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Jurisdiction Type:	Municipal
Municipality:	City of Evansville
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Community Type - applicable to:	Urban; Suburban
Title:	City of Evansville Environmental Protection Agency
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Abstract

The Evansville Environmental Protection Agency, through the ordinances in its portion of the city code, is tasked with control air and noise pollution. Although not an especially innovative set of environmental ordinances, it sets clear standards and enforcement mechanisms and is a good example of local command and control ordinances.

Resource

Chapter 3.30 ADMINISTRATIVE ORGANIZATION

Section 3.30.195 Purpose.

THE CITY OF EVANSVILLE SHALL CONTROL POLLUTION OF THE ENVIRONMENT. This control shall consist of regulation of air quality and sound quality. The regulations created by this subchapter shall extend four miles beyond the limits of the city, but shall not extend beyond the County of Vanderburgh.

(' 62 Code, Art. 3 , Ch. 17, § 1) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.195) (Ord. G-99-22, passed 10-18-99)

Section 3.30.196 Definitions.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any additional definitions may be found in the Statutory and Federal references.

"ADEQUATE FIRE FIGHTING EQUIPMENT." Equipment sufficient and appropriate under the circumstances to extinguish the fire.

"AGENCY OR DEPARTMENT." The Evansville Environmental Protection Agency created by this subchapter.

"AIR CONTAMINANT." Any substance, unnaturally produced, including but not limited to gases, particulate matter, liquid matter, dust, fumes, mist, smoke, vapor, odorous material, noise, or any other material in the outdoor atmosphere, excluding however, uncombined water.

"AIR CURTAIN DESTRUCTOR." An engineered apparatus consisting of a motorized high-velocity fan and an air distribution system designed to aid in the efficient combustion of materials placed in an adjacent pit. An air curtain destructor is not considered an incinerator as defined in 326 IAC 1-2-34.

"AIR MANAGER." Manager of the Environmental Protection Agency air program in the City of Evansville.

"AIR POLLUTION CONTROL EQUIPMENT." (also "POLLUTION CONTROL EQUIPMENT," "POLLUTION CONTROL DEVICE," "EMISSION CONTROL DEVICE"). Control equipment which is not, aside from air pollution control requirements, vital to production of the normal product of the source or to its normal operation. Equipment is vital if the source could not produce its normal product or operate without it.

"ALLOWABLE EMISSIONS." The lowest emission rate calculated using all of the following:

- (1) The maximum capacity of the facility at eight thousand seven hundred sixty (8,760) hours per year.
- (2) The most stringent applicable federally enforceable state rule.
- (3) Limits on the operation specified by a federally enforceable permit.
- (4) An emission rate specified as a federally enforceable permit condition.
- (5) Potential emissions.
- (6) For noncontinuous batch manufacturing operations, when the process, not considering operating hours, results in daily emissions less than those calculated on an hourly basis, daily emission rates shall be used instead of hourly rates.

"ANNUAL OPERATION PERMIT FEE." A fee assessed annually to each permitted source.

"ASME." The American Society of Mechanical Engineers.

"ASTM." The American Society of Testing Materials.

"BEST AVAILABLE CONTROL TECHNOLOGY (BACT)." An emission limitation (including a visible emission standard) or equipment standard based on the maximum degree of reduction of each pollutant, subject to regulation under the Clean Air Act and applicable Indiana laws or rules, which would be emitted from or which results from any proposed major facility or modification thereto which the Commissioner, on a case-by-case basis, taking into account energy, environmental or economic impacts and other costs, determines is achievable for such facility or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment or

innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which will exceed the emissions allowed by any applicable standard.

If the Commissioner determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirements for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable to implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"BOARD." The Environmental Protection Board created by this ordinance to act as provided for pursuant to Section 3.30.200 of this ordinance.

"CERTIFICATE OF OPERATION." A certificate issued by the Air Manager authorizing the use of any process, fuel-burning, refuse-burning, or control equipment for the period indicated, after it has been found that it can be operated in compliance with the regulations of this agency and the state IDEM. Also referred to as Operation Permit.

"CITY." The City of Evansville, Indiana.

"CLEAN PETROLEUM PRODUCTS." An uncontaminated, refined petroleum product, such as kerosene or diesel fuel, not previously used in any application.

"CLEAN WOOD PRODUCTS." Wood products, including vegetation, that are not coated with stain, paint, glue, or other coating material.

"CLEANING FIRES." Act of removing ashes from the fuel bed or furnace.

"COMBUSTIBLE REFUSE." Any combustible waste material.

"COMMISSIONER." Commissioner of the Indiana Department of Environmental Management.

"CONSTRUCTION." Fabrication, erection, or installation of air pollution control equipment or a facility at the location intended for its use. Construction does not include any of the following:

- (1) Installation of building supports and foundations.
- (2) Laying underground piping or arbors.
- (3) Erection of storage structures.
- (4) Dismantling existing equipment and control devices.
- (5) Ordering of equipment and control devices.
- (6) Off-site fabrication.

(7) Temporary storage within the facility other than where permanent installation will occur.

This section does not apply to a major PSD source or a major PSD modification as defined in 326 IAC 2-2 or a major source or major modification as defined in 326 IAC 2-3.

"CONTAMINANT." Any solid, semisolid, liquid, or gaseous matter, or any odor which is injurious to human health, plant or animal life, or property; interferes unreasonably with the enjoyment of life or property; or is otherwise violative of this article or rules adopted under this article.

"CONTROL EQUIPMENT." Any equipment which has the function of regulating, reducing or preventing emissions from a process, fuel-burning, or refuse-burning equipment which may release contaminants and thus reduce the creation of air contaminants to the atmosphere.

"COUNCIL." The Common Council of the City of Evansville, Indiana.

"DIRECTOR." The Director of the City Environmental Protection Agency.

"DRAINAGE DITCH." Regulated drain or open drain under IC 36-9-27-2.

"EMERGENCY BURNING." The burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as: a tornado, high winds, earthquake, explosion, hail storm, rain storm, or ice storm.

"EMISSION." The act of passing into the atmosphere of an air contaminant, or the material so passed into the atmosphere.

"ENVIRONMENT." The combination of external conditions surrounding a living creature which affects the physical nature of its existence.

"EQUIPMENT." Any device, or part of a device, used to modify solids, gases, or liquids which modification affects the environment.

(1) DOMESTIC HEATING PLANT - A plant generating heat for residences which serves fewer than three apartments. This includes, but is not limited to, hot water heaters, stoves and space heaters.

(2) FUEL EQUIPMENT - Equipment which burns fuel: solid, liquid or gas.

(3) INDIRECT HEATERS - Fuel-burning equipment in which neither the fuel nor the products of combustion come into contact with the process material.

(4) PROCESS EQUIPMENT - Any equipment, device, or contrivance for changing any materials whatever or for storing or handling of any materials, and all appurtenances thereto, including ducts, stacks, etc., the use or existence of which may cause any discharge

of air pollutants into the outdoor atmosphere, but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment in this ordinance.

"EXCESS AIR." That air supplied in addition to the theoretical quantity necessary for complete combustion for all fuel and/or combustible waste material present.

"FACILITY." Any one (1) structure, piece of equipment, installation or operation which emits or has the potential to emit any air contaminant. Single pieces of equipment or installations with multiple emission points shall be considered a facility.

"FARMING OPERATION." That business concerned with the planting, harvesting, and/or marketing of crops and the raising of animals. This does not include nurseries, tree farms, or sod production.

"FLARE." An elevated combustion device that burns waste gases.

"FUGITIVE DUST." Particulate matter composed of soil which is uncontaminated by pollutants resulting from activities. Fugitive dust may include, but is not limited to, emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either stored, transported or redistributed. NOTE: This definition of fugitive dust is established in Section 3.30.212 of this ordinance. The generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way, or easement on which the source is located.

"GASOLINE." A petroleum distillate having a Reid vapor pressure of 2.6 kilo Pascals (4 psi) or greater.

"GRAIN ELEVATOR." An installation at which grains are weighed, cleaned, dried, loaded, unloaded, and placed in storage. The term does not include any portion of the installation at which activities other than those described in this section are conducted.

"GRAIN TERMINAL ELEVATOR." Any grain elevator which has greater than the following capacity:

- (1) Two million five hundred thousand (2,500,000) U.S. bushels certified storage.
- (2) Ten million (10,000,000) bushels annual grain throughput.

"HAZARDOUS AIR POLLUTANT." Any air pollutant listed pursuant to Section 112(b) of the Clean Air Act.

"HE OR HIS." Shall refer to both sexes and shall not be construed to limit the eligibility for any position to males.

"IDEM." Indiana Department of Environmental Management.

"INCINERATOR." An engineered apparatus that burns waste substances with controls on combustion factors including, but not limited to, temperature, retention time, and air flow.

"LOWEST ACHIEVABLE EMISSION RATE." For any facility, that rate of emissions which reflects the more stringent of the following:

(1) The most stringent emissions limitation and/or the limitation resulting from equipment standards which are contained in the state implementation plan for such class or category of facility unless the owner or operator of the proposed facility demonstrates to the Commissioner that such limitations are not achievable or;

(2) The most stringent emissions limitation resulting from equipment standards or which has been achieved in practice by such class or category of facility.

"MAJOR FACILITY." Any facility which has potential emissions of one hundred (100) tons or more per year of any one (1) regulated pollutant.

"MALFUNCTION." Any sudden or unavoidable failure of any air pollution control equipment to operate in a normal and usual manner.

"MAYOR." The Mayor of the City of Evansville, Indiana.

"MINOR FACILITY"

(1) Committed Source. Any facility which has potential emissions greater than twenty-five (25) tons per year, but less than one hundred (100) tons per year of any one regulated pollutant.

(2) B Source. Any facility which has potential emissions less than twenty-five (25) tons per year of any one (1) regulated pollutant.

"MODIFICATION." Any physical change or change in the method of operation of any existing facility. This does not include the repair or replacement of an air pollution emitting facility or air pollution control equipment or components thereof if the repair or replacement is made:

(1) In order to return the facility, process, or control equipment to normal operation after an upset, malfunction, mechanical failure; or

(2) In order to prevent impending and imminent failure of the facility, process, or control equipment.

"NOISE." Unnecessary commercial/industrial sound which exceeds allowable standards.

"NONATTAINMENT AREA." A geographical area designated by the IDEM Air Board as not meeting the ambient air quality standards established for a specific pollutant in 326 IAC 1-3.

"NONCOMBUSTIBLE CONTAINER." A container that can withstand a temperature of 1500 degrees Fahrenheit.

"NONPHOTOCHEMICALLY REACTIVE HYDROCARBON." Means the following:

- (1) Methane (Chemical Abstract Service (CAS) Number 74-82-8).
- (2) Ethane (CAS Number 74-84-0).
- (3) 1,1,1-trichloroethane (methyl chloroform) (CAS Number 71-55-6).
- (4) 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113) (CAS Number 76-13-1).
- (5) Trichlorofluoromethane (CFC-11) (CAS Number 75-69-4).
- (6) Dichlorodifluoromethane (CFC-12) (CAS Number 75-71-8).
- (7) Chlorodifluoromethane (CFC-22) (CAS Number 75-46-7).
- (8) Trifluoromethane (FC-23) (CAS Number 75-46-7).
- (9) 1,2-dichloro 1,1,2,2 tetrafluoroethane (CFC-114) (CAS Number 132-03-72).
- (10) Chloropentafluoroethane (CFC-115) (CAS Number 76-15-3).
- (11) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123) (CAS Number 306-83-2).
- (12) 1,1,1,2-tetrafluoroethane (HFC-134a) (CAS Number 811-97-2).
- (13) 1,1-dichloro 1-fluoroethane (HCFC-141b) (CAS Number 1717-00-6).
- (14) 1-chloro 1,1-difluoroethane (HCFC-142b) (CAS Number 75-68-3).
- (15) Methylene chloride (dichloromethane) (CAS Number 75-09-2).
- (16) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124) (CAS Number 2837-89-0).
- (17) Pentafluoroethane (HFC-125) (CAS Number 354-33-6).
- (18) 1,1,2,2-tetrafluoroethane (HFC-134) (CAS Number 359-35-3).
- (19) 1,1,1-trifluoroethane (HFC-143a) (CAS Number 420-46-2).
- (20) 1,1-difluoroethane (HFC-152a) (CAS Number 75-37-6).
- (21) Any perfluorocarbon compounds which fall into the following classes:
 - (a) Cyclic, branched, or linear, completely fluorinated alkanes.
 - (b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
 - (c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
 - (d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Compliance calculations for coatings expressed as pounds VOC/gallon coating (less water) should treat nonphotochemically reactive compounds as water for purposes of calculating the less water portion of the coating composition.

"OPACITY." The quality which renders substances partially or wholly impervious to rays of light (not including condensed water vapor).

"OPEN BURNING." Burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney form an enclosed chamber.

"OWNER OR OPERATOR." Any person who owns, leases, controls, operates or supervises a facility, an air pollutant emission source or air pollution control equipment.

"PARTICULATE MATTER." Any airborne, finely divided solid or liquid material, excluding uncombined water, with an aerodynamic diameter smaller than one hundred (100) micrometers (um).

(1) PM-10 - Any particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (um) as measured by an applicable reference method specified in 40 CFR Part 50 or by an equivalent or alternative method approved by the commissioner.

(2) Total Suspended Particulate (TSP) - Any particulate matter as measured by the method described in Appendix B of 40 CFR Part 50.

"PERMIT." Written authorization to install, construct, modify, repair or operate equipment.

"POLLUTION." The presence in the environment of one, or a combination of substances that are or may tend to be injurious to the quality of human, plant or animal life, or property, or that interferes with the comfortable enjoyment of life or property.

"PORTABLE SOURCE." A source which can be readily moved to a different location and operated as a stationary source.

"POTENTIAL EMISSIONS." Emissions of any one (1) pollutant which would be emitted from a facility if that facility were operated without the use of pollution control equipment unless such control equipment is (aside from air pollution control requirements) necessary for the facility to produce its normal product or is integral to the normal operation of the facility. Potential emission shall be based on maximum annual rated capacity unless hours of operation are limited by enforceable permit conditions. Potential emissions from a facility shall take into account the hours of operation per year and shall be calculated according to federal emission guidelines in AP 42 (most recent edition) Compilation of Air Pollution Factors, or calculated based on stack test data or other equivalent data acceptable to the Commissioner.

"PPM." An abbreviation meaning parts per million.

"PRIMARY CHAMBER." The chamber in which waste material is ignited and burned.

"PROCESS." Any action, operation, or treatment and the equipment used in connection therewith, and all methods or forms of manufacturing or processing that may emit air contaminants.

"PROCESS WEIGHT." The total weight of all materials introduced into any source operation, including solid fuel, but excluding liquid or gaseous fuel when these are used solely as fuels, and excluding air introduced for purposes of combustion.

"PROCESS WEIGHT RATE."

(1) For continuous or long-run, steady operation: the total process weight for the entire period of operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(2) For a cyclical batch operation: the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

When the nature of any process or operation or the design of any equipment is such as to allow more than one interpretation for this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"PUBLIC NOTICE." The solicitation of comments from all or any segment of the public on the need for a rule, the drafting of a rule, or any other subject related to a rule making action. The procedures that the agency may use include the holding of conferences and the inviting of written suggestions, facts, arguments, or views. (IC 4-22-2-23)

"QUALIFIED OBSERVER." Any person who has successfully completed a state or U.S. EPA approved visible emission evaluation course and is currently certified as such.

"REASONABLE AVAILABLE CONTROL TECHNOLOGY (RACT)." Control technology that is reasonable available and both technologically and economically feasible.

"REASONABLE FURTHER PROGRESS." The annual incremental reductions in emissions of a pollutant which are sufficient in the judgment of the Commissioner to provide reasonable progress towards attainment of the applicable ambient air quality standards established by 386 IAC 1-3 by the dates set forth in the Clean Air Act.

"REGULATED POLLUTANT." Any pollutant for which a rule establishing emission limitations or requirements has been promulgated by the board.

"REID VAPOR PRESSURE." The absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials, Part 17, 1973, D-323-72.

"RESPIRABLE DUST." Particles in the range of 0.5 microns to 6.0 microns in diameter.

"SALVAGE OPERATION." Any procedure conducted in whole or in part for the reclaiming of any matter of value which is separated from worthless matter.

"SECONDARY CHAMBER." The chamber in which combustible solids, vapors, and/or gases from the primary chamber either are collected or are ignited and burned.

"SMOKE." Gas-borne particles resulting from incomplete combustion, containing ash, or other materials.

"SOLID WASTE." Any garbage, refuse, or sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities.

"SOLVENT." Organic materials which are liquid at standard conditions and which are used as solvers, viscosity reducers, or cleaning agents.

