

AGENDA
POLK COUNTY BOARD OF SUPERVISORS
Acting in its capacity as
POLK COUNTY LOCAL BOARD OF HEALTH
Polk County Administrative Office Building
111 Court Avenue - Room 120
February 25, 2025 9:25 A.M.

1. Roll Call.

RESOLUTION

2. Resolution authorizing Auditor's Office to publish Notice of Public Hearing on March 11, 2025 to consider proposed amendments to health rules Chapter V, Air Pollution.

ADJOURNMENT

**Asterisk denotes attachments to items are on file in the Auditor's Office, 111 Court Avenue, Des Moines, 515-286-3080
Monday through Friday, 8:00 a.m. – 5:00 p.m. For the full text of Resolutions, visit our website at:
<https://www.polkcountyiowa.gov/county-auditor/administration/>*

Live stream the Board of Supervisors meeting at:
https://www.youtube.com/live/I7_QwhDT2KI

RESOLUTION

Moved by _____, Seconded by _____ that the following Resolution be adopted:

WHEREAS, Polk County Local Board of Health conducts a local air pollution control program approved by the Iowa Department of Natural Resources pursuant to Iowa Code section 455B.145; and

WHEREAS, Polk County Local Board of Health Rules and Regulations Chapter V – Air Pollution sets the rules, regulations and requirements of the local program; and

WHEREAS, the Polk County Public Works Director believes it advisable to amend the current air quality program rules and regulations in the manner detailed in Exhibit A in order to make the local program more efficient and retain approval under Iowa Code section 455B.145.

NOW, THEREFORE BE IT RESOLVED that the Polk County Board of Supervisors, acting in its capacity as the Board of Health under Chapter 137 and Supervisors' Resolution of January 6, 1981, does hereby propose that Chapter V-Air Pollution of the Polk County Local Board of Health rules and regulations be amended as set forth in Exhibit A; and

BE IT FURTHER RESOLVED that pursuant to 40 C.F.R. §51.102 and Iowa Code §137.104 a public hearing on the proposed amendments set forth in Exhibit A shall be held by the Board of Health on Tuesday, March 11, 2025, in Room 120, Polk County Administrative Office Building, at which time and place any citizen desiring to comment on the proposed amendments may appear and be heard; and

BE IT FURTHER RESOLVED that the County Auditor is hereby requested to cause notice of said hearing in the form set forth as Exhibit B to this Resolution to be published in a newspaper of general circulation in the county not less than four (4) no more than twenty (20) days prior to the date set for the hearing, pursuant to Iowa Code §331.305.

Approved this _____ day of _____, 2025.

POLK COUNTY BOARD OF SUPERVISORS:
Acting in its capacity as the
POLK COUNTY LOCAL BOARD OF HEALTH:

Matt McCoy, Chair
Polk County Board of Supervisors

RECOMMENDED FOR APPROVAL:



Bret VandeLune, Director
Polk County Public Works Department

APPROVED AS TO FORM:

Kimberly Graham
Polk County Attorney

By: 

Assistant County Attorney

FISCAL NOTE: None.

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POLK COUNTY BOARD OF SUPERVISORS

Tuesday Agenda Memorandum

Item Type & Title: Resolution No. 29-25 acting as Polk County Local Board of Health, Resolution proposing amendments to health rules Chapter V, Air Pollution, set the public hearing and directing publication of notice.

Agenda Date: February 25, 2025

Contact Individual: Jennifer Bradley, Air Permit Engineer, Polk County Public Works Department, 515-286-2227.

Previous Action taken by the Board: Set the public hearing and directed the publication of the hearing notice.

Board/Commission Actions: Acting as the Board of Health, set public hearing and authorize the Auditor to publish the Notice of Hearing (Exhibit B).

Comply with Policy: Yes.

Background: Polk County has a local air quality program approved under IAC Chapter 455B. Generally, the County regulations must be consistent with state regulations to retain program approval. In 1981, this Board appointed itself to act as the local board of health pursuant to Iowa Code Chapter 137. While many Board of Health duties are delegated to the Board of Health Advisory Committee, this Board retains authority to adopt and revise health regulations. Iowa Code §137.104 authorizes County Boards of Health to adopt rules subject to approval by the County Board of Supervisors, thus this resolution reflects this Board's dual capacity as both Board of Health and Board of Supervisors. The last update to Chapter V-Air Pollution was completed on June 6, 2023.

Action Impact: The proposed rule changes will update County regulations to conform to Federal and State rules, thus allowing the County program to retain state approval under Iowa Code section 455B.145. The proposed amendments are updates for consistency with 567 Iowa Administrative Code (IAC) references, definitions, procedures, standards and exemptions as outlined in (Exhibit A).

Fiscal Note: No impact, however failure to adopt the proposed rules may result in loss of program certification and corresponding loss of Federal and State grant funding.

Fiscal Year	New Budget Item? (Y/N)	# of New Position(s) Required	Anticipated Expense	Anticipated Revenue	Budget Amendment Required? (Y/N)	If Amendment is Required,	
						Expense Account Code	Revenue Account Code
24/25	N	NA	NA	NA	N		

Additional Fiscal Note Information (optional): None.

Exhibit A: Summary of Proposed Actions for Polk County Board of Health Rules and Regulations - Chapter V Air Pollution

