(455B) only if all applicable requirements of 567 IAC 22.300(455B) are met and if the registration is not denied by the director under 567 IAC 22.300(11). This certification is based on information and belief formed after reasonable inquiry; the statements and information in the document are true, accurate, and complete." The certification must be signed by one of the following individuals.

For corporations, a principal executive officer of at least the level of vice president, or a responsible official as defined at 567 IAC 22.100(455B).

For partnerships, a general partner.

For sole proprietorships, the proprietor.

For municipal, state, county, or other public facilities, the principal executive officer or the ranking elected official.

22.300(9) *Construction permits issued after registration for an operating permit by rule for small sources.* This rule shall not relieve any stationary source from complying with requirements pertaining to any otherwise applicable construction permit, or to replace a condition or term of any construction permit, or any provision of a construction permitting program. This does not preclude issuance of any construction permit with conditions or terms necessary to ensure compliance with this rule.

a. If the issuance of a construction permit acts to make the source no longer eligible for an operating permit by rule for small sources, the source shall, within 12 months of issuance of the construction permit, submit an application for either a Title V operating permit or a voluntary operating permit.

b. If the issuance of a construction permit does not prevent the source from continuing to be eligible to operate under an operating permit by rule for small sources, the source shall, within 30 days of issuance of a construction permit, provide to the department the information as listed in 22.300(8) "b" for the new or modified source.

22.300(10) *Violations.*

a. Failure to comply with any of the applicable provisions of this rule shall constitute a violation of this rule.

b. A stationary source subject to this rule shall be subject to applicable federal requirements for a major source, including rules 22.101(455B) to 22.116(455B) when the conditions specified in either subparagraph (1) or (2) below, occur:

(1) Commencing on the first day following every 12-month rolling period in which the stationary source exceeds a limit specified in subrule 22.300(6), or

(2) Commencing on the first day following every 12-month rolling period in which the owner or operator cannot demonstrate that the stationary source is in compliance with the limits in subrule 22.300(6).

22.300(11) *Suspension, termination, and revocation of an operating permit by rule for small sources.*

a. Registrations may be terminated, modified, revoked, or reissued for cause. The following examples shall be considered cause for the suspension, modification, revocation, or reissuance of an operating permit by rule for small sources:

(1) The director has reasonable cause to believe that the operating permit by rule for small sources was obtained by fraud or misrepresentation.

(2) The person registering for the operating permit by rule for small sources failed to disclose a material fact required by the registration form or the rules applicable to the operating permit by rule for small sources, of which the applicant had or should have had knowledge at the time the registration form was submitted.

(3) The terms and conditions of the operating permit by rule for small sources have been or are being violated.

(4) The owner or operator of the source has failed to pay an administrative, civil or criminal penalty for violations of the operating permit by rule for small sources.

b. If the director suspends, terminates or revokes an operating permit by rule for small sources under this rule, the notice of such action shall be served on the applicant by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the action sought, and the proceeding shall in all other respects comply with the requirements of rule 561—7.16(17A,455A).

These rules are intended to implement Iowa Code sections 455B.133 and 455B.134.

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