"SOURCE." An aggregation of one (1) or more facilities which are located on one (1) piece of property or on contiguous or adjacent properties; and which are owned or operated by the same person (or by persons under common control).

(1) Title V - (Referred to by IDEM as part 70) sources whose potential emissions of any regulated pollutant are 100 tons per year (TPY) or more or any source or facility with allowable emissions, in the aggregate, of ten (10) TPY of any hazardous air pollutant or twenty-five (25) TPY of any combination of hazardous air pollutants, as defined in 326 IAC 1-2-33.5.

(2) FESOP - (Federally Enforceable State Operating Permit) sources whose potential is 100 TPY or more of any regulated pollutant and whose actuals are less than 100 TPY and who agree to limit emissions of any regulated pollutant to less than 100 TPY. Such limitations shall be federally enforceable.

(3) SSOA - (Source Specific Operating Agreement) sources in certain categories whose potential is 100 TPY or more and whose actuals are less than 100 TPY and who agree to meet specific restrictions and conditions as described in IAC 326 2-9.

(4) Committed - sources whose potential emissions of any regulated pollutant are 25 TPY, but less than 100 TPY and whose actuals are less than 25 TPY.

(5) Permit By Rule. A source that would otherwise be required to have a permit under Title V, FESOP, SSOA or a Minor source operating permit and limits its potential to emit by complying with the following conditions:

(a) The source limits actual emissions for every twelve (12) month period to less than twenty percent (20%) of any threshold for the following:

1. A major source of regulated air pollutants. 2. A major source of hazardous air pollutants, as defined in Section 112 of the Clean Air Act.

(b) The source does not rely on air pollution control equipment to comply with subsection a.

(6) B - Total Indiana potential emissions of any regulated pollutant are less than twenty-five (25) TPY.

"STACK." A duct, chimney, flue, conduit, or opening arranged for the purpose of emission of air pollutants into the atmosphere.

"STANDARD CONDITIONS." A gas temperature of 70 degrees F and a gas pressure of 14.7 pounds per square inch absolute (psia).

"STATE IMPLEMENTATION PLAN (SIP)." The State Plan of the Department of Environmental Management which provides for implementation, maintenance, and enforcement of the primary and secondary ambient air quality standards in Indiana.

"SUBCHAPTER." Sections 3.30.195 through 3.30.297 of this Municipal Code.

"µg/m³." An abbreviation meaning microgram per cubic meter.

"TEMPORARY EMISSIONS." Those emissions resulting from operations not exceeding two (2) years in duration at one location.

"VOLATILE ORGANIC COMPOUND (VOC)."

(1) Any compound of carbon excluding the following:

(a) Carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(b) Any organic compound which has been determined to have negligible photochemical reactivity listed in Section 48 of this rule. VOC content shall be measured in accordance with 326 IAC 8-1-4.

(c) Vegetable oils.

(2) For purposes of determining compliance with emission limits, volatile organic compounds will be measured by the test methods in 326 IAC or 40 CFR 60, Appendix A*, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive (sic) compounds may be excluded as volatile organic compounds if the amount of such compounds is accurately quantified and such exclusion is approved by the Commissioner.

(3) As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the Commissioner may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Commissioner, the amount of negligibly-reactive compounds in the source's emissions.

(4) For purposes of federal enforcement for a specific source, the U.S. EPA shall use the test methods specified in Indiana's approved state implementation plan, in a permit issued pursuant to a program approved or promulgated under: Title V of the Clean Air Act; 40 CFR 51, Subpart I*; 40 CFR 51, Appendix S*; 40 CFR 52*; or 40 CFR 60*.

The U.S. EPA shall not be bound by any state determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the provisions listed in this subsection.

"WASTE." Human or animal excrement, garbage, or any worthless matter.

"WOOD PRODUCTS." Material consisting of untreated wood or vegetation.

(' 62 Code, Art. 3, Ch. 17, § 2) (Ord. G-81-53, passed 12-14-81) (' 82 Code, Title 3, Ch. 30.196, 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.196) (Ord. G-93-19, passed 8-24-93; Am. Ord. G-96-23, passed 12-16-96) (Ord. G-99-22, passed 10-18-99)

* These documents have been incorporated by reference and are available through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 512-0132.

Section 3.30.197 Establishment.

(A) The city hereby establishes an Environmental Protection Agency, composed of the Environmental Protection Department and the Environmental Protection Board. The powers and functions of the Agency shall include the following:

(1) Development of comprehensive plans and programs for the protection and enhancement of air quality.

(2) Development and improvement of standards and regulations to preserve, protect, and enhance air quality and to assure accomplishment of air quality standards and regulations.

(3) Operation of programs of continuing surveillance and inspection of air contaminant sources, noise sources, and actual or threatened sources of air pollution.

(4) Development of programs and providing assistance in development of facilities for control of air, odor, and noise pollution.

(B) The Agency is hereby designated as the Air Pollution Agency for the City for all purposes of the Federal Clean Air Act, Public Law 88-206, approved December 17, 1963, as amended.

(' 62 Code, Art. 3, Ch. 17 § 3) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.197) (G-99-22, passed 10-18-99)

Section 3.30.198 Director.

There shall be a director of the Environmental Protection Department.

(A) The Director shall be appointed by the Mayor and shall serve at the pleasure of the Mayor.

(B) The Director shall perform the duties required by this subchapter and the Board.

(C) The Director shall be an ex officio citizen member of the Area Plan Commission, by virtue of this office.

(D) The Director shall be qualified by education and experience to supervise and direct the activities of the Department.

(E) The Director may employ additional personnel necessary for the operation of the Department as they are budgeted.

(F) Powers designated to the Director in this subchapter may be delegated to appropriate department personnel.

(' 62 Code, Art. 3, Ch. 17, § 4) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.198) (Ord. G-99-22, passed 10-18-99)

Section 3.30.199 Offices of the Department.

(A) The Mayor shall approve the Monitoring Specialist and the Permitting Specialist, who shall be responsible directly to the Director.

(B) The Monitoring Specialist and Permitting Specialist shall be qualified by education and experience and shall supervise and direct the activities of the programs for monitoring, permitting, maintaining and improving the quality of the air as set forth in other sections of this subchapter.

(C) The Monitoring Specialist and Permitting Specialist shall be responsible for programs to reduce and prevent environmental degradation and control noise emissions from business sources.

(D) The Office of Air Pollution Control shall be responsible for programs for maintaining and improving the quality of the air as set forth in other sections of this subchapter.

(E) The Office of Sewer and Water Pollution Control shall be responsible for programs for maintaining and improving the quality of the water for controlling discharges into and from sewer systems.

(F) The Office of Land, Solid Waste, and Noise Pollution Control shall be responsible for programs to reduce and prevent environmental degradation and pollution of land, control noise emissions, and provide for solid waste management and control.

(G) The Department may employ additional personnel necessary for the operation of the Department as they are budgeted.

(' 62 Code, Art. 3, Ch. 17, § 5) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.199) (Ord. G-99-22, passed 10-18-99)

Section 3.30.200 Environmental Protection Board.

(A) Members of the Environmental Protection Board shall be appointed by the Mayor. This Board shall study the problem of environmental protection and shall recommend to the Council and Director appropriate means of environmental protection, including needed additions to or revisions of this ordinance.

(B) The Board shall consist of five (5) members. No member of the Board shall hold any elective office. No more than one member of the Board shall be employed by the same employer. No more than three (3) members of the Board shall be of the same political party.

(C) Appointments shall be for four (4) years. Appointment to fill resignations or vacancies shall be for the unexpired term remaining of the member being replaced. A member is eligible for reappointment. A member whose term of appointment has expired shall remain in the office until such time as a successor shall be appointed.

(D) The Board shall elect a Chairman and Vice-Chairman. The Board shall request an employee of the Department to serve as secretary for the Board. A quorum shall consist of a majority of the members of the Board. Members may be compensated as provided in the budget. The Director shall be an advisor to the Board.

(E) The Board shall hold a regular meeting once a month and special meetings at such additional times as may be called by the Chairman or Vice-Chairman. A special meeting shall be called upon request of at least three (3) members of the Board. The Board shall keep minutes of its proceedings which shall record the official actions of the Board and the vote of each member thereon.

(F) The Common Council of the city shall refer all ordinances concerning standards contemplated in this subchapter to the Environmental Protection Board for that Board's review and recommendation. The Board shall publish notice of all hearings.

(G) The Board may establish two (2) standing subcommittees as follows:

(1) One subcommittee, composed of the Chairman of the Board and two (2) members, may hear appeals from rulings of the Agency.

(2) One subcommittee, composed of the Chairman of the Board and two (2) members, may establish Board policy and propose new Agency rules.

(' 62 Code, Art. 3, Ch. 17, § 6) (Ord. G-81-53, passed 12-14-81); (Am. Ord. ' 82 Code, Title 3, Ch. 30, G-91-20 passed 6-25-91) (' 82 Code, § 30.200)

Section 3.30.201 Enforcement.

(A) The Evansville Environmental Protection Agency shall determine when violations of this subchapter have been committed.

(B) The Director may take informal action to compel violators to comply with the provisions of this subchapter. Informal action shall include, but not be limited to, written and oral notice of violations and hearing before the Board.

(1) Warning Notice - If the Director has reason to believe that any person or emission from any source may violate or may have violated any provision of this ordinance, a Warning Notice may be issued to the person, owner, or operator of the source in question. The Notice shall describe the alleged or potential violation and, if appropriate, shall suggest what should be done to comply. There shall be no penalty associated with a Warning Notice. The Director, shall provide for follow-up inspections of each source for which a Warning Notice has been issued to determine whether compliance has been achieved or if additional procedures of this article should be invoked.

(2) Citation - If evidence of a violation of any section of this ordinance is brought to the attention of the Director, or if any member of the Agency observes a violation, the Director, Air Manager or Inspector, may issue a citation to the owner or operator of the source in question.

(C) Each day wherein a violation of this subchapter occurs shall constitute a separate offense. Any act or emission of air contaminants from any single or multiple source in violation or in excess of the limitations established in this subchapter shall be unlawful, and may be ordered abated by the Director. Such abatement may be in addition to the fines and penalties herein provided.

(D) If the Director finds that emissions from the operation of one (1) or more air contaminant sources is causing imminent danger to human health or safety, the Director may order the person responsible for the operation in question to reduce or discontinue emissions immediately and such an order shall fix a place and time not later than one (1) business day thereafter for a hearing to be held before the Board. Not more than twenty-four (24) hours after the commencement of such a hearing and without the adjournment thereof, the Board shall affirm, modify or set aside the order of the Director.

(E) If the Director's informal action fails to remedy the violations, formal action may be undertaken against the violator in accordance with Sections 1.10.17 and 1.10.99. (' 62 Code, Art. 3, Ch. 17, § 7) (Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.201) (Ord. G-99-22, passed 10-18-99)

Section 3.30.202 Appeals.

(A) Any person may appeal action by the Agency to the Board. Appeals to the Board shall be initiated by filing with the Director an appeal specifying the grounds thereof and the relief sought. This appeal shall be taken within thirty (30) days after the issuance of the decision, ruling, requirement, rule, regulation, or order, or failure to act upon a proper application.

(B) The Agency shall furnish to the Board papers and other materials relating to the appeal. The Board, not less than ten (10) days after the date of filing, shall give notice by mail to all interested parties, of the date, time and place of a hearing on the appeal. The Board

may, at its discretion, grant continuances. The appeal shall be a stay of the Agency' s action until final action by the Board.

(C) All hearings conducted by the Board shall be open to the public and conducted in accordance with Indiana Code 4-22-1.

(' 62 Code, Art. 3, Ch. 17, § 8, Ord G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, G-91-20, passed 6-25-91) (' 82 Code, § 30.202)

Section 3.30.203 Variance for operation.

Variance for the operation of a contaminant source in violation of any applicable emission standard contained in this subchapter may be granted by the Director only after a compliance schedule has been submitted by the operator of the source and the Director has granted approval.

(' 62 Code, Art. 3, Ch. 17, § 9) (Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.203)

Section 3.30.204 Compliance schedule.

Where emission sources do not meet the emission limitations noted in this subchapter, then a schedule to meet the emission limitations stipulated shall be developed and offered to the Director by the owner of the equipment causing the emission. This schedule shall be submitted, and after said schedule has been approved by the Director, initiated as expeditiously as practicable by the owner of the equipment causing the emission. Said equipment shall not be in violation of this subchapter so long as said schedule is observed.

Update reports consisting of information required by the Director indicating the progress of these schedules shall be submitted on agreed upon dates to the Director by the owner of the equipment causing the emission in question. If the schedule is not followed, the Director may suspend the schedule and issue a violation notice. In the event the owner of the equipment causing the emission and the Director cannot evolve a mutually acceptable schedule of improvement, the matter shall be referred to the Board for resolution and determination of an acceptable schedule, which shall be binding upon both the owner and the Director.

(' 62 Code, Art. 3, Ch. 17, § 10) (Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code Title 3, Ch. 20, G-91-20, passed 6-25-91) (' 82 Code, § 30.204) (Ord. G-99-22, passed 10-18-99)

Section 3.30.205 Right of entry to inspect.

Employees of the Evansville Environmental Protection Agency, as designated agents of the Indiana Department of Environmental Management, upon presentation of proper credentials, are authorized under IC 13-7-5-3 to enter and inspect private or public property. Employees are instructed not to sign company releases or covenants, but may sign visitor logs or passes which do not impose legal conditions on the visits.

(' 82 Code, Title 3, Ch. 30 G-91-20, passed 6-25-91) (' 82 Code, § 30.205)

Section 3.30.206 Standards and recommended practices.

Where reference is made in this subchapter to the standards or recommended practices of national technical societies, or similar organizations, that information shall be considered a part of this subchapter in the same manner and to the same extent as if it had been fully reproduced herein. Not less than two (2) copies of these standards or recommended practices shall be kept on file and available for public inspection at all times in the offices of the City Clerk and in the office of the Air Manager of the Evansville EPA.

(' 62 Code, Art. 3, Ch. 17, § 12 Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, Title 3, Ch. 30 G-91-20, passed 6-25-91) (' 82 Code, § 30.206)

Section 3.30.207 Confidentiality of records.

Confidential information means any information which is entitled to treatment as, or which has been determined to be, confidential information under rule 326 IAC 17-1, and includes any information submitted to the Board or Agency under claim of confidentiality during the pendency of a final determination of the claim. Effluent or emission data shall not be confidential information.

(' 82 Code, Title 3, Ch. 30, Ord. G-91-20) (' 82 Code, § 30.207)

Section 3.30.208 Acts prohibited.

(A) It shall constitute a nuisance, and be a violation of this section, for any person to permit or cause the emission of air contaminants which are detrimental or endanger the health or safety or comfort of any person or the public, or have a tendency to cause injury or damage to property or business. This provision shall specifically include, but not be limited to, the burning of garbage, rubbish, trash, or any other material; or any process which produces smoke or noxious or offensive odors, or noise (as described in Sections 3.30.236--3.30.244) as to interfere with the comfortable enjoyment of life or property or the conduct of business.

(B) It shall be a violation of this section for any person to operate or maintain or cause to be operated or maintained, any premises, open area, right-of-way, storage pile of materials or vehicles, or construction, alteration, sandblasting, demolition, or wrecking operation, or any other enterprise, which involves any material or substance likely to be scattered by the wind, or susceptible to being windborne, without taking reasonable precautions or measures to minimize fugitive dust, including, but not limited to, alternate materials, temporary enclosures, paving, watering, applying dust suppressant, limiting vehicle traffic, or reducing vehicle speed. No person shall maintain or conduct, or cause to be maintained or conducted, any parking lot, or automobile and/or truck sales lot or use any roadway unless such lot or roadway is maintained in such manner as to minimize fugitive dust.

(C) No person shall deposit any contaminants upon the land in such place and manner which creates, or which would create pollution, or deposit or cause or allow the deposit of any contaminants or solid waste upon the land except through the use of sanitary landfills,

incineration, composting, garbage grinding, or other methods acceptable to the State Solid Waste Management Board.

(' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.208) (Ord. G-93-19, passed 8-23-93) (Ord. G-99-22, passed 10-18-99)

Section 3.30.209 Visible emissions.

(A) Application. This Section shall apply to all visible emissions (not including condensed water vapor) emitted by or from any facility or source except those sources or facilities for which specific visible emission limitations are established.

(B) Limitation.

(1) Visible emissions from any source or facility shall not exceed an average of forty percent (40%) opacity in twenty-four (24) consecutive readings (six (6) consecutive minutes).

(2) In the City of Evansville and that portion of Pigeon Township located outside the City visible emissions shall not exceed an average of thirty percent (30%) opacity in twenty-four (24) readings (six (6) consecutive minutes), except as allowed in divisions (C) and (E) of this section.

(3) Opacity shall be determined by a person certified as qualified to judge opacity by the State of Indiana as stated in 326 IAC 5-1-4.