Previous Section	Current Section	Previous Title and Description (6/6/2023)	Current Title and Description	Actions Taken
5-1	5-1	PURPOSE AND AMBIENT AIR QUALITY STANDARDS	PURPOSE AND AMBIENT AIR QUALITY STANDARDS	Kept section, language updated IAC chapter numbers and amendment dates.
5-2	5-2	DEFINITIONS	DEFINITIONS	Kept section, added/adopted definitions by reference, removed definitions, reworked definitions for consistency with IAC.
5-3	5-3	DUTIES OF THE HEALTH OFFICER	DUTIES OF THE HEALTH OFFICER	Kept section, revised appeal period language.
5-4	5-4	POWERS OF THE HEALTH OFFICER	POWERS OF THE HEALTH OFFICER	Kept section, revised language, updated citations.
5-5	5-5	INCINERATORS PROHIBITED	RESERVED	Language removed, section rescinded (Reserved)
5-6	5-6	INCINERATION - EMISSION STANDARDS	RESERVED	Some language moved to 5-16. Remaining language removed, section rescinded (Reserved)
5-7	5-7	OPEN BURNING PROHIBITED	OPEN BURNING PROHIBITED	Kept section, some language changed to update in-text citations.
5-8	5-8	LIMITATION OF VISIBLE AIR CONTAMINANTS FROM SPECIFIC SOURCES	RESERVED	Language removed, section rescinded (Reserved)
5-9	5-9	GENERAL LIMITATION OF VISIBLE AIR CONTAMINANTS	VISIBLE EMISSIONS	Kept section, updated language for consistency.
5-10	5-10	METHODOLOGY AND QUALIFIED OBSERVER (METHOD 9)	METHODOLOGY AND QUALIFIED OBSERVER (METHOD 9)	Kept section, some language changed to update in-text citations and dates.
5-11	5-11	EMISSION OF AIR CONTAMINANTS FROM FUEL-BURNING EQUIPMENT - GENERALLY	RESERVED	Removed requirements, rescinded section (reserved).
5-12	5-12	EMISSION LIMITATIONS	RESERVED	Language removed and moved to 5-14, section rescinded (Reserved)
5-13	5-13	EXCEPTIONS	RESERVED	Language moved to 5-14, section rescinded (reserved).
5-14	5-14	EMISSION OF AIR CONTAMINANTS FROM INDUSTRIAL PROCESSES - GENERALLY	EMISSION OF AIR CONTAMINANTS FROM INDUSTRIAL PROCESSES - GENERALLY	Kept section, moved language from 5-15 and 5-12 to this section. Revised for consistency with IAC. Updated citations.
5-15	5-15	GENERAL EMISSION STANDARDS	RESERVED	Language removed and moved to 5-14, section rescinded (Reserved)
5-16	5-16	SPECIFIC EMISSION STANDARDS	SPECIFIC PROCESS EMISSION STANDARDS	Kept section, revised title of section. Revised section language for consistency with IAC. Moved incinerator emission standards to 5-16 from 5-6. NSPS and emission standards for hazardous air pollutants adopted by reference into this section.
5-17	5-17	EXCESS EMISSIONS	EXCESS EMISSIONS	Kept section, some language changed to update in-text citations.
5-17.1	5-17.1	MAINTENANCE AND REPAIR REQUIREMENTS	MAINTENANCE AND REPAIR REQUIREMENTS	Kept section, some language changed to update in-text citations.
5-18	5-18	TESTING AND SAMPLING OF NEW AND EXISTING EQUIPMENT	TESTING AND SAMPLING OF NEW AND EXISTING EQUIPMENT	Kept section, some language changed to update in-text citations and dates.
5-19	5-19	TEST FACILITIES	RESERVED	Language removed, section rescinded (Reserved)
5-20	5-20	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) FOR SOURCE CATEGORIES	NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) FOR SOURCE CATEGORIES	Kept section, removed language and adopted NESHAPs for source categories by reference.
5-21	5-21	STANDARDS FOR MARIJUANA PRODUCTION AND MARIJUANA PROCESSING	STANDARDS FOR MARIJUANA PRODUCTION AND MARIJUANA PROCESSING	Kept section, some language changed to update in-text citations.
5-22	5-22	RESERVED	RESERVED	No changes.
5-23	5-23	FUGITIVE DUST - GENERALLY	FUGITIVE DUST	Kept section, moved all fugitive dust provisions to this section, revised for consistency with IAC.
5-24	5-24	FUGITIVE DUST - PRECAUTIONS TO MINIMIZE AIR POLLUTION	RESERVED	Some language moved to 5-23. Remaining language removed, section rescinded (Reserved)
5-25	5-25	FUGITIVE DUST AIRBORNE MATERIAL PROHIBITED	RESERVED	Language removed, section rescinded (Reserved)
5-26	5-26	FUGITIVE DUST - EXCEPTIONS	RESERVED	Language removed, section rescinded (Reserved)
5-27	5-27	SULFUR DIOXIDE AND SULFURIC ACID MIST	SULFUR COMPOUNDS	Kept section, revised language for consistency with IAC. Renamed section.
5-27.1	5-27.1	-	ACID RAIN PROGRAM	New section, adopted IAC by reference.
5-28	5-28	CONSTRUCTION PERMIT REQUIRED - AIR QUALITY DIVISION (AOD)	CONSTRUCTION PERMIT REQUIRED (PCAOD)	Kept section, revised language for consistency with IAC. Renamed section.
-	5-28.1	-	PERMIT BY RULE	New section, adopted IAC verbiage.

5-28.2	-	PERMITTING REQUIREMENTS FOR COUNTRY GRAIN ELEVATORS	New section, adopted IAC by reference.
5-29	5-29	APPLICATION FOR A CONSTRUCTION PERMIT (AOD)	Kept section, revised language for consistency with IAC. Renamed section.
5-30	5-30	PROCESSING OF APPLICATIONS FOR CONSTRUCTION PERMITS (AOD)	Kept section, revised language for consistency with IAC. Renamed section.
5-31	5-31	ISSUANCE OF CONSTRUCTION PERMITS (AOD)	Kept section, revised language for consistency with IAC. Renamed section.
5-32	5-32	DENIAL OF CONSTRUCTION PERMIT (AOD)	Kept section, revised language for consistency with IAC. Renamed section.
5-33	5-33	EXEMPTIONS FROM CONSTRUCTION PERMIT REQUIREMENTS (AOD)	Kept section, revised language for consistency with IAC. Renamed section.
5-34	5-34	CONSTRUCTION PERMIT FILING AND REVIEW FEES (AOD)	Kept section, minor changes to language. Renamed section.
5-35	5-35	ANNUAL OPERATING PERMIT REQUIRED (AOD)	Kept section, revised language. Renamed section.
5-35.1	5-35.1	ANNUAL OPERATING PERMIT FEES (AOD)	Kept section, minor changes to language. Renamed section.
5-36	5-36	APPLICATION FOR ANNUAL OPERATING PERMIT (AOD)	Kept section, minor changes to language. Renamed section.
5-37	5-37	PROCESSING OF AN APPLICATION FOR ANNUAL OPERATING PERMITS (AOD)	Rescinded section, marked as Reserved.
5-38	5-38	PERFORMANCE TEST - ANNUAL OPERATING PERMIT (AOD)	Rescinded section, marked as Reserved.
5-39	5-39	EXEMPTIONS FROM ANNUAL OPERATING PERMIT REQUIREMENT	Kept section, language for exemptions changed to reference construction permit exemption section. Language changed to update in-text citations and dates. Renamed section.
5-40	5-40	ISSUANCE OF ANNUAL OPERATING PERMIT (AOD)	Kept section, revised language. Renamed section.
5-41	5-41	DENIAL OF ANNUAL OPERATING PERMIT (AOD)	Kept section, minor changes to language. Renamed section.
5-42	5-42	ANNUAL OPERATING PERMIT NOT TO EXCUSE VIOLATION	Kept section, no changes to text. Renamed section.
5-43	5-43	INSPECTION-ANNUAL OPERATING PERMIT	Kept section, no changes to text. Renamed section.
5-44	5-44	SUSPENSION OF ANNUAL OPERATING PERMIT (AOD)	Kept section, revised language. Renamed section.
5-45	5-45	TERMINATION OF SUSPENSION	Kept section, minor changes to language, updated in-text citations.
5-46	5-46	ADDITIONAL ANALYSIS	Kept section, some language changed to update in-text citations.
5-47	5-47	SUBMISSION OF INFORMATION	Kept section, no changes to text.
5-48	5-48	CIRCUMVENTION OF CHAPTER PROHIBITED TEMPORARY ELECTRICITY GENERATION FOR DISASTER SITUATIONS	Kept section, minor changes to language.
5-49	5-49	EVIDENCE USED IN ESTABLISHING THAT A VIOLATION HAS OR IS OCCURRING	Kept section, minor changes to language.
5-50	5-50	RESERVED	No changes.
5-51	5-51	RESERVED	No changes.
5-52	5-52	RESERVED	No changes.
5-53	5-53	RESERVED	No changes.
5-54	5-54	RESERVED	No changes.
5-55	5-55	RESERVED	No changes.
5-56	5-56	COMPLIANCE SCHEDULES REQUIRED	Kept section, no changes to text.
5-57	5-57	PROGRESS REPORTS REQUIRED	Kept section, minor changes to language.
5-58	5-58	SPECIAL REQUIREMENTS FOR NON-ATTAINMENT AREAS	Kept section, language changed to update IAC chapter reference, in-text citations and dates. Title of section changed.
5-59	5-59	APPLICATION FOR VARIANCE	Kept section, some language changed to update in-text citations.
5-60	5-60	PROCESSING OF APPLICATION FOR VARIANCE	Kept section, revised language for consistency with IAC. Updated in-text citations. Added language from 5-61.

Exhibit A: Summary of Proposed Actions for Polk County Board of Health Rules and Regulations - Chapter V Air Pollution

5-61	5-61	DECISION	RESERVED	Moved language to 5-60 to match DNR's code. Rescinded section (reserved).
5-62	5-62	DUTIES GENERALLY		Kept section, no changes to text.
5-63	5-63	COMPLAINTS FILED		Kept section, no changes to text.
5-64	5-64	SEALING - SEALING OF OFFENDING EQUIPMENT		Kept section, no changes to text.
5-65	5-65	HEARING		Kept section, revised language for consistency with IAC. Updated in-text citations.
5-66	5-66	EFFECT OF COMPLAINT		Kept section, some language changed to pdate in-text citation.
5-67	5-67	JUDICIAL REVIEW		Kept section, no changes to text.
5-68	5-68	MONITORING DURING EMERGENCY AIR POLLUTION EPISODES	RESERVED	Language removed, section rescinded (Reserved)
-	5-68.1	-	PREVENTION OF AIR POLLUTION EMERGENCY EPISODES - GENERAL	New section, adopted IAC by reference.
5-69	5-69	NOTICE TO STATE OFFICIALS	RESERVED	Language removed, section rescinded (Reserved)
-	5-69.1	-	EPISODE CRITERIA	New section, adopted IAC by reference.
5-70	5-70	ACTION IN EMERGENCIES	RESERVED	Language removed, section rescinded (Reserved)
-	5-70.1	-	PREPLANNED ABATEMENT STRATEGIES	New section, adopted IAC by reference.
5-71	5-71	NOTICE OF COMPLIANCE	RESERVED	Language removed, section rescinded (Reserved)
-	5-71.1	-	ACTIONS TAKEN DURING EPISODES	New section, adopted IAC by reference.
5-72	5-72	AIR POLLUTION EPISODE WARNING TO RESIDENTS	RESERVED	Language removed, section rescinded (Reserved)
5-73	5-73	EMISSIONS IN EXCESS OF LIMITATIONS OF THIS CHAPTER	HEALTH NUISANCES	Removed language and referenced PCBHRR Chapter II. Changed name of section.
5-74	5-74	DECLARED TO BE A PUBLIC NUISANCE	ENFORCEMENT OPTIONS	Kept section, revised for consistency with IAC. Changed name of section.
5-75	5-75	NOTICE OF VIOLATION	PENALTY	Kept section, minor changes to language.
5-76	5-76	ACTION TO ENJOIN	ACTION TO ENJOIN	Kept section, minor changes to language.
5-77	5-77	SEVERABILITY	SEVERABILITY	Kept section, revised language for clarity. Renamed section.

*Amendments were made as required by Senate File 558 (June 1, 2023) in order to meet the requirements of IAC §455B.145 for local programs to be consistent with state ordinances, rules and standards.

*This is strictly an informative guidance document to summarize rule changes and is NOT to be used in lieu of Polk County Board of Health Rules and Regulations Chapter V.

Red indicates the name of section was changed.

Exhibit A: Citation Updates for Polk County Board of Health Rules and Regulations Chapter V Air Pollution

Previous Citation (6/6/2023)	Current Citation	Citation Description	Previous Value (6/6/2023)	Current Value	Actions Taken
Chapter V, Article VI, Section 5-6	Chapter V, Article VI, Section 5-16(12)	Incinerator emission standards	(various values)	(various values)	Change in values. Change in citation.
Chapter V, Article IV, Section 5-9	Chapter V, Article IV, Section 5-9	Visible emissions	20%	40%	Change in values. No change in citation.
Chapter V, Article VI, Section 5-14(b)	Chapter V, Article VI, Section 5-14(3)"a"(1)	General emission rate	0.1 gr/dscf	0.1 gr/dscf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-15(b)	Chapter V, Article VI, Section 5-14(3)"b"(2)	Combustion for indirect heating emission rate	0.6 lb/MMBtu	0.6 lb/MMBtu	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(a)	Chapter V, Article VI, Section 5-16(2)	Asphalt batching plants emission standard	0.15 gr/scf	0.15 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(b)	Chapter V, Article VI, Section 5-16(3)	Cement kilns emission standard	0.1 gr/scf	0.1 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(c)	-	Cement plants emission standard	0.1 gr/scf	-	Removed for consistency with IAC.
Chapter V, Article VI, Section 5-16(d)	Chapter V, Article VI, Section 5-16(4)	Cupolas for metallurgical melting emission standard	(table)	(table)	No change in table values. Change in citation.
Chapter V, Article VI, Section 5-16(e)	Chapter V, Article VI, Section 5-16(5)	Electric furnaces for metallurgical melting emission standard	0.1 gr/scf	0.1 gr/scf	No change in values. Citation changed.
Chapter V, Article VI, Section 5-16(f)	Chapter V, Article VI, Section 5-16(7)	Grain handling and processing emission standard	0.1 gr/scf	(various values)	Change in values. Change in citation.
Chapter V, Article VI, Section 5-16(g)	Chapter V, Article VI, Section 5-16(8)	Lime kilns emission standard	0.1 gr/scf	0.1 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(h)	Chapter V, Article VI, Section 5-16(9)	Meat smokehouses emission standard	0.2 gr/scf	0.2 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(i)	Chapter V, Article VI, Section 5-16(10)	Phosphate processing plants emission standard	(various values)	(various values)	Some values removed, no change in remaining values. Change in citation.
Chapter V, Article VI, Section 5-16(j)	Chapter V, Article VI, Section 5-16(11)	Portland cement concrete batching plants emission standard	0.1 gr/scf	0.1 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(k)	Chapter V, Article VI, Section 5-16(6)	Sand handling and surface finishing operations in metal processing emission standard	0.05 gr/dscf	0.05 gr/dscf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(l)	Chapter V, Article VI, Section 5-16(13)	Painting and surface coating operations emission standard	0.01 gr/scf	0.01 gr/scf	No change in values. Change in citation.
Chapter V, Article VI, Section 5-16(m)	Chapter V, Article VI, Section 5-16(14)	NSPS	(various values)	(various values)	Change in citation. Adopted IAC by reference.
Chapter V, Article VI, Section 5-16(n)	Chapter V, Article VI, Section 5-16(15)	Emission guidelines	-	-	Change in citation. Adopted IAC by reference.
Chapter V, Article VI, Section 5-16(o)	Chapter V, Article VI, Section 5-16(16)	Emission standards for hazardous air pollutants	(various values)	(various values)	Change in citation. Adopted IAC by reference.