(4) Sources and facilities of visible emissions located in both attainment or nonattainment areas, for which an alternate visible emission limitation has been established pursuant to 326 IAC 5-1-5 (b), shall comply with said limitations in lieu of the limitations set forth in subsections (1) and (2) above.

(C) Temporary exemptions.

(1) Boiler startup and shutdown: When building a new fire in a boiler or shutting down a boiler, visible emissions shall not exceed an average of sixty percent (60%) opacity for a period of more than ten (10) continuous minutes on one (1) occasion in any 24 hour period.

(2) Cleaning boilers: When removing ashes from the fuel bed or furnace in a boiler or blowing tubes, visible emissions shall not exceed sixty percent (60%) opacity for more than five (5) continuous minutes on one (1) occasion in any sixty (60) minute period. Such emissions shall not be permitted on more than three (3) occasions in any twelve (12) hour period.

(3) Facilities not temporarily exempted by subsections (1) and (2) of this section may be granted special temporary exemptions by the Air Manager of the same duration and type authorized therein provided that the facility proves to the satisfaction of the Air Manager that said exemptions are needed and that during periods of startup and shutdown, owners and operators shall, to the extent practicable, maintain and operate any affected facility including air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the

Air Manager, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures and inspection of the source.

(D) Violations.

(1) A violation of Subsection (B) of this Section shall constitute prima facie evidence of a violation of other applicable particulate emission control regulations. A violation of any such rule may be refuted by a performance test conducted in accordance with subsection (b) of 326 IAC 5-1-5. No violation shall be deemed to have occurred if it can be shown that the emissions observed are exempt under division (C) of this section or were due to a malfunction, provided the requirements of division (E) of this section are followed.

(E) Fuel Equipment and Furnaces.

(1) For the purposes of this Section, the term "SOLID FUEL" means solid fossil fuel, wood or that form of processed combustible solid waste commonly known as refuse derived fuel ("RDF").

(2) No person shall leave any fuel equipment using solid fuel unattended if the steam load in the boiler is 5,000 pounds per hour or more. However, this division does not apply to automatic boilers.

(3) All heating furnaces and boilers of the central heating design installed after February 28, 1974, if using solid fuel, shall be equipped with a mechanical firing device. This section shall apply to all dwelling units constructed after the effective date of this subchapter, and all replacement of central heating units undertaken after that date.

(F) Indirect Heating Units.

(1) The emission of particulate matter from the combustion of fuel for indirect heating shall be limited by the ASME Standard number APS-1, Section Edition, November, 1968, "Recommended Guide for the Control of Dust Emission-Combustion for Indirect Heat Exchangers", which provides as follows:

(a) The maximum allowable emission shall be calculated using equation (15) in the ASME Standard with a maximum down-wind ground level concentration of 50 micrograms per cubic meter for a 30-minute to 60-minute time period. Figure two as modified may be used to estimate allowable emissions and is included as part of this section.

(b) The equation (15) is expressed as follows:

$$C_{max} = 76.5 \frac{P_{tf} g}{ahs} [Q_m^{0.75}] [n^{0.25}]$$

WHERE:

C_{max} equals maximum ground level concentration with respect to distance from the point source at the "Critical" wind speed for level terrain. C_{max} shall not exceed 50 micrograms per cubic meter.

P_{tf} equals pounds of particulate matter emitted per million Btu heat input.

Om equals total plant operating capacity rating in million Btu heat input per hour.

n equals the number of stacks in the fuel burning operation.

a equals plume rise factor. The value of 0.67 shall be used for fuel-burning equipment ratings of less than 1000 million Btu heat input. No value greater than 0.8 for larger equipment ratings shall be used.

hs equals stack height in feet. If a number of stacks of different heights exist, the average stack height to represent "n" stacks shall be calculated by weighing each stack height with its particulate matter emission rate.

(c) Particulate matter (Ptf) from all-existing fuel combustion operations for indirect heating shall in no case be greater than 0.8 pounds per million Btu heat input.

(d) Particulate matter (Ptf) for all new combustion operations for indirect heat installations of 250 million Btu heat input per hour or less shall in no case be greater than 0.6 pounds per million Btu heat input.

(2) Emissions of particulate matter from the combustion of fuel in new stationary installations for indirect heating in excess of 250 million Btu per hour heat input shall be limited to a maximum of 0.10 pounds per million Btu heat input as required by the Federal Environmental Protection Agency's "Standards for Performance of New Stationary Sources" Federal Register, December 23, 1971, Vol. 36, Number 247, Part II, which federal standard is adopted by reference as a part of this subchapter.

(' 62 Code, Art. 3, Ch. 17, § 13) (Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.209) (Ord G-93-19, passed 08-24-93) (Ord. G-99-22, passed 10-18-99)

Section 3.30.210 Indirect heating emission limitations.

This section establishes limitations for sources of indirect heating as follows:

(A) Particulate emissions from the combustion of fuel for indirect heating from all facilities which were existing and in operation or which received permits to construct prior to September 21, 1983 shall be limited by 326 IAC 6-2-3.

(B) Particulate emissions from the combustion of fuel for indirect heating from all facilities receiving permits to construct on or after September 21, 1983 shall be limited by 326 IAC 6-2-4.

(C) If any limitation established by this section is inconsistent with applicable limitations contained in 326 IAC 6-1-16, then the limitations contained therein prevail.

(D) If any limitation established by this section is inconsistent with applicable limitations contained in 326 IAC 12, New Source Performance Standards, then the limitations contained therein prevail.

(E) If any limitation established by this section is inconsistent with a limitation contained in a facility's construction or operation permit as issued pursuant to 326 IAC 2, Permit Review Regulations, then the limitations contained in the source's current permits prevail.

(F) If any limitation established by this section is inconsistent with a limitation required by 326 IAC 2, Permit Review Regulations, to prevent a violation of the ambient air quality standards, then the limitations therein prevail.

(G) The addition of a new facility at a source does not affect the limitations of the existing facilities unless such changes in the limitations are required by the provisions of 326 IAC 2 or 326 IAC 6-1.

(Ord. G-93-19 passed 8-24-93)

Section 3.30.211 Process equipment emissions.

Editor's Note: See ISAPCB Regulation No. 5

(A) No person shall operate any process so as to emit or allow particulate matter to be emitted in excess of the amount shown in the following table. Exceptions include combustion for indirect heating, incinerators, open burning, existing cement kilns, existing catalytic cracking units, and existing foundries.

Allowable Rate Emission Based on Process Weight Rate

Process Weight	Rate of Emission	Rate of Emission
Lbs/Hr.	Tons/Hr.	Lbs./Hr.
100	0.05	0.551
200	0.10	0.877
400	0.20	1.40
600	0.30	1.83
800	0.40	2.22
1,000	0.50	2.58
1,500	0.75	3.38
2,000	1.00	4.10
2,500	1.25	4.76
3,000	1.50	5.38
3,500	1.75	5.96
4,000	2.00	6.52
5,000	2.50	7.58

6,000	3.00	8.56
7,000	3.50	9.49
8,000	4.00	10.40
9,000	4.50	11.20
10,000	5.00	12.00
12,000	6.00	13.60
16,000	8.00	16.50
18,000	9.00	17.90
20,000	10.00	19.20
30,000	15.00	25.20
40,000	20.00	30.50
50,000	25.00	35.40
60,000	30.00	40.00
70,000	35.00	41.30
80,000	40.00	42.50
90,000	45.00	43.60
100,000	50.00	44.60
120,000	60.00	46.30
140,000	70.00	47.80
160,000	80.00	49.00
200,000	100.00	51.20
1,000,000	500.00	69.00
2,000,000	1,000.00	77.60
6,000,000	3,000.00	92.70

(1) Interpolation of the data in this table for process weight rates up to 60,000 lbs/hr. shall be accomplished by use of the equation:

$$E=4.10 p 0.67$$

(2) Interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs/hr. shall be accomplished by use of the equation:

$$E=55.0 p 0.11 -40,$$

where E = rate of emission in lbs/hr. and

P = process weight in tons/hr.

(B) When the process weight exceeds 200 tons/hr., the maximum emission may exceed that shown in the table, provided the concentration of particulate matter in the discharge gases to the atmosphere is less than 0.10 pounds per 1,000 pounds of gases at standard conditions.

(C) Existing cement manufacturing operations equipped with electrostatic precipitators, bag filters, or equivalent gas-cleaning devices shall be allowed to discharge concentrations of particulate matter in accordance with the equation:

- (1) E= 8.6 p 0.67, below 30 tons per hour of process weight and
- (2) E= 15.0 p 0.50, over 30 tons per hour of process weight, but may not exceed that level.

(D) Existing petroleum catalytic cracking units equipped with cyclone separators, electrostatic precipitators, or other gas-cleaning systems shall recover 99.97% or more of the circulating catalyst or total gas-borne particulate matter.
(' 62 Code, Art. 3, Ch. 17, § 18) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.211)

Section 3.30.212 Fugitive Dust.

(A) Emissions - General.

(1) Applicability of rule. This section shall apply to all sources of fugitive dust. For the purposes of this section, "fugitive dust" means the generation of particulate matter to the extent that some portion of the material escapes beyond the property line or boundaries of the property, right-of-way, or easement on which the source is located.

(2) Definitions of terms as set forth in this section.

(a) "AS NEEDED BASIS." Means the frequency of application necessary to minimize visible particulate matter emissions as defined in the control plan.

(b) "FUGITIVE PARTICULATE MATTER EMISSIONS." Means particulate matter which is emitted from any source by means other than a stack.

(c) "PAVED ROAD." Means any asphalt or concrete surfaced thoroughfare or right-of-way designed or used for vehicular traffic and located on the property of, or owned by, an individual or company.

(d) "POTENTIAL EMISSIONS." Means fugitive particulate matter emissions calculated after the application of air pollution control measures of air pollution control equipment.

(e) "UNPAVED ROADS." Means any surfaced thoroughfare or right-of-way, other than a paved road as defined above, which is designed or used for vehicular traffic located on the property of, or owned by an individual or company.

(3) Emission limitations. A source or sources generating fugitive dust shall be in violation of this section if any of the following criteria are violated:

(a) A source or combination of sources which cause to exist fugitive dust concentrations greater than sixty-seven percent (67%) in excess of ambient upwind concentrations as determined by the following formula:

$$P = 100 \frac{(R - U)}{U}$$

P = Percentage increase

R = Number of particles of fugitive dust measured at downwind receptor site.

U = Number of particles of fugitive dust measured at upwind or background site.

(b) The fugitive dust is comprised of fifty percent (50%) or more respirable dust, then the percent increase of dust concentration in this section shall be modified as follows:

$$P R = (1.5 \pm N) P$$

N = Fraction of fugitive dust that is respirable dust;

P R = Allowable percentage increase in dust concentration above background;

P = No value greater than sixty-seven percent (67%).

(c) The ground level ambient air concentrations exceed fifty (50) micrograms per cubic meter above background concentrations for a sixty (60) minute period.

(d) If fugitive dust is visible crossing the boundary or property line of a source, this subpart may be refuted by factual data expressed in subparts (a), (b) or (c) of this section.

(4) Multiple sources of fugitive dust.

(a) The allowable particles shall refer to the total of all particles leaving the boundaries or crossing the property line of any source of fugitive dust regardless of whether from a single operation or number of operations. If the source is determined to be comprised of two (2) or more legally separate persons, each shall be held proportionately responsible on the basis of contributions by each person as determined by microscopic analysis. In such cases, samples shall be taken downwind from the combination of sources and at the fence line of each source.

(b) No source which is contributing to a combined downwind fugitive dust concentration in excess of the limits of this section shall be required to reduce emissions if the concentrations at its property line are in compliance unless all contributors are individually in compliance and a combined fugitive dust concentration still exceeds the limits of this section. Each source shall then be required to reduce its emissions by like percentages to achieve an acceptable combined downwind concentration.

(c) When all contributors are individually in compliance and no nuisance to the surrounding community is created, the Director may waive the requirement for further reduction in emissions by combined contributors.

(5) Motor vehicle fugitive dust sources. No vehicle shall be driven or moved on any public street, road, alley, highway, or other thoroughfare, unless such vehicle is so constructed as to prevent its contents from dripping, sifting, leaking, or otherwise escaping therefrom so as to create conditions which result in fugitive dust. This section applies only to the cargo any vehicle may be conveying and mud tracked by the vehicle.

(6) Measurement processes.

(a) Particle quantities and sizes will be measured by manual microscopic analysis of a dustfall sample collected on a sticky slide or by use of commercially available particle counting devices which count and classify particles by micron size range, or other methods acceptable to the Director.

(b) Ambient air concentrations shall be measured using the standard hi volume sampling and analysis techniques as specified by 40 Code of Federal Regulations (C.F.R.) 50.

(c) Observations by a qualified representative of the Director of visible emissions crossing the property line of the source at or near ground level.

(7) Exceptions. The following conditions will be considered as exceptions to this section and therefore not in violation:

(a) Release of steam not in combination with any other gaseous or particulate pollutants unless the condensation from said steam creates a nuisance or hazard in the surrounding community.

(b) Fugitive dust from publicly maintained unpaved thoroughfares where no nuisance or health hazard is created by its usage or where it is demonstrated to the Director that no means are available to finance the necessary road improvements immediately. A reasonable long-range schedule for necessary road improvements must be submitted to support the Director's granting such an exception.

(c) Fugitive dust from construction or demolition where every reasonable precaution has been taken in minimizing fugitive dust emissions.

(d) Fugitive dust generated from farming operations providing every reasonable precaution is taken to minimize emissions and providing operations are terminated if a severe health hazard is generated because of prevailing meteorological conditions.

(e) Visible plumes from a stack or chimney which provide adequate dispersion and are in compliance with other applicable sections.

(f) Fugitive dust from a source caused by adverse meteorological conditions.

(g) All sources must comply with this section, per 326 IAC 6-4, as soon as practicable but no later than July 1, 1974.

(B) Emissions Limitations - Sources.

(1) Applicability.

(a) The requirements of this subsection (B) shall apply to any source of fugitive particulate matter emissions located in the portion of Vanderburgh County included in the City of Evansville and Pigeon Township which has potential fugitive particulate matter emissions of twenty-five (25) tons per year or more.

(b) This subsection (B) applies to any new source of fugitive particulate matter emissions requiring a permit as set forth in 326 IAC 2, which has not received all the necessary preconstruction approvals before December 13, 1985. If any control measure established by 326 IAC 6-5 is inconsistent with an applicable control measure contained in 326 IAC 12, the more stringent measure shall apply.

(c) Any source or facility of fugitive particulate matter emissions subject to the requirements of 326 IAC 6-5 shall be subject to the provisions established in 326 IAC 6-4-6.

(d)1. Emission factor equations as per 326 IAC 6-5-1 (d), (1), (2), (3) shall be used to determine potential emissions for unpaved roads, aggregate handling and storage piles, and paved roads, respectively.

2. A source may petition the director to use emission factors and control efficiencies other than those referenced in the subparts noted above if adequate support documentation is submitted.

(2) Control measures.

(a) Fugitive particulate matter emissions resulting from the emission points specified in this subsection (B) shall be controlled to twenty percent (20%) average opacity measured in four (4) readings at fifteen (15) second intervals, unless exempted pursuant to 326 IAC 6-5-7 (d). All control measures specified in this section shall be considered reasonably available control measures (RCM). The frequency of application for all control measures shall be detailed in each control plan as per 326 IAC 6-5-3. No control plan shall contain control measures which violate the provisions of the Indiana statutes or the rules of any state agency.

(1) Paved roads, unpaved roads, and parking lots. Fugitive particulate matter emissions resulting from paved roads, unpaved roads, and parking lots shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Paved roads and parking lots: Cleaning by vacuum sweeping, flushing or an equivalent alternate measure.

(b) Unpaved roads and parking lots:

(1) Paving with a material such as asphalt or concrete.

(2) Treating with a suitable and effective oil or chemical dust suppressant approved by the Commissioner. A list will be kept in this office and updated periodically. The frequency of application shall be on an as needed basis.

(3) Spraying with water, the frequency of application shall be on an as needed basis.

(4) Double chip and seal the road surface and maintain on an as needed basis.

(5) An equivalent alternate measure.

(3) Open aggregate piles:

(a) Measures to control fugitive particulate matter emissions shall be required for open aggregate piles consisting of material such as, but not limited to, sand, gravel, stone, grain, and coal and which material is finer than two hundred (200) mesh size equal to or greater than one percent (1%) by weight. Open aggregate material mesh size shall be determined by the "American Association of State Highway and Transportation Officials Test Method T27-74," or other equivalent procedures acceptable to the Director.

(b) Fugitive particulate matter emissions resulting from open aggregate piles consisting of such material as, but not limited to, sand, gravel, stone, grain, and coal shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(1) Cleaning the area around the perimeter of the aggregate piles.