Exhibit A: Citation Updates for Polk County Board of Health Rules and Regulations Chapter V Air Pollution

Chapter V, Article IX, Section 5-27(2)"a"	Chapter V, Article IX, Section 5-27(2)"b"	Sulfur dioxide from liquid fuels	2.5 lb/MMBtu	2.5 lb/MMBtu	No change in values. Change in citation.
Chapter V, Article IX, Section 5-27(2)"b"	Chapter V, Article IX, Section 5-27(2)"a"	Sulfur dioxide from liquid fuels - number 1 or number 2 fuel oil	0.5% by wt	0.5 lb/MMBtu	Change in values. Change in citation.
Chapter V, Article IX, Section 5-27(5)	Chapter V, Article IX, Section 5-27(5)	Other processes capable of emitting sulfur dioxide	500 ppmv	500 ppmv	No change in values. No change in citation.
Chapter V, Article IX, Section 5-33(2)	Chapter V, Article IX, Section 5-33(2)	Construction permitting exemption: fuel burning equipment	-	-	Change in verbiage. No change in citation.
Chapter V, Article IX, Section 5-33(16)	-	Construction permitting exemption: portable equipment	-	-	Removed for consistency with IAC.
Chapter V, Article IX, Section 5-33(17)	Chapter V, Article IX, Section 5-33(16)	Construction permitting exemption: retail gasoline and diesel handling facilities	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(18)	Chapter V, Article IX, Section 5-33(17)	Construction permitting exemption: internal combustion engines	-	-	Change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(19)	Chapter V, Article IX, Section 5-33(18)	Construction permitting exemption: manually operated equipment	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(20)	Chapter V, Article IX, Section 5-33(19)	Construction permitting exemption: non-production carving, cutting, etc.	-	-	Change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(21)	Chapter V, Article IX, Section 5-33(20)	Construction permitting exemption: cafeterias/kitchens	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(22)	Chapter V, Article IX, Section 5-33(21)	Construction permitting exemption: office equipment	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(23)	Chapter V, Article IX, Section 5-33(22)	Construction permitting exemption: janitorial services	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(24)	Chapter V, Article IX, Section 5-33(23)	Construction permitting exemption: lawn care engines	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(25)	Chapter V, Article IX, Section 5-33(24)	Construction permitting exemption: consumer laundry activities	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(26)	Chapter V, Article IX, Section 5-33(25)	Construction permitting exemption: blacksmith forges	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(27)	Chapter V, Article IX, Section 5-33(26)	Construction permitting exemption: plant maintenance	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(28)	Chapter V, Article IX, Section 5-33(27)	Construction permitting exemption: air compressors	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(29)	Chapter V, Article IX, Section 5-33(28)	Construction permitting exemption: batteries	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(30)	Chapter V, Article IX, Section 5-33(29)	Construction permitting exemption: soaps, detergents, etc.	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(31)	Chapter V, Article IX, Section 5-33(30)	Construction permitting exemption: animal slaughtering	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(32)	Chapter V, Article IX, Section 5-33(31)	Construction permitting exemption: CEMs vents	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(33)	Chapter V, Article IX, Section 5-33(32)	Construction permitting exemption: natural gas pressure regulator vents	-	-	No change in verbiage. Change in citation.

Exhibit A: Citation Updates for Polk County Board of Health Rules and Regulations Chapter V Air Pollution

Chapter V, Article IX, Section 5-33(34)	Chapter V, Article IX, Section 5-33(33)	Construction permitting exemption: non-VOC/HAP surface coating with a brush/roller	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(35)	Chapter V, Article IX, Section 5-33(34)	Construction permitting exemption: hydraulic testing equipment	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(36)	Chapter V, Article IX, Section 5-33(35)	Construction permitting exemption: environmental chambers	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(37)	Chapter V, Article IX, Section 5-33(36)	Construction permitting exemption: shock chambers	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(38)	Chapter V, Article IX, Section 5-33(37)	Construction permitting exemption: water filtration systems	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(39)	Chapter V, Article IX, Section 5-33(38)	Construction permitting exemption: boiler water treatment operations	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(40)	Chapter V, Article IX, Section 5-33(39)	Construction permitting exemption: oxygen scavenging of water	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(41)	Chapter V, Article IX, Section 5-33(40)	Construction permitting exemption: fire suppression systems	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(42)	Chapter V, Article IX, Section 5-33(41)	Construction permitting exemption: emergency road flares	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(43)	Chapter V, Article IX, Section 5-33(42)	Construction permitting exemption: steam sterilizers	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(44)	Chapter V, Article IX, Section 5-33(43)	Construction permitting exemption: hot melt adhesive application	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(45)	Chapter V, Article IX, Section 5-33(44)	Construction permitting exemption: closed refrigeration systems	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(46)	Chapter V, Article IX, Section 5-33(45)	Construction permitting exemption: pre-treatment application processes	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(47)	Chapter V, Article IX, Section 5-33(46)	Construction permitting exemption: indoor vented powder coating with filters	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(48)	Chapter V, Article IX, Section 5-33(47)	Construction permitting exemption: certain curing ovens (powder coating)	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(49)	Chapter V, Article IX, Section 5-33(48)	Construction permitting exemption: handheld aerosol can surface coating	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(50)	Chapter V, Article IX, Section 5-33(49)	Construction permitting exemption: production welding	-	-	Change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(51)	Chapter V, Article IX, Section 5-33(50)	Construction permitting exemption: electric soldering	-	-	Change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(52)	Chapter V, Article IX, Section 5-33(51)	Construction permitting exemption: pressurized piping	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(53)	Chapter V, Article IX, Section 5-33(52)	Construction permitting exemption: paint and solvent storage and mixing	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(54)	Chapter V, Article IX, Section 5-33(53)	Construction permitting exemption: paint and solvent storage and mixing	-	-	No change in verbiage. Change in citation.