(2) Application of suitable and effective oil or other dust suppressant on an as needed basis.

(3) An equivalent alternate measure.

(4) Fugitive particulate matter emissions resulting from outdoor conveying of aggregate material such as, but not limited to, sand, gravel, stone, grain, and coal by equipment such as belt conveyors and bucket elevators shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Enclosing the conveyor belt totally on the top and sides as needed to minimize visible emissions. Also, if needed, exhausting emissions to particulate control equipment during operation of conveyor.

(b) Applying water or suitable and effective chemical dust suppressant at the feed and/or intermediate points as needed to minimize visible emissions.

(c) An equivalent alternate measure.

(5) Fugitive particulate matter emissions resulting from the transferring of aggregate material shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Minimizing the vehicular distance between the transfer points.

(b) Enclosing the transfer points and if needed exhausting emissions to particulate control equipment during the operation of the transferring system.

(c) Application of water or suitable and effective chemical dust suppressant as needed to minimize visible emissions.

(d) An equivalent alternate measure.

(6) Fugitive particulate matter emissions resulting from transportation of aggregate material by truck, front end loaders, or similar vehicles shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Use of completely enclosed vehicles.

(b) Tarping the vehicle.

(c) Maintaining the vehicle body in such a condition that prevents any leaks of aggregate material.

(d) Spraying the materials in the vehicle with a suitable and effective dust suppressant.

(e) An equivalent alternate measure.

(7) Fugitive particulate matter emissions resulting from the loading and unloading operations of the material from storage facilities such as bins, hoppers, and silos, onto or out of vehicles, shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Enclosure of the material loading/unloading area.

(b) Total or partial enclosure of the facility and exhausting of emissions to particulate collection equipment. Such equipment shall be approved by the board.

(c) Spraying with water or suitable and effective chemical dust suppressant as needed to minimize visible emissions.

- (d) Reduction of free fall distance.
- (e) An equivalent alternate measure.

(8) Solid waste handling. Fugitive particulate matter emission resulting from activities involving solid waste (as defined in IC 13-7-1-2 (10) disposal shall be controlled unless exempted pursuant to 326 IAC 6-5-7 (d). Sources may use one or more of the following measures:

(a) Hauling

- (1) Wet suppression of the material being transported.
- (2) Hauling the material enclosed or covered.
- (3) Minimizing the free fall distance when unloading from the particulate collection equipment and/or process equipment onto the hauling vehicle.
- (4) An equivalent alternate measure.

(b) Dumping

- (1) Applying water or suitable and effective chemical dust suppressant on an as needed basis to minimize visible emissions.
- (2) Minimizing the free fall distance of the material.
- (3) An equivalent alternate measure.

(9) Fugitive particulate matter emissions resulting from material handling operations such as crushing, grinding, screening, and mixing shall be controlled unless exempted by 326 IAC 6-5-7(d). Sources may use one or more of the following measures:

- (a) Wet Suppression.
- (b) Enclosure of emission source with venting of emissions to a fabric filter.
- (c) An equivalent alternate measure.

(10) Provisions of this section are applicable in preventing particulate matter from escaping through building openings such as doors, windows, powered or unpowered ventilators, roof monitors, other than a stack as defined in 326 IAC 1-2-74, from sources subject to 326 IAC 6-5. However, grain elevators subject to the provisions of this section shall provide for good housekeeping and good maintenance procedures as set forth in 326 IAC 6-1-2(d)(2).

(a) Fugitive particulate matter emissions escaping through building openings set forth above shall be controlled unless exempted by 326 IAC 6-5-7(d). Sources may use one or more of the following measures:

- (1) Installing a removable filter over appropriate building openings.
- (2) Capturing emissions within the building by a proper hood system and conveying through a duct to particulate collection system approved by the Director.
- (3) An in-house operating and procedure maintenance program consisting of:

(i) Proper maintenance of the process equipment and particulate collection system approved by the Director.

(ii) Substitution of the process equipment, material, and/or operating procedure that will minimize visible emissions.

(4) An equivalent alternate measure.

(C) No person shall apply or allow the application of used oil to any ground surface, except for purposes of treatment in accordance with a permit issued by the IDEM under IC 13-7-10.

The term "USED OIL" (IC 13-7-1-25.5) includes substances used for the following purposes:

(1) Lubricant for engines, turbines, or gears.

(2) Hydraulic fluid, including transmission fluid.

(3) Metal working fluid, including cutting, grinding, machining, rolling, stamping, quenching, and coating oil.

(4) Insulating fluid or coolants.

(' 62 Code, Art. 3, Ch. 17, § 18) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.212) (Ord G-93-19, passed 08-24-93) (Ord. G-99-22, passed 10-18-99)

Section 3.30.213 New Source performance standards.

(A) In addition to the requirements set forth herein, new sources for which federal standards have been promulgated shall comply with applicable portions of the Federal New Source Performance Standards, which are found in 40 C.F.R. Part 60.

(B) The provisions of 326 IAC 12 (which incorporates by reference 40 C.F.R. 60) shall apply to the owner or operator of any stationary source for which a standard is prescribed under 326 IAC 12. If the emission limitations contained in 326 IAC 12 conflict with or are inconsistent with any other emission limitations established by title 326, then the more stringent limitation shall apply.

(' 62 Code, Art. 3, Ch. 17, § 19) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.213) Penalty, see Section 3.30.18.247 (Ord. G-93-19, passed 08-24-93)

Section 3.30.214 Burning regulations.

No person shall burn any material except as allowed by this section. This section does not apply to indoor heating units using coal, clean wood, fuel oils, white gas, propane, Sterno or natural gas as fuels for heating purposes.

(A) GENERAL PROVISIONS:

(1) Open burning is permitted within the City limits and the jurisdiction of the Evansville EPA with an Open Burn Variance for the following:

(a) Burning for the purpose of fire training, in the city or the county, subject to the requirements in 326 IAC 14-10 and with written notice to Evansville EPA. All asbestos

containing material must be removed before the burning of a structure. The structure shall not have been demolished prior to training activities.

(b) Fires celebrating school pep rallies, subject to the additional conditions for Recreational or Ceremonial fires, subsection (B)(2). The variance is issued per event day only.

(c) Burning of clean petroleum products for fire extinguisher training, subject to the conditions in subsection D and the following conditions:

1. The local fire department and Evansville EPA must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.

2. All burning shall take place in a noncombustible container or enclosure, enclosed on all sides and a bottom.

3. A total of no more than fourteen (14) gallons of fuel may be burned per day.

4. Only one (1) fire may be allowed to burn at a time.

5. All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination.

(d) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is hazardous.

2. Open burning is permitted outside the City limits, but within the jurisdiction of the Evansville EPA (as provided in Section 3.30.195) for the following:

a. Open Burn Permit. Private residential burning in a container, where the buildings contain two (2) or fewer dwelling units, may be conducted if an Open Burn Permit has been obtained for burning that is conducted in a noncombustible container sufficiently vented to induce adequate primary combustion air and has enclosed sides and a bottom. Burning is prohibited in apartment and condominium complexes and mobile home parks. Only clean wood products and paper may be burned. Burning shall be subject to the conditions in subsection D.

b. Open Burn Variance. Open burning on the ground may be conducted if an Open Burn Variance has been obtained to burn on the ground for the following:

i. Burning of natural growth for the purpose of land management.

ii. Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land where every reasonable means possible shall be utilized to reclaim the cleared, marketable trees or portions thereof for lumber, pulpwood, firewood, etc. before a variance will be considered.

iii. Burning of clean wood products.

3. An Open Burn Permit and an Open Burn Variance shall be reviewed on an individual basis by the Director provided that:

a. A written application is filed with the Evansville EPA.

b. The applicant has demonstrated that alternative methods for disposal are impractical or prohibitively expensive.

- c. All applicable fees are paid as provided in Section 3.30.224.
- d. Open Burn Permits and Open Burn Variances shall be issued for a thirty (30) day period.

The Director may also consider the following:

- e. There are not more than five (5) residences or structures within five hundred (500) feet of the proposed burning site.

- f. There have been no open burning violations at the site of the proposed burning or by the applicant.

4. Burning shall be subject to the following conditions unless otherwise stipulated in the Open Burn Permit or Open Burn Variance and shall in all instances be subject to the conditions in subsection (D).

- a. The Open Burn Permit or Open Burn Variance shall be made available at the burning site to state or local officials upon request except during emergency burning.

- b. No burning shall take place within one hundred (100) feet of any structure or power line or three hundred (300) feet of a frequently traveled road, fuel storage area, or pipeline.

- c. No waste that is regularly generated as a result of a routine business operation shall be burned.

- d. The material to be burned shall not exceed one thousand (1,000) cubic feet.

After review and inspection, the application shall be approved in writing by the Director so long as it meets the requirements of this section, the remainder of the Municipal Code and the conditions imposed by the Director which shall be deemed reasonably necessary to prevent the creation of a nuisance. If an Open Burn Permit or Open Burn Variance is denied, the applicant may appeal pursuant to Section 3.30.202.

(B) EXEMPTIONS. The following types of fires are allowed without a permit or variance:

(1) Maintenance purposes listed as follows:

- (a) Burning of vegetation from a farm, orchard, nursery, tree farm or drainage ditch.

- (b) Burning of wood products derived from pruning or clearing of a roadside by a county highway department.

- (c) Burning of wood products derived from the initial clearing of a public utility right-of-way so long as the open burn occurs in an unincorporated area.

- (d) Burning of undesirable wood structures on real property; or wood remnants of the demolition of a predominantly wooden structure originally located on real property; located in an unincorporated area. All asbestos containing material must be removed before the burning of a structure.

- (e) Burning of clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad right-of-way, but not including railroad ties.

(2) Recreational/Ceremonial fires, such as:

(a) Ceremonial fires for activities such as flag retirement and fires celebrating scouting activities having adult supervision.

(b) Fires not directly on the ground used for recreational or cooking purposes.

(c) Fires on the ground used solely for recreational or cooking purposes with material limited to three feet (3') diameter two feet (2') high size, provided they are registered with the Evansville EPA prior to starting. No bonfires are allowed. Burning shall be subject to the conditions in subsection D and the following conditions:

1. Only clean wood products, paper, charcoal, or clean petroleum products may be burned.

2. The fire shall not be ignited prior to two (2) hours before the recreational activity is to take place and shall be extinguished upon conclusion of the activity.

3. The fire shall not be used for disposal purposes.

4. The fire shall not take place within five hundred (500) feet of any fuel storage area or pipeline.

(3) Specific purpose fires listed as follows:

(a) Waste oil burning, where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit as prescribed in 310 IAC 7-1-37(a) in the Indiana Department of Natural Resources (DNR) rules, oil and gas operations. Burning shall be subject to the conditions in subsection D and these additional conditions:

1. Each oil pit may be burned once every two (2) months.

2. The fire must be extinguished within thirty (30) minutes of ignition.

(b) Burning of marijuana by federal, state, and local law enforcement offices. Burning shall be subject to the conditions in subsection (D) and only clean petroleum products shall be used for ignition purposes.

(c) Burning for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the conditions in subsection D subparts 2, 3, 4, 6 and 9 and to these additional conditions:

1. Burning shall only occur between October 1 and May 15.

2. Burning shall not be conducted for the purpose of disposal.

(d) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions in subsection (C).

(e) Department of Natural Resources and US Department of Agriculture, Forest Service burning to facilitate prescribed burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, natural area management, ecosystem management, and

firefighting or prevention. Only vegetation and clean petroleum products may be burned and the burning is subject to subsection (D) subparts (2), (3), (4), (6) and (9) conditions.

Except as previously noted in subsection (A)(1), (B)(1)(e), (B)(2) and (B)(3)(c), (d) and (e), open burning is not allowed within the city limits.

(C) EMERGENCY VARIANCE. Burning may be conducted with prior approval of the Director of the Evansville EPA, Fire Chief, Police Chief or Emergency Management Agency Director in an emergency situation only for the following:

(1) Spilled or escaping liquid or gaseous petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire or health hazard or air or water pollution problem.

(2) Clean wood waste, vegetation, or deceased animals resulting from a natural disaster where failure to burn would result in an imminent health or safety hazard.

(D) ALL BURNING UNDER THIS SECTION SHALL BE SUBJECT TO THE FOLLOWING.

(1) Only clean wood products shall be burned unless otherwise stated above; however, no rootballs or stumps shall be burned.

(2) The fire shall be extinguished if the fire creates a pollution problem, a threat to public health, a nuisance or a fire hazard.

(3) All fires must be attended at all times during burning until completely extinguished.

(4) No burning shall be conducted during unfavorable meteorological conditions, including but not limited to, temperature inversions, high winds, air stagnation, a pollution or ozone alert, or an ozone advisory.

(5) Asbestos containing material may not be burned.

(6) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

(7) No poison ivy, poison oak, poison sumac or similar allergenic material shall be burned.

(8) No material contaminated or treated with preservatives, paint, coatings or pesticides shall be burned.

(9) All burning must comply with other state and federal laws including 40 CFR 61 Subpart M (National Emissions Standards for Asbestos) and this Municipal Code.

Violation of this section may result in revocation of permit or variance, and the issuance of a citation or request for legal action for the collection of the fines provided by Section 3.30.247 or other enforcement provided in Section 1.10.17.

(E) LIABILITY FOR FIRE.

Any property owner or person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution may not refute liability for violation of this section on the basis that said fire was set by vandals, accidental or an act of God.

(F) AIR CURTAIN DESTRUCTORS.

(1) Application. An owner or operator of an air curtain destructor shall submit an application to the Agency to obtain a permit prior to its installation or operation at a new site. The owner or operator shall not operate the air curtain destructor unless the owner or operator holds a valid permit from the Agency and shall maintain the permit at the air curtain destructor site at all times for verification.

(2) Approval Conditions. In order to obtain an air curtain destructor permit, the owner or operator shall ensure that installation and operation of such air curtain destructor will comply with subdivisions a through u of this subsection. Burning shall be terminated immediately at any air curtain destructor site which does not comply with this section. The Director may add conditions to the permit as necessary to prevent a public nuisance or protect the public health.

(a) Only untreated wood products shall be burned, except for minimal amounts of uncontaminated petroleum products which may be used for ignition. Merchantable wood products shall not be burned.

(b) Burning shall not be conducted during unfavorable meteorological conditions, including but not limited to, high winds or air stagnation, or when a pollution or ozone alert, or ozone advisory has been declared.

(c) The air curtain destructor shall not be operated prior to one (1) hour after sunrise, the fire shall not be fed after two (2) hours before official sunset, the fire must be completely extinguished by official sunset, and at least one (1) foot of dirt must be placed over the ashes in the pit by official sunset.

(d) An air curtain destructor site shall be located no less than five hundred (500) feet from any private residence, public roadway power line, structure, business, pipeline or fuel storage area.

(e) An air curtain destructor site shall not be located within one thousand (1000) feet of a landfill or transfer station as defined in 329 IAC 2-2-1.

(f) An air curtain destructor shall not be permanently located at any site.

(g) An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.

(h) Burning shall not create or contribute to an air pollution problem, a nuisance, or a fire hazard.

(i) An air curtain destructor and pit shall be maintained and operated according to the manufacturer's specifications and recommendations.

(j) The owner or operator shall provide notification in advance to the Agency of the dates and times that the air curtain destructor will be in operation.

(k) The fan blades of the air curtain destructor shall be regularly cleaned to reduce buildup of dirt and debris.

(l) All canisters must be properly aligned, connected, and maintained so as to prevent leaks between adjacent canisters.

(m) The nozzles must be maintained in good working condition. The minimum average velocity at the nozzle must be nine thousand fifty (9,050) feet per minute, and the air flow at the nozzle must be a minimum of seven hundred fifty (750) cubic feet per minute per foot of length.

(n) The engine running the air curtain destructor fan must be maintained in proper working condition.

(o) The width of the pit shall not extend beyond the length of the nozzle action.

(p) The distance from the air curtain destructor to the opposite wall of the pit shall not exceed ten (10) feet.

(q) The depth of the pit shall be of such distance to allow all burning material to be below the curtain of air created by the air curtain destructor.

(r) All nozzles shall be aligned and directed toward the opposite wall so that the air strikes the opposite wall at least three (3) feet below the grade upon which the air curtain destructor is located so that the air tumbles in the pit.

(s) The air curtain destructor shall not be at a higher elevation than the elevation of the opposite wall.

(t) The pit shall be enclosed on four (4) sides, and the walls shall be perpendicular to level ground.

(u) Material being loaded into the pit shall be picked up and dropped into the pit, and at no time shall the material protrude through the curtain of air while burning.

(3) Approval Revocation. The Director may, upon good cause, after notice and hearing, revoke an air curtain destructor permit if the owner or operator:

(a) Violates any requirement of subsections 2a through u of this rule.

(b) Violates any condition added to the permit.