Exhibit A: Citation Updates for Polk County Board of Health Rules and Regulations Chapter V Air Pollution

Chapter V, Article IX, Section 5-33(55)	Chapter V, Article IX, Section 5-33(54)	Construction permitting exemption: cold solvent cleaning machines	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(56)	Chapter V, Article IX, Section 5-33(55)	Construction permitting exemption: mobile over the road trucks	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(57)	Chapter V, Article IX, Section 5-33(56)	Construction permitting exemption: bathroom vents	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(58)	Chapter V, Article IX, Section 5-33(57)	Construction permitting exemption: equipment at educational institutions	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(59)	Chapter V, Article IX, Section 5-33(58)	Construction permitting exemption: certain storage tanks	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(60)	Chapter V, Article IX, Section 5-33(59)	Construction permitting exemption: fugitive dust from passenger vehicles	-	-	No change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(61)	Chapter V, Article IX, Section 5-33(60)	Construction permitting exemption: R&D equipment	-	-	Change in verbiage. Change in citation.
Chapter V, Article IX, Section 5-33(62)	Chapter V, Article IX, Section 5-33(61)	Construction permitting exemption: non-road diesel fueled engine for NG pipeline testing	-	-	No change in verbiage. Change in citation.
-	Chapter V, Article IX, Section 5-33(62)	Construction permitting exemption: control equipment	-	-	New, added for consistency with IAC.
-	Chapter V, Article IX, Section 5-33(63)	Construction permitting exemption: small unit exemption	-	-	New, added for consistency with IAC.
-	Chapter V, Article IX, Section 5-33(64)	Construction permitting exemption: direct-fired equipment burning natural gas/propane	-	-	New, added for consistency with IAC.
-	Chapter V, Article IX, Section 5-33(65)	Construction permitting exemption: production painting <1,000 gal/vr	-	-	New, added for consistency with IAC.
-	Chapter V, Article IX, Section 5-33(66)	Construction permitting exemption: RCC	-	-	New, added for consistency with IAC.

* Amendments were made as required by Senate File 558 (June 1, 2023) in order to meet the requirements of IAC §455B.145 for local programs to be consistent with state ordinances, rules and standards.

*This is strictly an informative guidance document to summarize rule changes and is NOT to be used in lieu of Polk County Board of Health

EXHIBIT B

Publication

The Polk County Board of Supervisors acting in its capacity as the Local Board of Health approves amendments to Polk County Local Board of Health Rules and Regulations, Chapter V-Air Pollution. A comprehensive review of the Chapter V Code has been performed. The amendments are updates for consistency with 567 Iowa Administrative Code (IAC) references, definitions, procedures, standards and exemptions. The following sections have been amended: 5-1, 5-2, 5-3, 5-4, 5-7, 5-9, 5-10, 5-14, 5-16, 5-17, 5-17.1, 5-18, 5-20, 5-21, 5-23, 5-27, 5-28, 5-29, 5-30, 5-31, 5-32, 5-33, 5-34, 5-35, 5-36, 5-39, 5-40, 5-41, 5-42, 5-43, 5-44, 5-45, 5-46, 5-48, 5-49, 5-50, 5-57, 5-58, 5-59, 5-60, 5-65, 5-66, 5-67, 5-73, 5-74, 5-75, 5-76 and 5-77. The following sections have been rescinded and are marked as reserved: 5-5, 5-6, 5-8, 5-11, 5-12, 5-13, 5-15, 5-19, 5-24, 5-25, 5-26, 5-37, 5-38, 5-61, 5-68, 5-69, 5-70, 5-71 and 5-72. The following are new sections that have been added: 5-27.1, 5-28.1, 5-28.2, 5-68.1, 5-69.1, 5-70.1 and 5-71.1. The summary of regulation amendments is available on file in the Polk County Auditor's Office located at the Polk County Administration Building, 111 Court Avenue, Des Moines, Iowa, Room 230. An electronic copy of the regulations and Chapter V-Air Pollution may be viewed at www.polkcountyiowa.gov/public-works/air-quality. Hard copy requests should be directed to Polk County Public Works Department, Air Quality Division, 5885 NE 14th Street, Des Moines, IA 50313, fax 515-286-3437, or by electronic mail to: airquality@polkcountyiowa.gov.

Jamie Fitzgerald

Polk County Auditor

Polk County Board of Health Rules and Regulations

Chapter V – Air Pollution



Effective Date:
Month XX, 2025

Polk County Board of Health Rules and Regulations

Chapter V. Air Pollution

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ARTICLE I. IN GENERAL

5-1. PURPOSE AND AMBIENT AIR QUALITY STANDARDS.

- (1) It is hereby declared that the purpose of this chapter is to establish standards for the control of air pollution in the county for the purpose of protecting the public health, safety and general welfare in accordance with 455B Code of Iowa.
- (2) Further, it is hereby declared that Polk County's ambient air quality standards shall be the national Primary and Secondary Ambient Air Quality Standards in 40 Code of Federal Regulations (C.F.R.) Part 50, as adopted by reference in 567 IAC 22.11 (455B).
- (3) All references to 567 IAC Chapter 21 are amended through May 15, 2024.
All references to 567 IAC Chapter 22 are amended through May 15, 2024.
All references to 567 IAC Chapter 23 are amended through May 15, 2024.
All references to 567 IAC Chapter 24 are amended through May 15, 2024.
All references to 567 IAC Chapter 33 are amended through May 15, 2024.
All references to 567 IAC Chapter 34 are amended through May 15, 2024.

5-2. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter:

"Act" means the Clean Air Act (42 U.S.C. 7401 et seq), as amended through November 15, 1990.

"Actual emissions" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Administrator" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Agricultural Structures" for the purposes of Section 5-7, means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production, livestock or poultry raising and feeding operations.

"Air contaminant" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

"Air contaminant source" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

"Air pollution" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

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"Air pollution alert" means that action condition declared when the concentrations of air contaminants reach the level at which the first stage control actions are to begin.

"Air pollution emergency" means that action condition declared when the air quality is continuing to degrade to a level that should never be reached, and that the most stringent control actions are necessary.

"Air pollution episode" means a combination of forecast or actual meteorological conditions and emissions of air contaminants which may or do present an imminent and substantial endangerment to the health of persons, during which the chief meteorological factors are the absence of winds that disperse air contaminants horizontally and a stable atmospheric layer which tends to inhibit vertical mixing through relatively deep layers.

"Air pollution forecast" means an air stagnation advisory issued to the PCAQD, the commission, and to appropriate air pollution control agencies by an authorized Air Stagnation Advisory Office of the National Weather Service predicting that meteorological conditions conducive to an air pollution episode may be imminent. This advisory may be followed by a prediction of the duration and termination of such meteorological conditions.

"Air pollution warning" means that action condition declared when the air quality is continuing to degrade from the levels classified as an air pollution alert, and where control actions in addition to those conducted under an air pollution alert are necessary.

"Air quality standard" means an allowable level of air contaminant or atmospheric air concentration established by this chapter.

"Allowable emissions" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Anaerobic lagoon" means an impoundment, the primary function of which is to store and stabilize organic wastes. The impoundment is designed to receive wastes on a regular basis and the design waste loading rates are such that the predominant biological activity in the impoundment will be anaerobic.

An anaerobic lagoon does not include:

- (1) A runoff control basin which collects and stores only precipitation induced runoff from an open feedlot feeding operation; or
- (2) A waste slurry storage basin which receives waste discharges from confinement feeding operations and which is designed for complete removal of accumulated wastes from the basin at least semiannually; or

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- (3) Any anaerobic treatment system which includes collection and treatment facilities for all off gases.

"ASTM" means the American Society for Testing and Materials.

"Atmosphere" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

"Backyard burning" for the purposes of Section 5-7, means the disposal of residential waste by open burning on the premises of the property where such waste is generated.

"Biodiesel Fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fat such as, but not limited to, soybean oil. For purposes of this definition, "biodiesel fuel" must also meet the specifications of American Society for Testing and Material Specifications (ASTM) D 6751-02, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels", and be registered with the U.S. Environmental Protection Agency as a fuel and a fuel additive under Section 211(b) of the Clean Air Act, 42 U.S.C. Sections 7401, et seq. as amended through November 15, 1990.

"Bona Fide Training" for the purposes of Section 5-7, means training that is conducted according to the National Fire Protection Association 143 Standard of Live Fire Training Evolutions (2002 Edition) or comparable training fire standard.

"Building structure, facility, or installation" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Chimney or stack" means flue, conduit, or duct permitting the discharge or passage of air contaminants into the atmosphere, or constructed or arranged for this purpose.

"Combustion for indirect heating" means the combustion of fuel to produce usable heat that is to be transferred through a heat-conducting materials barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion.

"Construction" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Control equipment" means any equipment which has the function to prevent the formation of or the emission into the atmosphere of air contaminants from any fuel-burning device, incinerator, or process equipment.

"Control of environmental conditions" for the purposes of Section 5-21, means modifying surroundings to facilitate plant growth, may include, but is not limited to; lighting, temperature, relative humidity, and carbon dioxide levels. For implementation of Section 5-21, watering plants and

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short-term covering of plants for a portion of each day as needed for frost protection are not considered control of environmental conditions.

"Country grain elevator" for the purposes of Section 5-28.2, means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and that meets the following criteria:

- (1) Receives more than 50 percent of its grain, as "grain" is defined in this subrule, from farmers in the immediate vicinity during harvest season;
- (2) Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

"Country grain terminal elevator" for the purposes of Section 5-28.2, means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and that meets the following criteria:

- (1) Receives 50 percent or less of its grain, as "grain" is defined in this subrule, from farmers in the immediate vicinity during harvest season;
- (2) Has a permanent storage capacity of less than or equal to 2.5 million U.S. bushels, as "permanent storage capacity" is defined in this subrule;
- (3) Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

"Diesel Fuel" means a low sulfur fuel oil that complies with the specifications for grade 1-D or 2-D, as defined by the ASTM D 975-02, "Standard Specification for Diesel Fuel Oils," grade 1-GT or 2-GT, as defined by ASTM D 2880-00, "Standard Specification for Gas Turbine Fuel Oils", or grade 1 or 2, as defined by ASTM D 396-02, "Standard Specification for Fuel Oils."

- (1) For purposes of the air quality rules contained in Title II, and unless otherwise specified, diesel fuel may contain a blend of up to 2.0 percent biodiesel fuel, by volume, as "biodiesel fuel" is defined in this chapter.
- (2) Polk County shall consider air pollutant emissions calculations for the biodiesel fuel blends specified in numbered paragraph "1" to be equivalent to the air pollutant emissions calculations for unblended diesel fuel.
- (3) Construction permits or operating permits issued under this chapter or under 567 IAC Chapter 22 shall be considered by Polk County to include the biodiesel fuel blends specified in paragraph "1" unless otherwise specified in this chapter or in a permit issued under this chapter or under 567 IAC Chapter 22.

"Electric furnace" means furnace in which the melting and refining of metals are accomplished by means of electrical energy.

"Electric format," "electronic submittal," or "electronic submittal format," means a software, Internet-based, or other electronic means specified by the PCAQD for submitting air quality information or fees to the PCAQD related to but not limited to applications, certifications,

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determination requests, emissions inventories, forms, notifications, payments, permit applications, and registrations. References to these information submittal methods in Chapter V may, as specified by PCAQD, include electronic submittal as stated in the applicable rules.

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

- (1) Peaking units at electric utilities; or
- (2) Generators at industrial facilities that typically operate at low rates, but are not confined to emergency purposes; or
- (3) Any standby generators that are used during time periods when power is available from the electric utility.

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

"Emission" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

"Emissions allowable under the permit" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Emission limitation" or *"emission standard"* means a requirement established by the State of Iowa, the Polk County Air Quality Division or the Administrator which limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

"Emissions unit" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"EPA conditional method" as this definition is set forth in 567 IAC 22.1, is adopted by reference.

"EPA reference method" as this definition is set forth in 567 IAC 22.1, is adopted by reference.

"Equipment" means equipment capable of emitting air contaminants to produce air pollution.

"Excess air" means that amount of air supplied in addition to the theoretical quantity necessary for complete combustion of all fuel or combustible waste material present.

"Excess emission" is any emission which exceeds the applicable emission standard prescribed in any section of these rules, or any emission limit specified in a permit or order.

"Existing equipment" means equipment, machines, devices, or installations that were in operation prior to September 23, 1970.

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"Facility" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Federally Enforceable" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Feed mill equipment," for the purposes of Section 5-28.2, means grain processing equipment that is used to make animal feed including, but not limited to, grinders, crackers, hammermills, and pellet coolers, and that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator.

"Fireplace," for the purposes of Section 5-7, means a structure, with an open recess at the base or a chimney or stack, with a grate for food preparation and provisions for under-fire air, for holding an outdoor fire off the ground.

"Foundry cupola" means a stack-type furnace used for melting of metals consisting, but not limited to the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas cleaning devices and other auxiliaries.

"Fugitive dust" means any airborne solid particulate matter emitted from any source other than a flue or stack.

"Fugitive emissions" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Garbage" means all solid and semi-solid putrescible and nonputrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, and serving of food or of material intended for use as food, but excluding recognized industrial by-products.

"Grain," for the purposes of Section 5-28.2, as set forth in Iowa Code section 203.1(9), means any grain for which the United States Department of Agriculture has established standards including, but not limited to, corn, wheat, oats, soybeans, rye, barley, grain sorghum, flaxseeds, sunflower seed, spelt (emmer), and field peas.

"Grain processing" for the purposes of Section 5-28.2, means the equipment, or the combination of different types of equipment, used in the processing of grain to produce a product primarily for wholesale or retail sale for human or animal consumption, including the processing of grain for production of biofuels, except for *"feed mill equipment"* as defined in Section 5-2.