(c) Violates any other state or local rule or ordinance pertaining to the installation or operation of air curtain destructors.

(d) Falsifies information on an application for a permit.

(e) Operates an air curtain destructor in a manner which is hazardous to the public health.

(4) The fees hereunder shall be as provided in Section 3.30.224.

(G) INCINERATORS.

(1) This section establishes standards for the use of incinerators which emit regulated pollutants. This section does not apply to incinerators in residential units consisting of four (4) or fewer families or incinerators for which streamlined requirements have been established in accordance with 326 IAC 2-7-24. All other incinerators are subject to this section.

(2) All incinerators shall:

(a) Consist of primary and secondary chambers, or the equivalent.

(b) Be equipped with a primary burner unless burning wood products.

(c) Comply with 326 IAC 5-1 and 326 IAC 2.

(d) Be maintained properly as specified by the manufacturer.

(e) Be operated according to the manufacturer's recommendations and only burn waste approved by the Director.

(f) Comply with other state and local rules or ordinances regarding installation and operation of incinerators.

(g) Be operated so that emissions of hazardous material including, but not limited to, viable pathogenic bacteria, dangerous chemicals or gases, or noxious odors are prevented.

(h) Not emit particulate matter in excess of the following:

1. Incinerators with a maximum refuse-burning capacity of two hundred (200) or more pounds per hour: three-tenths (0.3) pounds of particulate matter per one thousand (1,000) pounds of dry exhaust gas at standard conditions corrected to fifty percent (50%) excess air; or

2. All other incinerators: five-tenths (0.5) pounds of particulate matter per one thousand (1,000) pounds of dry exhaust gas at standard conditions corrected to fifty percent (50%) excess air; and

a. Not create a nuisance or fire hazard.

If any of the above result, the burning shall be terminated immediately.

(H) SALVAGE. No person shall conduct any salvage operation or open dump by open burning or burn, cause, or allow the burning of any waste in a manner which violates either IC 13-1-1 or Section 3.30.214.

(' 62 Code, Art. 3, Ch. 17, § 9, Ord. G-81-53, passed 12-14-81) (' 62 Code, Art. 3, Ch. 17, § 20, Ord G-81-53, passed 12-14-91) (Am. Ord ' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.214) (Ord. G-93-19, passed 08-24-93) (Ord. G-95-2 as amended, passed 7-10-95) (Ord. G-99-22, passed 10-18-99)

Section 3.30.215 Ambient air quality standards.

(A) The purpose of this section is to establish primary and secondary ambient air quality standards to protect public health and welfare, which are consistent with the intent and provisions of the Indiana law. Further, in accordance with provisions of the Clean Air Act, and 40 CFR 50, these primary and secondary air quality standards are applicable throughout the entire state.

(1) "PRIMARY STANDARD" are levels of air quality which are necessary with an adequate margin of safety to protect the public health.

(2) "SECONDARY STANDARD" are levels of air quality which are necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

(B) Procedures to sample the ambient air quality in the county shall be conducted in accordance with 40 CFR50, and appendices or other equivalent methods approved by the Commissioner. Quality assurance of sampling methods and analysis of ambient air quality samples shall be in accordance with the guidelines established by the Commissioner.

(C) The following ambient air quality standards, corrected to a reference temperature of 25 degrees C. and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars), as micrograms per cubic meter $\mu\text{g}/\text{m}^3$, shall apply:

(1) Sulfur Oxides as Sulfur Dioxide (SO_2).

(a) Primary standards: The following values shall represent the maximum permissible ambient air quality levels:

(1) $80 \mu\text{g}/\text{m}^3$ (0.03 ppm) annual arithmetic mean.

(2) $365 \mu\text{g}/\text{m}^3$ (0.14 ppm) maximum 24-hour average concentration not to be exceeded more than one day per year.

(b) Secondary standards: The following value shall represent the maximum permissible ambient air quality levels:

(1) $1,300 \mu\text{g}/\text{m}^3$ (0.50 ppm) maximum 3-hour concentration not to be exceeded more than once per year.

(c) Sulfur dioxide values may be converted to ppm using the conversion factor $2,620 \mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(2) Total suspended particulates (TSP)

(a) Primary standards: The following values shall represent the maximum permissible ambient air quality levels:

(1) $75 \mu\text{g}/\text{m}^3$ annual geometric mean.

(2) $260 \mu\text{g}/\text{m}^3$ maximum 24-hour concentration not to be exceeded more than one day per year.

(b) Secondary standards: The following value shall represent maximum permissible ambient air quality levels:

1. $150 \mu\text{g}/\text{m}^3$ maximum 24-hour average concentration not to be exceeded more than one day per year.

(3) Carbon monoxide (CO).

(a) Primary and secondary standards: The following values shall represent the maximum permissible ambient air quality levels:

1. 10 milligrams/ m^3 ($10,000 \mu\text{g}/\text{m}^3$) (9 ppm) maximum 8-hour average concentration not to be exceeded more than once per year.

2. 40 milligrams/ m^3 ($40,000 \mu\text{g}/\text{m}^3$) (35 ppm) maximum 1-hour average concentration not to be exceeded more than once per year.

(b) Carbon monoxide values may be converted to ppm using the conversion factor $1.145 \text{ } \mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(4) Ozone (O_3)

(a) Primary and Secondary Standards: The following values shall represent the maximum permissible ambient air quality level: The expected number of days with maximum hourly ozone concentrations above $235 \text{ } \mu\text{g}/\text{m}^3$ (0.120 ppm) shall not exceed one (1) per calendar year.

(b) Ozone (O_3) values may be converted to ppm using the conversion factor $1,965 \text{ } \mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(5) Nitrogen Dioxide (NO_2)

(a) Primary and secondary standard: The following value shall represent the maximum permissible ambient air quality level:

$100 \text{ } \mu\text{g}/\text{m}^3$ (0.05 ppm) annual arithmetic mean.

(b) Nitrogen dioxide values may be converted to ppm using the conversion factor $1,880 \text{ } \mu\text{g}/\text{m}^3 = 1.0 \text{ ppm}$.

(6) Lead (Pb)

(a) Primary and secondary standard: The following value shall represent the maximum permissible ambient air quality level:

$1.5 \text{ } \mu\text{g}/\text{m}^3$, averaged over a calendar quarter and measured as elemental lead.

(7) PM-10

(a) Primary and secondary standards: The following values shall represent the maximum permissible ambient air quality levels:

(1) $50 \text{ } \mu\text{g}/\text{m}^3$ annual arithmetic mean. The standards are attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, appendix K, (per July 1, 1987, 52 FR 24663), is less than or equal to fifty ($50 \text{ } \mu\text{g}/\text{m}^3$).

(2) $150 \text{ } \mu\text{g}/\text{m}^3$ maximum 24-hr average concentration. The standards are attained when the expected number of days per calendar year with a 24-hr average concentration above $150 \text{ } \mu\text{g}/\text{m}^3$, as determined in accordance with 40 CFR Part 50, Appendix K, (per July 1, 1987, 52 FR 24663), is equal to or less than one.

(' 62 Code, Art. 3, Ch. 17, § 21) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.215) Penalty, see Section 3.30.247 (Ord G-93-19, passed 08-23-93)

Section 3.30.216 Episode levels--Forecast--Alerts--Warnings--Emergencies.

(A) Air pollution forecast: A meteorological advisory bulletin which may be issued by the Director or the Air Manager when it is believed that weather conditions conducive to the accumulation of atmospheric pollutants will persist for at least 36 hours.

(B) Air pollution alert: When the concentration of the contaminants listed below reaches an alert level, first stage control action must begin. An alert will be declared by the Director or the Air Manager, upon verifying that the prescribed limit has been reached, when any one of the following levels is reached at any sampling site:

- (1) SO₂ : 0.30 ppm, (800 µg/m³), 24-hr average.
- (2) Particulate: 375 µg/m³, 24-hr average. A measurement of 3.0 COH (Coefficient of haze), 24-hr average indicates the possibility of an alert level, however, the three hundred seventy-five (375) limit must be reached before an alert may be declared.
- (3) CO: 15 ppm (17 mg/m³), 8-hr average.
- (4) O₃: 0.2 ppm (400 µg/m³), 1-hr average.
- (5) NO_x : 0.6 ppm (1130 µg/m³), 1-hr average, or 0.15 ppm (282 µg/m³), 24-hr average.
- (6) PM₁₀: 350 µg/m³, 24-hr average.

(C) Air pollution warning: When the concentration of contaminants listed below indicates that air quality is continuing to degrade, second stage control actions must begin. A warning will be declared by the Director or Air Manager when any one of the following levels is reached at any representative sampling site and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or to increase, or in the case of oxidants, the situation is likely to recur within the next 24 hours unless control actions are taken.

- (1) SO₂ : 0.6 ppm (1600 µg/m³), 24-hr average.
- (2) Particulate: 625 µg/m³, 24-hr average. A measurement of 5.0 COD' s, 24-hr average indicates the possibility of a warning; however, the 625 limit must be reached before a warning may be declared.
- (3) CO: 30 ppm (34 mg/m³), 8-hr average.
- (4) O₃ : 0.40 ppm (800 µg/m³), 1-hr average.
- (5) NO_x : 1.2 ppm, (2,260 µg/m³), 1-hr average, or 0.30 ppm (565 µg/m³), 24-hr average.
- (6) PM₁₀: 420 µg/m³, 24-hour average.

(D) Air pollution emergency: The Commissioner shall request that the governor of the state of Indiana declare an emergency pursuant to IC 13-1-1-7 and IC 13-7-12 when one of the criteria contaminants listed below reaches the following levels and (1) the concentrations of the pollutants are continuing to increase, or (2) the Commissioner determines that, because of meteorological or other factors, the concentrations may remain at such levels or may continue to increase:

- (1) SO₂ - 0.8ppm, (2100 µg/m³), 24-hour average.
- (2) Particulate: 875 µg/m³, 24-hour average. A measurement of 7.0 COH' s, 24-hr average indicates the possibility of an emergency; however, the 875 limit must be reached before an emergency may be declared.

- (3) CO: 40.0 ppm (46 mg/m³), 8-hr.
- (4) O₃: 0.50 ppm (1,000 µg/m³), 1-hr average.
- (5) NO_x: 1.6 ppm, (3,000 µg/m³), 1-hr average or .4 ppm (750 µg/m³), 24-hr average.
- (6) PM₁₀: 500 µg/m³, 24-hr average.

(E) Termination of episode level: once declared, any episode level reached shall remain in effect until the criteria for the level are no longer met. At that time, the Director or Air Manager shall declare the next lower episode level to be in effect and the operators of the affected facilities shall be notified of said declaration.

(I 62 Code, Art. 3, Ch. 17, § 22) (Ord. G-81-53, passed 12-12-81) (I 82 Code, § 30.216) (Ord G-93-19, passed 08-24-93)

Section 3.30.217 Sulfur dioxide emissions.

(A) All facilities with a potential to emit twenty-five (25) tons per year or ten (10) pounds per hour of sulfur dioxide shall comply with limitations of this section and the compliance test methods herein. This section does not apply to residential dwellings.

(B) Sulfur dioxide emission limitations.

(1) Sulfur dioxide emissions from fuel combustion facilities shall be limited as follows, unless specified otherwise in 326 IAC 7-4 or in a construction permit issued pursuant to 326 IAC 2.

- (a) Six and zero-tenths (6.0) pounds per million BTU for coal combustion.
- (b) One and six-tenths (1.6) pounds per million BTU for residual oil combustion
- (c) Five-tenths (0.5) pounds per million BTU for distillate oil combustion.

(2) For facilities combusting coal and oil simultaneously, the sulfur dioxide emission limitation shall be six and zero-tenths (6.0) pounds per million BTU. For facilities combusting oil and any fuel other than coal simultaneously, the sulfur dioxide emission limitation shall be the limitation specified in subpart (1)(b) or (1)(c), depending on the type of oil combusted. For the purposes of this subpart, simultaneous combustion of coal and oil shall include those periods of startup, shutdown, and flame stabilization required under normal facility operations.

(C) Compliance reporting requirements; methods to determine compliance.

(1) For purposes of this section, "weighting factor" means the daily quantity of coal bunkered; "rolling weighted average sulfur dioxide emission rate" means the summation of the average sulfur dioxide emission rate times the daily weighting factor divided by the summation of the weighting factors. Owners or operators of sources or facilities subject to MCE 3.30.217(A) shall submit to the Director the following reports which are based on fuel sampling and analysis data obtained in accordance with procedures specified under 326 IAC 3-3:

(a) Fuel combustion sources with total coal-fired heat input capacity greater than or equal to one thousand five hundred (1,500) million BTU per hour shall submit quarterly reports of the thirty (30) day rolling weighted average sulfur dioxide emission rate in pounds per million BTU. Records of the daily average coal sulfur content, coal heat content, weighting factor, and daily average sulfur dioxide emission rate in pounds per million BTU shall be submitted to the department in the quarterly report and maintained by the source owner or operator for a period of at least two (2) years.

(b) All fuel combustion sources with coal-fired heat input capacity shall submit monthly reports of the calendar month average coal sulfur content, coal heat content, and sulfur dioxide emission rate in pounds per million BTU and the total monthly coal consumption to this office by the fifteenth (15th) of the following month.

(c) All other fuel combustion sources shall submit reports of calendar month or annual average sulfur content, heat content, fuel consumption, and sulfur dioxide emission rate in pounds per million BTU upon request.

(2) Compliance or noncompliance with the emission limitations contained in 326 IAC 7-1.1 or 326 IAC 7-4 can be determined by a stack test in accordance with 40 CFR 60, Appendix A, Method 6, 6A, 6C, or 8*.

(3) Fuel sampling and analysis data shall be collected pursuant to the procedures specified in 326 IAC 3-3-2 or 326 IAC 3-3-3 for coal combustion or 326 IAC 3-3-4 for oil combustion, and these data can be used to determine compliance or noncompliance with the emission limitations contained in 326 IAC 7-1.1 or 326 IAC 7.4. Computation of calculated sulfur dioxide emission rates from fuel sampling and analysis data shall be based on the emission factors contained in U.S. EPA publications AP-42, "Compilation of Air pollutant Emission Factors" (September 1988)*, unless other emission factors based on site-specific sulfur dioxide measurements are approved by the Commissioner. Fuel Sampling and analysis data shall be collected as follows: for all combustion sources, compliance or noncompliance shall be determined using a calendar month average sulfur dioxide emission rate in pounds per million BTU, unless a shorter averaging time or alternate averaging methodology is specified for a source on their permit.

(4) A determination of noncompliance pursuant to either the method specified in subpart (2) or (3) shall not be refuted by evidence of compliance pursuant to the other method.

(5) Upon written notification of a facility owner or operator to the Agency and IDEM, continuous emission monitoring data collected and reported pursuant to 326 IAC 3-1.1 may be used as the means for determining compliance with the emission limitations in this section. Upon such notification, the other requirements of this rule shall not apply.

(D) Sources with total actual emissions of sulfur dioxide greater than ten thousand (10,000) tons per year are subject to the requirements of 326 IAC 7-3-2.

(' 62 Code, Art. 3, Ch. 17 § 23) (Ord G-81-53, passed 12-14-81) (' 82 Code, § 30.217) (Ord. G-93-19, passed 8-23-93) Penalty, see Section 3.30.247

Section 3.30.218 Volatile organic compound (VOC) emissions.

(A) This section applies only to new facilities (as of January 1, 1980), which have potential emissions of 22.7 megagrams (25 tons) or more per year, located within the jurisdiction of the Evansville Environmental Protection Agency, which are not otherwise regulated by the provisions of 326 IAC 8, shall reduce VOC emissions using best available control technology (BACT).

(B) A facility subject to 326 IAC 8 may be exempted by the Commissioner from any of these applicability sections if the facility has an enforceable permit issued under 326 IAC 2 or a federally-approved SIP revision that permanently restricts one (1) or more facility activities that result in VOC emissions, such as production, hours of operation, or capacity utilization, such that restrictions lower actual emissions before add-on controls to a level below fifteen (15) pounds per day. Upon expiration of any facility's permit, such exemption shall also expire, and such facility shall be subject to the requirements of all applicable rules within this article, unless a renewed permit containing such exemption is issued pursuant to 326 IAC 2.

(C) The emission limitations specified in this section shall be achieved through one or any combination of the following:

(1) Carbon adsorption.

(2) Thermal or catalytic incineration. The owner or operator of a source using a natural gas afterburner incineration method may petition the Commissioner to not operate the natural gas afterburner during the months of November, December, January, February, and March. The Commissioner may allow such exemption if the owner or operator adequately demonstrates that the operation of the natural gas afterburner is not required for control of toxic substances or odor.

(3) Higher solids (low solvent) coating.

(4) Water borne coatings.