"Grain storage elevator" for the purposes of Section 5-28.2, means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and that is located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant

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which has a permanent grain storage capacity (grain storage capacity which is inside a building, bin, or silo) of more than 35,200 m³ (ca. 1 million U.S. bushels).

"Grain terminal elevator" for purposes of Section 5-28.2, means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and that meets the following criteria:

- (1) Receives 50 percent or less of its grain, as "grain" is defined in this subrule, from farmers in the immediate vicinity during harvest season;
- (2) Has a permanent storage capacity of more than 88,100 m³ (2.5 million U.S. bushels), as "permanent storage capacity" is defined in this subrule;
- (3) Is not located at an animal food manufacturer, pet food manufacturer, cereal manufacturer, brewery, or livestock feedlot;
- (4) Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

"Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"Grill", for the purpose of Section 5-7, means a cooking utensil with a grate for food preparation and provisions for under-fire air, for holding an outdoor fire off the ground.

"Hazardous air pollutant" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Health nuisance" as this definition is set forth in Polk County Board of Health Rules and Regulations Chapter II.

"Health officer" means the Polk County Air Quality Manager/Engineer, or his or her authorized representative, including all employees of the Air Quality Division of Polk County.

"Heating value" means the heat released by combustion of one pound of waste or fuel measured in Btu on an as-received basis. For solid fuels, the heating value shall be determined by use of ASTM Standard D 2015-66.

"High-risk pollutant" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material.

"Indoor marijuana production and indoor marijuana processing" for the purposes of Section 5-21, means production or processing occurring in a fully enclosed building that is permanently affixed to

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the ground, has permanent rigid walls, a roof that is permanent and non-retractable, and doors. The building is equipped to maintain control of environmental conditions. Hoop houses, temporary structures, or other similar structures are not considered indoor.

"Initiation of construction, installation, reconstruction or alteration" means significant permanent modification of a site to install equipment, control equipment or permanent structures. Not included are activities incident to preliminary engineering, environmental studies or acquisition of a site for a facility.

"IAC" means Iowa Administrative Code.

"Joint producers and processors" for the purposes of Section 5-21, means multiple marijuana production and processing operations on the same parcel.

"Landscape waste" for the purposes of Section 5-7, means any vegetable or plant wastes, except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"Local program" refers to the Polk County Public Works Department, Air Quality Division.

"Local program director or his designee" means the director of the Public Works Department or a person designated, either specifically or generally, by virtue of his/her job responsibilities, to act in the director's behalf.

"Major modification" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Major source" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Malfunction" means any sudden and unavoidable failure of control equipment or of a process to operate in a normal manner. Any failure that is caused entirely or in part by poor maintenance, careless operation, lack of an adequate maintenance program, or any other preventable upset condition or preventable equipment breakdown shall not be considered a malfunction.

"Manually operated equipment" for the purposes of Article X Division 1 and Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Marijuana" for the purposes of Section 5-21, means all parts of the cannabis plant.

"Marijuana concentrates" for the purposes of Section 5-21, means substances created by extracting oils from marijuana plant material.

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"Maximum achievable control technology (MACT) emission limitation for existing sources" as this definition is set forth in 567 IAC 23.1(4), is adopted by reference.

"Maximum achievable control technology (MACT) emission limitation for new sources" as this definition is set forth in 567 IAC 23.1(4), is adopted by reference.

"Maximum achievable control technology (MACT) floor" as this definition is set forth in 567 IAC 23.1(4), is adopted by references.

"Mobile Internal Combustion Engine" means a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers).

"Net emissions increase" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"New equipment" means except for any equipment or modified equipment to which 567 IAC 23.1(2) applies, any equipment or control equipment not under construction or for which components have not been purchased on or before September 23, 1970, and any equipment which is altered or modified after such date, which may cause the emission of air contaminants or eliminate, reduce or control the emission of air contaminants.

"New Title IV affected source or unit" for the purposes of Title IV (Acid Rain) applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Nonattainment area" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Number 1 fuel oil" and *"number 2 fuel oil,"* also known as *"distillate oil,"* mean fuel oil that complies with the specifications for fuel oil number 1 or fuel oil number 2, as defined by the ASTM D 396-02, *"Standard Specification for Fuel Oils."*

- (1) For purposes of the air quality rules contained in this chapter, and unless otherwise specified, number 1 or number 2 fuel oil may contain a blend of up to 2.0 percent biodiesel fuel, by volume, as "biodiesel fuel" is defined in this chapter.
- (2) PCAQD shall consider air pollutant emissions calculations for the biodiesel fuel blends specified in numbered paragraph "1" to be equivalent to the air pollutant emissions calculations for unblended number 1 fuel oil or unblended number 2 fuel oil.
- (3) Construction permits or operating permits issued under this chapter or under the 567 IAC Chapter 22, which restrict equipment fuel use to number 1 fuel oil or number 2 fuel oil shall be considered by PCAQD to include the biodiesel fuel blends specified in numbered paragraph "1", unless otherwise specified in this chapter; specified in 567 IAC Chapter 22; specified in a

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permit issued under this chapter; or specified in a permit issued under this chapter or 567 IAC Chapter 22.

"One-hour period" means any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open burning" for the purposes of Section 5-7, means the burning of any material wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed, when during the time combustion takes place, only such apertures, ducts, stacks, flues or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open.

"Other marijuana production" for the purposes of Section 5-21, means production that is not indoor or outdoor as defined in this Section. Examples of other marijuana production include production in hoop houses, temporary structures, or other similar structures.

"Outdoor marijuana production" for the purposes of Section 5-21, means production occurring on an expanse of open or cleared ground (no structure of any kind), during an outdoor growing season, without control of environmental conditions.

"Particulate matter" (except for the purposes of New Source Performance Standards as defined in 40 CFR Part 60) means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions and includes gaseous emissions that condense to liquid or solid form as measured by EPA approved reference methods.

"PCAQD" means Polk County Air Quality Division.

"Permanent storage capacity" for the purposes of Section 5-28.2, means grain storage capacity that is inside a building, bin, or silo.

"Person" as this definition is set forth in Iowa Code section 455B.131, is adopted by reference.

"Plan documents" means the reports, proposals, preliminary plans, survey and basis of design data, general and detail construction plans, profiles, specifications, and all other information pertaining to equipment.

"PM_{2.5}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA-approved reference or equivalent method.

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"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA-approved reference or equivalent method.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations relating to acid rain.

For the purpose of determining potential to emit for country grain elevators, the provisions set forth in Section 5-28.2 shall apply.

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

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

If the source is subject to new source construction permit review, then potential to emit is defined as stated above or as established in a federally enforceable permit.

"Prevention of significant deterioration permit" or "PSD permit" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Privileged communication" means information other than air pollutant emissions data, the release of which would tend to affect adversely the competitive position of the owner or operator of the equipment.