(5) Equivalent emission limitations based on an actual measured transfer efficiency higher than the specified baseline transfer efficiency. This subpart is applicable only to 326 IAC 8-2-2(b)(2), automobiles and light duty truck assembly; 326 IAC 8-2-6, metal furniture coating; and 326 IAC 8-2-7, large appliance coating. The equivalent emission limitations in units of Kilograms of volatile organic compounds of (VOC) per liter solids deposited (pounds of VOC per gallon solids deposited), baseline transfer efficiencies, and baseline volume percent solids content of the coating are specified in 326 IAC 8-1-2(a)(5).

(6) The use of nonphotochemically reactive hydrocarbons as defined in MCE 3.30.18.196.

(7) A daily volume-weighted average of all coatings applied in a coating line or printing line subject to the requirements in 326 IAC 8-2 or 8-5-5. Records of daily usage of gallons solids coating and VOC content of each coating or ink solvent shall be maintained and made available upon request. Also, records of daily emissions in pounds VOC shall be maintained and made available upon request. If daily records sufficient to determine an accurate daily weighted average are not available, each coating or ink solvent shall meet the requirements of the applicable section.

(8) The use of an emission control device specifically allowed under provisions of any subpart in this section to meet the emission limitations specified in the subpart.

(D) VOC emissions shall be limited to no greater than the equivalent emissions, expressed as pounds of VOC per gallon of coating solids, allowed under the applicable emission limitation contained in this section for any surface coating operation using the compliance methods contained in subpart (B) or 326 IAC 8-2-1. Equivalency shall be determined by the following equation:

$$E = \frac{L}{D}$$

Where: L=applicable emission limit from this article in pounds of VOC per gallon of coating.

D=Density of VOC in coating in pounds per gallon of VOC.

E=Equivalent emission limit in pounds of VOC per gallon of coating solids as applied. A solvent density of seven and thirty-six hundredths (7.36) pounds of VOC per gallon of coating shall be used to determine equivalent pounds of VOC per gallon of solids for the applicable emission limit contained in this section. Actual solvent density shall be used to determine compliance of surface coating operations using the compliance methods contained in subpart (B) or 326 IAC 8-2-1.

(E) The overall efficiency of any capture system and control device determined by the test methods and procedures specified in 326 IAC 8-1-4 shall be no less than the equivalent overall efficiency which shall be calculated by the following equation:

$$O = \frac{V - E}{V} \times 100$$

Where: V = The actual VOC content of the coating or if multiple coatings are used, the daily weighted average VOC content of all coatings, as applied to the subject coating line as determined by the applicable test methods and procedures specified in 326 IAC 8-1-4 in units of pounds of VOC per gallon of coating solids as applied.

E = Equivalent emission limit in pounds of VOC per gallon of coating solids as applied.

O = Equivalent overall efficiency of the capture system and control device as a percentage.

(F) Any equivalent method which is allowed to be used to determine or achieve compliance with any provision of 326 IAC 8 shall be submitted to the U.S. EPA as a SIP revision.

(G) Test methods and procedures used to determine compliance of as-applied coatings with the limitations contained in 326 IAC 8-1-4.

(H) Petition for site-specific reasonably available control technology (RACT) plan as per 326 IAC 8-1-5.

(I) Surface coating emission limitations as per 326 IAC 8-2.

(J) Organic solvent degreasing operations as per 326 IAC 8-3.

(K) Petroleum sources as per 326 IAC 8-4.

(L) Miscellaneous operations including Asphalt paving rules, Synthesized pharmaceutical manufacturing operations, Pneumatic rubber tire manufacturing, and Graphic arts operations as per 326 IAC 8-5.

(M) Organic solvent emission limitations for sources commencing operation after October 7, 1974, and prior to January 1, 1980 with potential emissions of 90.7 megagrams (100 tons) or greater per year of VOC not limited by other rules of article 326 IAC 8.

(1) No person shall emit or cause the emission of more than three (3) pounds of any one (1) hour or fifteen (15) pounds in any 24 hour period or 90.7 megagrams (100 tons) per year of VOC from any source unless all VOC emitted from such source are reduced by at least eighty-five percent (85%) from emissions which would occur before the application of any control equipment or process. This section applies only to emissions of organic solvents which are VOC and which are liquids at standard conditions, and include dilutants which are used as solvents, viscosity reducers, carrying agents, and cleaning agents.

(a) The aggregate emissions of VOC into the atmosphere from any series of facilities designed for processing a continuously moving sheet, web, strip, or wire by a combination of operations shall comply with the requirements of this section.

(b) Emissions of VOC into the atmosphere which result from the cleaning of any facility with organic solvents shall be included with the other emissions of VOC from such facility in determining compliance with this section.

(c) Emissions of VOC into the atmosphere which result from the spontaneous drying of products after their removal from any facility shall be included with other emissions of VOC from such facility in determining compliance with this section.

(2) The provisions of this section shall not apply to:

(a) The manufacture of organic solvents;

(b) The spraying or other employment of insecticides, pesticides, or herbicides;

(c) Industrial surface coating operations when the coating's solvent make-up does not contain highly reactive organic materials by volume greater than set forth in subpart 2d of this section.

(d) The use of the following solvents:

(i) hydrocarbons, alcohols, aldehydes, esters, ethers or ketones provided that the total of such solvents with olefinic or cyclo-olefinic unsaturation does not exceed five percent (5%) by volume either singly or in combinations;

(ii) aromatic organic solvents provided that the total of such solvents with eight (8) or more carbon atoms to the molecule, excluding ethyl benzene, does not exceed eight percent (8%) by volume either singly or in combinations;

(iii) ethyl benzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene not exceeding twenty percent (20%) by volume either singly or in combinations;

(iv) any organic solvent or mixture of solvents which, because of its structure or composition, may be subject to the limitations of more than one (1) of the categories in clause (i), (ii), or (iii), above shall be considered a member of the class with the lowest percentage limitation. In no case shall a combination of compounds subject to the limitations of clause (i), (ii), or (iii) above, exceed twenty percent (20%) by volume of the combination;

(v) saturated halogenated hydrocarbons, perchloroethylene, acetone, C(1)-C(5) n-paraffins, cyclohexanone, ethyl acetate, diethylamine, isobutyl acetate, isopropyl alcohol, methyl benzoate, 2-nitropropane, phenyl acetate, triethylamine, and nonphotochemically reactive hydrocarbons.

(N) Volatile waste organic liquids. No person shall dispose of liquid or semiliquid volatile waste organic material or sludge by any means other than the following:

(1) Refining by means of acceptable to the Agency within the scope of this section or other regulations that are applicable, to produce an acceptable product for reuse.

(2) Consuming in heat generation equipment, so that its heat value can be utilized, and so that the requirements of this section and other applicable regulations are met.

(3) Incineration by means acceptable to the Agency if (1) and (2) above are not economically feasible.

(4) Other means for disposal acceptable to the Agency, but in no case by discarding in a landfill, refuse dump, or equivalent installation. (' 62 Code, Art. 3, Cp. 17 § 24) (Ord. G-81-53, passed 12-14-81) (Ord. G-93-19, passed 8-23-93) Penalty, see § 3.30.247

Section 3.30.219 Carbon Monoxide Emissions.

(A) This section applies to all stationary sources of carbon monoxide emissions established within the jurisdiction of the Environmental Protection Agency of the City commencing operations after March 21, 1972.

(B) Emission of carbon monoxide shall be limited to the following:

(1) Petroleum refining emissions. No person shall cause or allow the discharge of carbon monoxide from any catalyst regeneration of a petroleum cracking system or from any petroleum fluid coker into the atmosphere unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the Agency.

(2) Ferrous metal smelters. No person shall cause or allow the discharge of carbon monoxide from any grey iron cupola, blast furnace, basic oxygen steel furnace, or other ferrous metal smelting equipment having a capacity of ten (10) tons per hour or more process weight unless the waste gas stream is burned in a direct-flame afterburner or boiler or is controlled by other means approved by the Agency. In instances where carbon monoxide destruction is not required, carbon monoxide emissions shall be released at such elevation that the maximum ground level concentration from a single source shall not exceed twenty percent (20%) of the maximum one (1) hour Indiana ambient air quality value for carbon monoxide.

(3) Refuse incineration and burning equipment. No person shall cause or allow the discharge of carbon monoxide from refuse incineration or burning equipment, unless the

waste gas stream is burned in a direct-flame afterburner or is controlled by other means approved by the Agency.

(' 62 Code, Art. 3, Ch. 17, § 25) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.219) (Ord. G-93-19, passed 8-23-93) Penalty, see Section 3.30.18.247

Section 3.30.221 Permits--Construction/Installation and Operation.

(A) No person shall construct, install, modify, or operate any stationary or portable process equipment, which has potential emissions of any regulated air pollutant, exhausting to the outside air, without a permit. Any group of facilities determined to be related facilities for a process may be assessed a single operation permit fee. Temporary operations and experimental trials that involve construction, reconstruction, or modification and that meet the criteria of 326 IAC 2-1.1-3(d)(2) shall not be subject to these requirements.

(B) Permits shall be issued by the agency and shall contain at a minimum:

- (1) A description of the equipment.
- (2) Such conditions as necessary to ensure the source or facility will comply with all applicable rules of this code and 326 IAC.
- (3) All applicable rule citations.
- (4) An expiration date.

(a) A Construction/Installation Permit shall be valid for six (6) months.

(b) An Operation Permit shall be valid for five (5) years.

Permits may be extended for an additional period of six (6) months without additional costs pending approval by the Director.

(C) Applications for Construction/Installation Permits and Operation Permits shall contain a set of plans for the equipment and all necessary technical information available describing the equipment and other reasonable and pertinent information that may be required.

(D) Applications shall be acted upon within a reasonable period of time. Sixty (60) days for local review and issuance, and one hundred eighty (180) days for IDEM review and local issuance is considered reasonable in most cases.

(E) No person shall install, repair in excess of thirty percent (30%) of the original cost, or alter any equipment without a Construction/Installation Permit.

(F) Subsections (A) and (E) of this section shall not apply to domestic heating plants, emergency repairs, gas-fired equipment used solely for space heating which have less than five (5) million BTU/hr. input capacity, emergency generators or air pollution control equipment.

(G) Public Notice of the permit application may be required for all Part 70 Permit sources as per U.S. EPA under 40 CFR 70, and other sources as deemed appropriate by the Director.

(H) Malfunctions.

(1) Reporting. A record of all malfunctions, including, but not limited to, startups or shutdowns of any facility or emission control equipment which result in violations of applicable air pollution control regulations or applicable emission limitations shall be kept and retained for a period of three (3) years and shall be made available to the Agency and/or IDEM upon request. Such recording shall occur within eight (8) business hours of the malfunction.

When a malfunction of any facility or emission control equipment occurs which lasts more than one (1) hour, said condition shall be reported to the Director using the Malfunction Report Forms (2 pages). Notification shall be made by telephone or facsimile, as soon as practicable, but in no event later than four (4) daytime business hours after the beginning of said occurrence. Written notice must be sent to the Agency within ten (10) business days after the occurrence. Failure to report a malfunction of any emission control equipment shall constitute a violation of this section, 326 IAC 1-6 and any other applicable rules. Records shall be kept of all malfunctions for a period of three (3) years and shall be made available to the Evansville EPA and/or IDEM upon request.

(a) Information of the scope and expected duration of the malfunction shall be provided including the following:

1. Identification of the specific emission control device to be taken out of service, as well as the location and permit number of such equipment;
2. The expected length of time that the emission control equipment will be out of service;
3. The nature and quantity of emissions of air contaminants likely to occur during the shutdown period;
4. Any measures such as the use of off-shift labor on equipment that will be utilized to minimize the length of the shutdown period;
5. Any reasons that shutdown of the facility operation during the maintenance period would be impossible for the following reasons:
 - a. Continued operation is required to provide essential services, provided, however, that continued operation solely for the economic benefit of the owner or operator shall not be sufficient reason, or
 - b. Continued operation is necessary to prevent injury to persons or severe damage to equipment;
6. A demonstration that interim control measures have reduced or will reduce emissions from the facility during the shutdown period.

(b) Emissions temporarily exceeding the standards which are due to malfunctions of facilities or emission control equipment shall not be considered a violation of this section provided the source demonstrates that:

1. All reasonable measures were taken to correct, as expeditiously as practicable, the conditions causing the emissions to exceed the allowable limits, including the use of off-shift and over-time labor, if necessary;
2. All possible steps were taken to minimize the impact of the excessive emissions on ambient air quality which may include but not be limited to curtailment of operation and/or shutdown of the facility;
3. Malfunctions have not exceeded five percent (5%), as a guideline, of the normal operational time of the facility; and
4. The malfunction is not due to the negligence of the operator.

(c) No facility shall be operated unless the air pollution control device(s) and measures are also in operation simultaneously and are not bypassed, unless necessary to prevent damage to equipment or injury to persons or unless there is a malfunction and the requirements set forth in subsection b of this section are met.

(d) Excessive emissions shall be brought into compliance with all practicable speed, and appropriate action, including those set forth above, to correct the conditions causing such emissions to exceed applicable limits; to reduce the frequency of occurrence of such conditions, to minimize the amount by which said limits are exceeded, and to reduce the length of time for which said limits are exceeded. These actions shall be initiated as expeditiously as practicable.

(2) Excessive Malfunctions. Where records show that repeated malfunctions exceed five percent (5%), as a guideline, of the normal operational time for any one control device or combustion or process equipment, the Director may require that the maintenance program (326 IAC 1-6-3) be improved or that the defective or faulty equipment or emission control device be replaced. The Director may require curtailment of operation of a facility if the owner or operator of the facility or emission control device cannot demonstrate that for the most recent twelve (12) month period the facility and/or the emission control device has operated in compliance with the applicable rules at least ninety-five percent (95%) of the operating time of said equipment.

(3) Emission Reduction Program. Any owner or operator of a facility which has the potential to emit concentrations in excess of twenty-five (25) pounds per hour of particulates, one hundred (100) pounds per hour of volatile organic compounds or SO₂, or two thousand (2,000) pounds per hour of any other pollutant which creates a health hazard through a lesser emission, shall submit a malfunction emission reduction program which shall have been submitted by January 19, 1980 or written one hundred eighty (180) days after a new source commences operation. Said program shall include, but not be limited to, the normal operating emission rate and the program proposed to reduce emissions in the event of a malfunction to an emission rate which will not contribute to the cause of the violation of the ambient air quality standards established in 326 IAC 1-3. The program shall be based on the best estimates of type and number of startups, shut downs, and malfunctions experienced during normal operation of the facility or emission control device and the scope and duration of such conditions. Said program may be subject to review and approval by the Director.

(4) Preventive Maintenance Plans. Any person responsible for operating any facility specified in this section shall prepare and maintain a preventive maintenance plan including the following information:

- (a) Identification of the individual(s) responsible for inspecting, maintaining and repairing emission control devices,
- (b) A description of the items or conditions that will be inspected and the inspection schedule for said items or conditions.
- (c) Identification and quantification of the replacement parts which will be maintained in inventory for quick replacement.

Preventive maintenance plans shall be submitted to the Agency upon request and shall be subject to review and approval by the Director.

(' 62 Code, Art. 3, Ch. 17, Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (Ord.G-93-19, passed 8-24-93) (' 82 Code, § 30.221) (Ord. G-99-22, passed 10-18-99)

Section 3.30.222 Violation/Revocation of permit.

(A) A source issued a permit to construct or operate by this Agency shall be subject to a citation and/or revocation of said permit for any of the following causes:

- (1) Violation of any conditions of the permit.
- (2) Failure to disclose all the relevant facts, or misrepresent action in obtaining the permit.
- (3) Failure to pay the required fees as identified under Section 3.30.224.
- (4) Failure to submit annual throughputs or Emissions Statement by stated deadline.
- (5) Changes in regulatory requirements that mandate either a temporary or permanent reduction of discharge of contaminants; however, the amendment of appropriate sections of a permit shall not require revocation of a permit.
- (6) Noncompliance with orders issued pursuant to 326 IAC 1-5 to reduce emissions during an air pollution episode.
- (7) For any other cause which establishes in the judgment of the Agency the fact that continuance of the permit is not consistent with the purposes of 326 IAC 2-1.

(B) Additionally, the Agency may revoke a permit to construct if the construction of the facility is not begun within eighteen (18) months from the date of the issuance of the permit, or if during the construction of the facility, work is suspended for a continuous period of one (1) year or more.

(C) A permit may be revoked only after notice and a hearing before the Board.
(' 62 Code, Art. 3, Ch. 17, § 32, Ord. G-81-53, passed 12-14-81) (Am. Ord. ' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.222) (Ord. G-99-22, passed 10-18-99)

Section 3.30.223 Transfer of permits.

(A) In the event that ownership of a source or facility is changed, the Agency shall be notified by the current owner or operator within thirty (30) days of the change. Notification shall include the date or proposed date of said change in ownership. The written notification required above shall be sufficient to transfer the permit from the current owner or operator of the source or facility to the new owner. A fee for this transfer will be charged, pursuant to Section 3.30.228B. The Agency shall reserve the right to issue a new permit.

(B) Any portable source or facility which has been issued a valid operating permit by IDEM may be issued an operation permit by the Agency. A fee for relocation will be charged, pursuant to Section 3.30.226D. The Agency shall be notified of any proposed relocation of such source or facility at least thirty (30) days prior to said relocation.

(' 62 Code, Art. 3, Ch. 17, § 33, Ord. G-81-53, passed 12-14-91, Am. Ord. F-82-5, passed 3-10-82; Am. Ord. ' 82 Code, Title 3, Ch. 30, Ord G-91-20 passed 6-25-91) (' 82 Code, § 30.224) (Ord. G-99-22, passed 10-18-99)

Section 3.30.224 Fees--General.

(A) AIR CURTAIN. A one time only Air Curtain Destructor permit fee of Two Hundred Fifty dollars (\$250.00) pursuant to Section 3.30.214E. Fifty dollars (\$50.00) of which is payable at the time of the application for site review.

(B) BURN PERMITS. The fee for burn permits shall be Five dollars (\$5.00) payable at the time of burn permit application pursuant to section 3.30.214.

(C) PUBLIC HEARING. A fee of Four Hundred Dollars (\$400.00) shall be submitted upon billing for each public hearing conducted prior to issuance of the permit.

(D) PUBLIC NOTICE. If a public notice is required as part of operation permit renewal process an additional Fifty Dollar (\$50.00) fee will be assessed.

(E) VARIANCE. The fee for a variance shall be Twenty-Five Dollars (\$25.00) payable at the time of application.

(' 62 Code, Art. 3, Ch. 17, § 28, 29, 30, 31, Ord. G-81-53, passed 12-14-81) (Am. Ord. F-82-5, passed 3-10-81, Am. Ord. G-91-20, passed 6-25-91) (' 82 Code, § 30.224) (Ord. G-99-22, passed 10-18-99)

Section 3.30.225 Fees--Construction/Installation permits.

Fees for construction/installation permits shall be as follows:

(A) A nonrefundable One Hundred Dollar (\$100.00) filing fee is due upon submittal of application for a construction/installation permit.

(1) An additional fee of Two Hundred Fifty Dollars (\$250.00) shall be assessed for the staff evaluation and/or issuance of any construction/installation permit for any Title V or FESOP source.

(2) An additional fee of One Hundred Fifty Dollars (\$150.00) shall be assessed for the staff evaluation and issuance of any construction/installation permit application for any SSOA, Committed or Permit By Rule source.

(3) An additional fee of Fifty Dollars (\$50.00) shall be assessed for the staff evaluation and/or issuance of any construction/installation permit for any B source.

(B) If the applicant submits an Air Quality Impact Study, a fee of Three Hundred Dollars (\$300.00) may be assessed for the review and verification of the model.

(C) Applications subject to New Source Review, Prevention of Significant Deterioration or need for review by Indiana Department of Environmental Management will be subject to their fees.

(' 82 Code, Title 3, Ch. 30, Ord. G-91-20, passed 6-25-91) (Ord. G-93-19, passed, 8-24-93; Am. Ord. G-96-23 passed 12-16-96) (' 82 Code, § 30.225) (Ord. G-99-22, passed 10-18-99)

Section 3.30.226 Fees--General--Permits.

(A) Fees for the annual review of certificates of operation shall be as follows:

(1) Sources with equipment and applicable control devices with capacities as follows:

(a) Title V - sources are subject to billing under the Title V program by IDEM. The agency will receive the percentage of their total fee as outlined in the current Local Agency and Grant Funding Agreement with IDEM, through direct billing of each source by this agency.

(b) FESOP - (Federally Enforceable State Operating Permit) sources are subject to billing under the Title V program by IDEM at a rate of One Thousand Five Hundred dollars (\$1,500) per year. One-half of this amount, Seven Hundred Fifty dollars (\$750), will be paid to this agency by IDEM for each FESOP source within the Agency' s jurisdiction as per the Local Agency and Grant Funding Agreement with IDEM.

(c) SSOA - (Source Specific Operating Agree-ment) sources shall submit a one-time application fee of Five Hundred dollars (\$500.00) to the Evansville EPA. A fee for annual review shall be Three Hundred dollars (\$300.00) per permit per year.

(d) Committed or Permit By Rule - sources shall pay a fee for annual review of One Hundred dollars (\$100.00) per permit per year.

(e) B - sources shall pay a fee for annual review of Forty-two dollars and Fifty cents (\$42.50) per permit per year.

(B) Change in the name of the owner or operator on existing permits:

(1) Title V, FESOP, SSOA and Committed and Permit By Rule sources: Fifty dollars (\$50.00) per permit.

(2) B sources: Twenty-five dollars (\$25.00) per permit.

(C) Modification to an existing permit:

(1) Title V, FESOP, SSOA, Committed and Permit By Rule sources: One Hundred dollars (\$100.00) per permit.

(2) B sources: Fifty dollars (\$50.00) per permit.

(D) Relocation for portable source: One Hundred dollars (\$100.00) per permit.

(E) Fees shall be paid by mail or in person and shall be paid upon billing by check or money order, payable to the "City of Evansville" no later than thirty (30) days after receipt of billing. Nonpayment shall result in cancellation of the permit.

(' 82 Code, Title 3, Ch. 30, G-91-20, passed 6-25-91) (' 82 Code, § 30.226) (Ord. G-93-19, passed 8-23-93; Am. Ord. G-96-23, passed 12-16-96) (Ord. G-99-22, passed 10-18-99)

Section 3.30.227 Fees--Economic hardships.

Any applicant who can demonstrate to the satisfaction of the Board that the fees assessed for any permit will cause undue economic hardship may have part or all of the fee requirements waived by the Board.

(' 62 Code, Art. 3, Ch. 17, § 31, Ord. G-81-53, passed 12-14-18) (Am. Ord. F-82-5, passed 3-10-82; Am. Ord. G-91-20, passed 6-25-91) (' 82 Code, § 30.227)

Section 3.30.228 Fees--Application withdrawal, denial, or revocation.

Fees shall be nonrefundable. If the application is withdrawn or denied or if the document is revoked, the fee shall neither be refunded nor applied to any subsequent application or reapplication.

(' 62 Code, Art. 3, Ch. 17, § 32, Ord. G-81-53, passed 12-14-81) (Am. Ord. F-82-5, passed 3-10-82; Am. Ord. G-91-20, passed 6-25-91) (' 82 Code, § 30.228)

Section 3.30.229 Fees--Lost or damaged documents.

When a document becomes lost or damaged, a replacement shall be requested within fifteen (15) days of such status. A Twenty-Five Dollar (\$25.00) fee shall be charged for replacing the lost or damaged document.

(' 62 Code, Art. 3, Ch. 17, § 33, Ord. G-81-53, passed 12-14-81) (Am. Ord. F-82-5, passed 3-10-82; Am. Ord. G-91-20, passed 6-25-91) (' 82 Code, § 30.229)

Section 3.30.230 Fees--Deposit.

(A) Title V and FESOP permit fees – The Agency shall deposit all Title V and FESOP permit fees into the non-reverting dedicated Title V fee fund.

(B) SSOA permit fees –

(1) The one-time application fee shall be deposited into the non-reverting, dedicated Title V fee fund.

(2) The fee for the annual review shall be deposited as per subsection C.

(C) Committed and Permit By Rule source permit fees. The increased portion of the permit fee shall be deposited into a special revenue account and reappropriated for the purpose of the Air Pollution program, as per IC 13-7-16-6. The remaining fees shall be deposited in the General Fund of the City.

(D) B source permit fees. These fees shall be deposited in the General Fund of the city. (' 62 Code, Art. 3, Ch. 17, § 34, Ord. G-81-53, passed 12-14-81) (Am. Ord. F-82-5, passed 3-10-82; Am. Ord. G-91-20, passed 6-25-91; Am. Ord. G-96-23, passed 12-16-96) (' 82 Code, § 30.230) (Ord. G-99-22, passed 10-18-99)

Section 3.30.233 Testing.

(A) The EPA is authorized to conduct a test necessary for detection of pollution.

(B) The EPA shall notify affected parties of the necessity for testing. The affected parties may elect to perform the necessary tests provided, however, the EPA shall be present during all testing.

(' 62 Code, Art. 3, Ch. 17, § 41) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.233)

Section 3.30.235 Rules.

The Department with the approval of the Board, or the Board, may establish reasonable rules and regulations for the effective implementation of this subchapter. The rules must be approved in writing by the city's Legal Department.

(' 62 Code, Art. 3, Ch. 17, § 43) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.235)

Section 3.30.236 Definitions for Sections 3.30.237 through 3.30.244.

For purposes of Sections 3.30.237 through 3.30.244, shall apply:

"AMBIENT SOUND LEVEL." The level of sound associated with a given environment.

"A SCALE SOUND LEVEL (Db(A))." The sound level in decibels as measured by the A-weighting network of a sound level meter.

"COMMERCIAL." Used primarily for the sale or exchange of goods or services for profit, the operation of offices, or recreational purposes.

"CONSTRUCTION." The on-site erection, fabrication, installation, alteration, demolition, or removal of a structure or part of a structure and activities related thereto, including by way of example and not of limitation, earth moving, pile driving, and unloading of materials.

"DECIBEL (dB)." A unit of measure on a logarithmic scale of the magnitude of a particular sound pressure as compared to a standard reference pressure. That reference pressure, for purposes of Sections 3.30.237 through 3.30.244, is .0002 microbars or 20 micropascals.

"INDUSTRIAL." Used primarily for the manufacture or processing of goods.

"OCTAVE BAND SOUND PRESSURE LEVEL." The sound pressure level measured within a specified octave band using an octave band analyzer constructed in conformance with applicable standards of the American National Standards Institute or its successor bodies.

"RECEIVING PROPERTY." A parcel of property upon which a specified sound can be heard, excluding the parcel of property upon which the sound is produced.

"RESIDENTIAL." Used primarily for private dwelling proposes.

"SOUND PRESSURE LEVEL." A number (having the decibel as unit) equal to 20 times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure of .0002 microbars or 20 micropascals.

"AFFECTED DISTRICT." The area composed of all "RECEIVING PROPERTIES" as defined by this section.

"SOUND SHIELDING DEVICE." A device, of whatever nature, which brings sound pressure levels into compliance with applicable standards. A "SOUND SHIELDING DEVICE" may, for example, consist of a plywood shield, or a pick-up truck placed between a sound source and a receiving property.

(' 62 Code, Art. 3, Ch. 17, § 44) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.236)

Section 3.30.237 General provisions.

The following are exempted from the provisions of Sections 3.30.236 through 3.30.244:

(A) Sound emitted by required safety signals, safety devices, and unregulated safety valves.

(B) Sound emitted by sirens of authorized emergency vehicles.

(C) Sound caused by parades, sporting events, controlled fireworks displays, and outdoor concerts.

(' 62 Code, Art. 3, Ch. 17, § 45) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.237)

Section 3.30.238 Noise measurements and enforcement.

(A) Noise limiting levels set forth in Sections 3.30.236 through 3.30.244 may be enforced measuring the dB (A) scale alone, by measuring a specific frequency scale when more than one-half of the frequency bands in Table I of Section 3.30.240 exceed the specific limits, or by using any combination of those methods.

(B) Readings taken for the enforcement of Sections 3.30.236 through 3.30.244 shall be taken on the slow response scale.

(C) Readings taken for the enforcement of Sections 3.30.236 through 3.30.244 shall be taken at the receiving property line.

(D) Levels specified in Section 3.30.240 Table I, and Section 3.30.241 Table II, to be applied to a measured sound shall be determined by the general nature of the affected district, and not the nature of the specific receiving property upon which the sound is measured. For example, if an affected district is primarily industrial in nature, the limits in the "Industrial" column are applicable, even if the particular parcel upon which the sound is measured is residential in nature.

(' 62 Code, Art. 3, Ch. 17, § 46) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.238)

Section 3.30.239 Noise limitations--Residential areas.

(A) No person shall cause the emission of sound which exceeds the applicable sound pressure level specified under Section 3.30.240 Table I, when measured in accordance with Section 3.30.238, except as otherwise provided in Sections 3.30.236 through 3.30.244.

(B) Sound pressure limitations of Sections 3.30.236 through 3.30.244 may be exceeded for as much as two hours per day between the times of 7:00 a.m. and 10:00 p.m., only if the sound pressure level which would otherwise be in violation of Sections 3.30.236 through 3.30.244 is caused by the use of items such as (but not limited to) lawn mowers, garden tractors, and similar home power tools when properly muffled. Motorized vehicles are not exempted by this section.

(C) In the event that a need arises for emergency repair in a residential area, the two-hour limitation of division (B) above shall be suspended for the amount of time needed to make the required repair, so long as the time needed for repair is not excessive. Whether the situation constitutes an emergency and whether the time needed for repair is excessive shall be determined by the Noise Manager.

(' 62 Code, Art. 3, Ch. 17, § 47) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.239) Penalty, see Section 3.30.18.247

Section 3.30.240 Noise limitations--Commercial and industrial areas.

No person shall cause the emission of sound which exceeds the applicable sound pressure level specified in Table I when measured in accordance with Section 3.30.238, when the parcel of property upon which the sound originates is commercial or industrial in nature.

TABLE I MAXIMUM SOUND PRESSURE LEVELS

Octave Band Ctr.

Frequency (Hz) Sound Pressure Levels in Decibels by Affected Dist.

(Re. 0.0002 Microbars)

Res. Comm. Indust.

31.5 72 79 88

63 71 78 83
 125 65 72 78
 250 57 64 73
 500 51 58 67
 1000 45 52 60
 2000 39 46 54
 4000 34 41 50
 8000 32 39 47

A-scale levels 55dB(A) 62dB(A)
 69dB(A)

(' 62 Code, Art. 3, Ch. 17, § 48) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.240) Penalty,
 see Section 3.30.18.247

Section 3.30.241 Noise limitations--Construction.

(A) Noise produced by construction shall not exceed the specified sound pressure levels of the designated Table when measured in accordance with Section 3.30.238, except as otherwise provided in Sections 3.30.236 through 3.30.244.

(B) The provisions of this section may be suspended under Section 3.30.239(C).

(C) Levels that are specified in Table II shall be used for purposes of this section from 7:00 a.m. to 8:00 p.m. At other hours of the day, the limits specified in Table I shall be used.

TABLE II
 MAXIMUM SOUND LEVELS FOR
 CONSTRUCTION ACTIVITIES

Sound Pressure
 Levels(dB)
 Octave Band Ctr.
 Frequency (Hz)

By Affected District (Ref.
 Level: 0.0002 Microbars)
 Resident/Comm. Indust.

31.5 94 99
 63 89 94
 125 84 89
 250 79 84
 500 73 78
 1000 66 71
 2000 60 65
 4000 56 61

8000 53 58
A-scale levels 75dB(A) 80dB(A)

(D) In the event that construction work exceeds the applicable limits for more than two hours, and will continue for more than one day, a sound shielding device must be placed in such a way as to bring the sound emitted by the construction within the specified limits.

(E) The Department shall establish written regulations for determining the methods to be used for measuring sound from construction. The regulations shall provide for averaging maximum sound pressure levels observed during any period of 30 minutes or more.
(' 62 Code, Art. 3, Ch. 17, § 49) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.241) Penalty, see Section 3.30.18.247

Section 3.30.242 Chimes and bells.

(A) Chimes and bells on stationary sources not regulated by other provisions contained in Sections 3.30.246 through 3.30.244, and which are electronically amplified, shall be set so as not to exceed 75dB(A) from 6:00 a.m. to 10:00 P.M., when measured in accordance with Section 3.30.238.

(B) During hours of the day not covered by division (A) of this section, the sound pressure levels from amplified chimes and bells shall not exceed 70dB(A).

(C) Chimes and bells which are not electronically amplified or controlled shall be exempted from the operation of Sections 3.30.236 through 3.30.244. From 10:00 p.m. to 6:00 a.m., however, such chimes and bells are subject to Section 9.95.01 and Section 9.95.02, concerning nuisances.
(' 62 Code, Art. 3, Ch. 17, § 50) (Ord. G-81-

Section 3.30.247 Penalties.

(A) Violations of this subchapter may be enforced by any remedy at law or in equity and pursuant to Section 1.10.17 and Section 1.10.99 of the Municipal Code with monetary penalties not less than those provided in (B) below.

(B) The following shall be the minimum monetary penalty for violation of a section of this subchapter (Sections 3.30.196--3.30.247) of the Municipal Code within a three year period:

- (1) First violation \$ 50.00
- (2) Second violation \$ 150.00
- (3) Third violation \$ 500.00
- (4) Fourth violation
(and thereafter) \$ 1,500.00

Violations prior to the effective date of this ordinance shall be included in the calculation of the number of offenses. The maximum monetary penalty shall be \$2,500.00 per day per violation.

(C) In addition to the penalties and remedies provided above, the Director, subject to appeal to the Advisory Board, may suspend, cancel or refuse to issue or reissue any applicable permit provided in this subchapter (3.30.196--3.30.247) relating to the violation committed.

(' 62 Code, Art. 3, Ch. 17, §§ 36 and 39) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.237) (Ord. G-93-19, passed 8-23-93) 3, passed 12-14-81) (' 82 Code, § 30.242) Penalty, see Section 3.30.18.247

Section 3.30.243 High ambient noise levels--Adjustment.

(A) Any person whose activities are subject to limitations of Sections 3.30.239, 3.30.240, and 3.30.241 may seek a written permit from the Department to allow his activities to exceed the limitations of those sections by no more than five decibels for a period of time to be set by the Department and stated in the permit.

(B) The Department may, in its discretion, issue a permit to operate at five decibels above the otherwise applicable limit. Those permits may be made conditional by the Department. (' 62 Code, Art. 3, Ch. 17, § 51) (Ord. G-81-53, passed 12-14-81) (' 82 Code, § 30.243)

Section 3.30.248 Gasoline dispensing regulations.

(A) APPLICABILITY.

(1) Except as provided in subpart 2, below, this section shall apply to any gasoline storage tank at a gasoline dispensing facility located in the City of Evansville.

(2) This section shall not apply to gasoline dispensing facilities which have monthly gasoline throughputs of less than ten thousand (10,000) gallons per month and:

- (a) were in existence prior to July 1, 1989; or
- (b) are located at farms or private residences.

(B) DEFINITIONS.

(1) "CONSTRUCTED." Fabricated, erected, or installed and refers to any facility, emission source, or air pollution control equipment.

(2) "EMPLOYEE." Any person who performs work for an employer for compensation.

(3) "FACILITY." Any building, structure, installation, operation, or combination located on contiguous properties and under common ownership that provides for the dispensing of motor vehicle fuel.

(4) "GASOLINE DISPENSING FACILITY." Any facility where gasoline is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of two

thousand one hundred seventy-six (2,176) liters (five hundred seventy-five (575) gallons) or more. Diesel fuel and kerosene are not considered to be motor vehicle fuels.

(5) "MOTOR VEHICLE." Any self-propelled vehicle powered by an internal combustion engine, including, but not limited to, the following:

- (a) Automobiles.
- (b) Trucks.
- (c) Motorcycles.

(6) "MOTOR VEHICLE FUEL." Any petroleum distillate having a Reid vapor pressure of more than four (4) pounds per square inch and which is used to power motor vehicles. Diesel fuel and kerosene are not considered to be motor vehicle fuels.

(7) "OWNER OR OPERATOR." Any person who owns, leases, operates, manages, supervises, or controls, directly or indirectly, a gasoline dispensing facility.

(8) "OZONE OFFICER." The person designated by the Mayor to enforce, investigate and monitor compliance of the provisions of this subsection.

(C) REQUIREMENTS.

(1) After July 1, 1998, no owner or operator of a gasoline dispensing facility shall allow the transfer of gasoline between any transport and any storage tank unless such tank is equipped with the following:

- (a) A submerged fill pipe.
- (b) Either a pressure relief valve set to release at no less than seven-tenths (0.7) pounds per square inch or an orifice of five-tenths (0.5) inch in diameter.
- (c) A vapor balance system connected between the tank and the transport, operating according to manufacturer's specifications.

(2) If the owner or employees of the owner of a gasoline dispensing facility are not present during loading, it shall be the responsibility of the owner or the operator of the transport to make certain the vapor balance system is connected between the transport and the storage tank and is operating according to manufacturer's specifications.

(3) Upon request by the Ozone Officer the owner or operator of a gasoline dispensing facility which claims to be exempt from the requirements of this section shall submit records to the Ozone Officer within thirty (30) calendar days from the date of the request which demonstrates that the gasoline dispensing facility is in fact exempt.

(D) VIOLATIONS AND PENALTIES. Upon notice, the Ozone Officer or his agents are authorized to enter the premises of any person subject to this section for the purpose of investigating non-compliance reports and to verify compliance measures set forth in this section. If entry is denied, a court order may be sought by the Ozone Officer or his agents in the Vanderburgh Superior or Circuit Court to permit such entry upon the property.

Failure to comply with any provision of this section constitutes a violation of this section and is subject to the following:

(1) The fine for a violation of 3.30.248(C)(1) shall be not less than) \$1,000.00 (one thousand dollars, nor more than \$2,500.00 (two thousand five hundred dollars) per violation.

(2) The fine for a violation of 3.30.248(C)(2) shall be \$200.00 (two hundred dollars) per violation.

(3) The fine for a violation of 3.30.248(C)(3) shall be \$100.00 (one hundred dollars); each week shall be a separate violation.

(Ord. G-98-17, passed 6-22-98)

Section 3.30.249 Automobile refinishing.

(A) APPLICABILITY.

(1) This section applies to any person who owns, leases, operates, or controls a facility that refinishes motor vehicles or mobile equipment in the City of Evansville.

(2) The following activities are exempt from this section:

(a) Application of aerosol coating products.

(b) Graphic design application.

(c) Touch-up coating application.

(3) This section does not apply to individuals who own, lease, operate, or control a facility (as defined in 3.30.196) that refinishes three (3) or fewer motor vehicles or mobile equipment (or equivalent mass) per calendar year.

(B) DEFINITIONS.

(1) "AEROSOL COATING PRODUCTS." A mixture of resins, pigments, liquid solvents, and gaseous propellants packaged in a disposable can for hand-held application.

(2) "APPLICATION STATION." The part of an automobile refinishing facility where coatings are applied.

(3) "AUTOMOBILE REFINISHING." Refinish-ing operations for after-market motor vehicles or mobile equipment performed in auto body and repair shops, production paint shops, new car dealer repair and paint shops, fleet operation repair and paint shops, and any other facility which coats vehicles under the Standard Industrial Classification (SIC) code 7532 (top, body, and upholstery repair shops and paint shops), including dealer repair of vehicles damaged in transit.

(4) "COATING." A protective, decorative, or functional material with VOC content greater than zero (0) used in automobile refinishing operations.

(5) "CONTAINER." A vessel or tank used to store coatings, surface preparation products, solvents, or waste.

(6) "DISPOSED OFFSITE." Sending outside of the refinishing facility, the used coatings, surface preparation products, solvents, or wastes.

(7) "ELECTROSTATIC APPLICATION." The application to a substrate of charged atomized paint droplets which are deposited by electrostatic attraction.

(8) "EQUIPMENT." Devices that are used to transfer or apply coating, surface preparation product, or solvent, such as, but not limited to, spray guns and brushes or nonrefillable aerosol cans.

(9) "GRAPHIC DESIGN APPLICATION." The application of logos, letters, numbers, and graphics to a painted surface, with or without the use of a template.

(10) "HIGH-VOLUME, LOW-PRESSURE (HVLP) SPRAY." Technology used to apply coating to a substrate by means of coating application equipment which operates between one-tenth (0.1) and ten (10) pounds per square inch gauge (psig) air pressure measured dynamically at the center of the air cap and at the air horns of the spray system.

(11) "MATERIAL SAFETY DATA SHEET" or "MSDS." The chemical, physical, technical, and safety information document supplied by the manufacturer of the coating, solvent, or other chemical product, usually through the distribution network or retailers.

(12) "MOBILE EQUIPMENT." Any equipment which may be driven or drawn on a roadway, including, but not limited to, the following:

- (a) Truck bodies.
- (b) Truck trailers.
- (c) Cargo vaults.
- (d) Utility bodies.
- (e) Camper shells.
- (f) Construction equipment such as mobile cranes, bulldozers, and concrete mixers.
- (g) Farming equipment such as tractors, plows, and pesticide sprayers.
- (h) Miscellaneous equipment such as street cleaners, golf carts, ground support vehicles, tow motors, and fork lifts.

(13) "MOTOR VEHICLES." Means the following:

- (a) Automobiles.
- (b) Buses.
- (c) Trucks.
- (d) Vans.
- (e) Motor homes.
- (f) Recreational vehicles.
- (g) Motorcycles.

(14) "OZONE OFFICER." The person designated by the Mayor to enforce, investigate and monitor compliance of the provisions of this subsection.

(15) "PRIMER." Any coating applied to a substrate prior to the application of a topcoat for the purpose of providing corrosion resistance, adhesion of subsequent coatings, or color uniformity.

(16) "PRIMER SEALER." Any coating applied to a substrate prior to the application of a topcoat to:

- (a) Provide corrosion resistance, adhesion of the topcoat, and color uniformity; and
- (b) Promote the ability of an undercoat to resist penetration by the topcoat.

(17) "PRIMER SURFACER." Any coating applied to a substrate prior to the application of a topcoat to:

- (a) Provide corrosion resistance and adhesion of the topcoat; and
- (b) Promote a uniform surface by filling in surface imperfections.

(18) "REFINISHING." Any coating of motor vehicles, parts, and components or mobile equipment, including partial body collision repairs, for the purpose of protection or beautification and which is subsequent to the original coating applied at an original equipment manufacturing (OEM) plant coating assembly line.

(19) "REFINISHING JOB." For each motor vehicle or piece of mobile equipment any or all of the following:

- (a) Surface preparation.
- (b) Primer application.
- (c) Primer surfacer application.
- (d) Primer sealer application.
- (e) Topcoat application.

(20) "REPAIR COATING." A coating that is used in the repair of a motor vehicle or mobile equipment.

(21) "REUSED ON SITE." The reuse of a coating, surface preparation product, or solvent in the refinishing facility.

(22) "SOLVENT." A liquid containing volatile organic compounds that is used for dissolving or dispersing constituents in a coating, adjusting the viscosity of a coating, or cleaning application stations, equipment, or containers.

(23) "SPOT REPAIRS." Repairs to motor vehicles in which the damaged area to be repaired is limited to only a portion of any given panel so that an entire panel need not be repaired.

(24) "SUBSTRATE." The surface onto which coatings or surface preparation products are applied.

(25) "SURFACE PREPARATION PRODUCTS." Products with VOC content greater than zero (0) used to remove wax, tar, grease, and other undesirable contaminants from the surface to be refinished.

(26) "TOPCOAT." The final film or series of films of coating applied to a substrate for the purpose of protection or appearance.

(27) "TOUCH-UP COATING." A coating applied by brush or hand-held, nonrefillable aerosol cans to repair minor surface damage and imperfections.

(28) "VOC CONTENT - OF COATING OR SURFACE PREPARATION PRODUCTS." The weight of VOC, less water, and less exempt solvent, per unit volume, of coating or surface preparation product.

(C) REQUIREMENTS.

(1) On and after July 1, 1998, any person applying any coating or surface preparation product in the City of Evansville shall comply with the following:

- (a) The work practice standards of Section 3.30.249D.
- (b) The record keeping and reporting provisions in section 3.30.249E.

(D) WORK PRACTICE STANDARDS.

(1) On and after July 1, 1998, the owner or operator of a refinishing facility subject to this section shall use one (1) or a combination of the following equipment for coating application:

- (a) Electrostatic equipment.
- (b) High volume low pressure (HVLP) spray equipment.
- (c) Any other coating application equipment that has been demonstrated, by the owner or operator, to the satisfaction of the Ozone Officer and IDEM to be capable of achieving at least sixty-five percent (65%) transfer efficiency. The owner or operator must submit sufficient data for the Ozone Officer and IDEM to be able to determine the accuracy of the transfer efficiency claims.

Coating application equipment shall be operated and maintained according to the manufacturer's recommendations. The owner or operator shall have the manufacturer's recommendations available for inspection upon request by the Ozone Officer, IDEM or the U.S. EPA.

(2) On and after July 1, 1998, the owner or operator of a refinishing facility subject to this section shall implement housekeeping practices which include the following:

- (a) All paper or cloth used for activities such as surface preparation and surface cleanup shall be stored in closed containers until disposed of offsite. The containers shall remain closed unless being filled or emptied.
- (b) All fresh or used solvent and waste coatings shall be stored in closed containers.
- (c) Storage containers and equipment shall be free from cracks, holes, and leaks.
- (d) Equipment cleanup shall be performed with methods that minimize the use of solvents. Reasonable efforts shall be made to reclaim the bulk of used solvents. No cleaning shall be performed by direct spraying of solvents into the atmosphere.
- (e) Effort shall be made to schedule operations of a similar nature to significantly reduce total volatile organic compound material consumption.
- (f) Coatings or surface preparation products shall be applied in a manner that minimizes overspray.

(3) The owner or operator of a refinishing facility shall comply with the training requirements of this section as follows:

(a) On or before July 1, 1998, develop a written training program. The training program may include training provided by the manufacturer or supplier and shall include written procedures and hands on demonstration, as appropriate, on the following topics:

1. Application of coatings or surface preparation products, or organic solvents using techniques that minimize their usage.

2. Operation and maintenance of spray gun cleaning equipment to minimize evaporation of organic solvents to the atmosphere.
3. Work practice standards established in this subsection.

(b) Prior to or on July 1, 1999, provide annual refresher training to any employee performing one (1) or more of the activities listed in subsection (a). Such training shall be appropriate to the job responsibilities of the employee.

(c) Any person may perform one (1) or more activity addressed in subsection (a), for not more than one hundred eighty (180) days, notwithstanding the requirement of subsection b, provided each of the following:

1. Such untrained person works under the supervision of a person who meets the training requirements of subsection (b).
2. The owner or operator keeps the following records:
 - i. The date the person was assigned to the activity.
 - ii. The date training was completed.
 - iii. The name of the person providing the supervision.

(d) The owner or operator of the refinishing operation shall keep records of the training program. The records shall consist of the following:

1. The date training was completed.
2. A list of persons, by name and activity and the topics in which they have been trained.
3. A statement signed by the trainer certifying each trainee who satisfactorily has completed training in the topics and is proficient in the procedures specified in subsection a.

(E) COMPLIANCE PROCEDURES. On or before July 1, 1998, the owner or operator of a refinishing facility subject to this section shall submit to the Ozone Officer a statement signed by a responsible official of the facility, certifying that the facility will continuously comply with all the requirements contained within this section.

(F) RECORD KEEPING AND REPORTING.

(1) Owners or operators of refinishing facilities subject to the provisions of this section shall keep records of the following:

- (a) Records of training programs as required in subsection (D)(3).
- (b) Records as required in this section.

(2) Owners or operators of refinishing facilities affected by this section shall maintain all records for a minimum of three (3) years and shall make records available to the Ozone Officer, IDEM or U.S. EPA upon request.

(3) Failure to maintain records required by this subsection F shall constitute a violation of this section for each day records are not maintained and is subject to penalties below.

(G) VIOLATIONS AND PENALTIES. Upon notice, the Ozone Officer or his agents are authorized to enter the premises of any person subject to this section for the purpose of investigating non-compliance reports and to verify compliance measures set forth in this section. If entry is denied, a court order may be sought by the Ozone Officer or his agents in the Vanderburgh Superior or Circuit Court to permit such entry upon the property.

Failure to comply with any provision of this section constitutes a violation of this section and is subject to the following:

(1) The fine for a violation of 3.30.249(D)(1) shall be not less than) \$1,000.00 (one thousand dollars, nor more than \$2,500.00 (two thousand five hundred dollars) per violation.

(2) The fine for a violation of 3.30.249(D)(2) shall be:

(a) \$50.00 (fifty dollars) for the first offense.

(b) \$100.00 (one hundred dollars) for the second offense within any one (1) calendar year.

(c) \$250.00 (two hundred fifty dollars) thereafter, within any one (1) calendar year.

(3) The fine for a violation of 3.30.249(D)(3) shall be \$200.00 (two hundred dollars); each week of noncompliance shall be a separate violation.

(4) The fine for a violation of 3.30.249(E) shall be \$100.00 (one hundred dollars); each week of noncompliance shall be a separate violation.

(5) The fine for a violation of 3.30.249(F) shall be:

(a) \$50.00 (fifty dollars) for the first offense.

(b) \$100.00 (one hundred dollars) for each violation thereafter; each week of noncompliance shall be a separate violation.

(Ord. G-98-17, passed 6-22-98)

Section 3.30.250 Pollution Prevention and Education Program.

The City of Evansville agrees to enter into an interlocal governmental agreement with Vanderburgh County and the Town of Darmstadt for the establishment and operation of a Pollution Prevention and Education Program. The general purpose of such a program is to reduce VOC emissions on a County wide basis. Such interlocal agreement will be effective upon approval of resolutions by the County Commissioners, the Evansville City Council and the Town Board of Darmstadt.

(Ord. G-98-17, passed 6-22-98)