"Process" means any action, operation or treatment, and all methods and forms of manufacturing or processing, that may emit smoke, particulate matter, gaseous matter, or other air contaminant.

"Processor (process, processing)" for the purposes of Section 5-21, means a licensed operations that dry, cure, extract, compound, convert, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products.

"Process weight" means the total weight of all materials introduced into any source operation. Solid fuels charged shall be considered as part of the process weight, but liquid and gaseous fuels and combustion air shall not.

ARTICLE I. IN GENERAL

"Process weight rate" means continuous or long-run steady-state source operation, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; or for a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the number of hours of actual process operation during such a period. Where the nature of any process or operation, or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"Producer (production, producing)" for the purposes of Section 5-21, means a licensed operations that propagate, grow, harvest, and trim marijuana to be processed.

"Project" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Recreational fire" for the purposes of Section 5-7, means open fires burning charcoal or untreated seasoned wood for cooking, recreation and ceremonies located within a geographic area designated as a neighborhood, community, county or state park.

"Refuse" for the purposes of Section 5-7, means garbage, rubbish, and all other putrescible and nonputrescible wastes, except sewage and water-carried trade wastes.

"Regulated air pollutant" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Regulated NSR pollutant" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Residential waste" for the purposes of Section 5-7, means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the element, but excludes garbage, tires, trade wastes, and any locally recyclable goods or plastics.

"Responsible official" means one of the following:

- (1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - a. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

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- b. the delegation of authority to such representative is approved in advance by the PCAQD;
- (2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this chapter, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA); or
- (4) For Title IV affected sources:
 - a. The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - b. the designated representative for any other purposes under this chapter.

"Responsible person" for the purposes of Section 5-21, means any person who owns or controls property on which Section 5-21 is applicable.

"Reviewing authority" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Rubbish" means all waste materials of nonputrescible nature.

"Seal for sealing equipment or premises" means a device installed by the health officer so as to prevent the illegal use of the process, fuel-burning, refuse-burning, or control equipment or premises.

"Significant" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Significant emissions increase" for the purposes of PSD applicability, as this definition is set forth in 567 IAC 33.3, is adopted by reference.

"Six-minute period" means any one of the ten equal parts of a one-hour period.

"Shutdown" means the cessation of operation of any control equipment or process equipment or process for any purpose.

"Smoke" means gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, and other combustible material or ash, that form a visible plume in the air.

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"Source operation" means the last operation preceding the emission of an air contaminant which results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, but is not an air pollution control operation.

"Standard conditions" means a gas temperature of 68°F and a pressure of 29.92 inches of mercury absolute.

"Standard cubic foot (SCF)" means the volume of one cubic foot of gas at standard conditions.

"Standard metropolitan statistical area (SMSA)" means an area which has at least one city with a population of at least 50,000 and such surrounding areas as geographically defined by the U.S. Office of Management and Budget (Department of Commerce).

"Startup" means the setting into operation of any control equipment or process equipment or process for any purpose.

"State implementation plan" or "SIP" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. For purposes of Title V applicability, *"stationary source"* means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Act.

"Subject to regulation" for the purposes of Title V applicability, as this definition is set forth in 567 IAC 24.100, is adopted by reference.

"Total suspended particulate" means particulate matter as defined in this chapter.

"Trade waste" for the purposes of Section 5-7, for the purposes of open burning provisions, means any refuse resulting from the prosecution of any trade, business, industry, commercial venture (including farming and ranching), or utility or service activity, and any governmental or institutional activity, whether or not for profit.

"Training Fire" for the purposes of Section 5-7, is a fire set for the purposes of conducting a "bona fide training" of public or industrial employees in firefighting methods.

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

"Untreated" as it refers to wood or wood products includes only wood or wood products that have not been treated with compounds such as, but not limited to, paint, pigment-stain, adhesive, varnish, lacquer, or resin, or that have not been pressure treated with compounds such as, but not limited to,

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chromate copper acetate, pentachlorophenol, or creosote. "Untreated" as it refers to seeds, pellets, or vegetative matter includes only seeds, pellets, or other vegetative matter that has not been treated with pesticides or fungicides.

"Urban area" means any Iowa city of 100,000 or more population in the current census and all Iowa cities contiguous to such city.

"Variance" means a temporary waiver from rules, regulations or standards governing the quality, nature, duration or extent of emissions granted by the health officer for a specified period of time.

"Volatile organic compounds" or *"VOC"* means any compound included in the definition of "volatile organic compounds" found at 40 CFR Section 51.100(s) as amended through February 8, 2023.

ARTICLE II. AUTHORITY

5-3. DUTIES OF THE HEALTH OFFICER.

- (1) It shall be the duty of the health officer to make investigations and to take affirmative action within the scope of his power and within the range of this chapter to prevent and abate air pollution and air contaminant emissions.
- (2) No information supplied to the health officer shall be considered confidential unless a request for determination of confidentiality is submitted with the mentioned information. The person requesting confidential treatment for information submitted to the health officer shall have the responsibility of demonstrating to the health officer that the information in question would disclose a trade secret or other privileged communication such as but not limited to production figures. More specifically, privileged communication is information, other than air pollutant emissions data, the release of which would tend to adversely affect the competitive position of the owner or operator of the equipment. The health officer shall provide written notification to any person whose request for confidentiality has been denied. Upon receipt of such notification, the person shall have 60 days to appeal this decision to the health officer. Such an appeal shall be filed with the health officer. If the health officer denies a request for confidentiality, the information in question shall be held confidential for sufficient time to allow the petitioner to institute the necessary legal proceedings to sustain the confidentiality claim. Information submitted with a request for confidential treatment shall be treated as confidential until final determination of such request. Information on trade secrets or other privileged communication will be so designated when submitted by the health officer to the federal government in accordance with federal law or regulation and will then be subject to applicable federal regulations as to confidentiality. The provision of this section shall not apply to air contaminant emissions data.

5-4. POWERS OF THE HEALTH OFFICER

Specific powers of the health officer shall include the following:

- (1) Make or require the owner or operator to make such inspections and tests, including stack sampling and analytical determinations of existing and new fuel or refuse-burning equipment, process equipment, and control equipment, as are deemed necessary to evaluate compliance with the provisions of this chapter. When needed, sampling holes, safe scaffolding, and pertinent allied facilities, but not instruments or sensing devices, shall be requested in writing by the health officer and shall be provided by and at the expense of the owner of the installation at such points as specified in the health officer's request.
- (2) In addition to those required record keeping requirements mandated by 40 CFR Part 60, Section 60.7 as adopted and amended in 567 IAC 23.1(2), New Source Performance Standards, require the person responsible for the existing equipment to provide information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emission or other air pollution information to the health officer upon his written request. The information requested may be submitted on forms supplied by the health

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officer. All information in regard to both actual and allowable emissions shall be public records and any publication of such data shall be limited to actual and allowable air contaminant emissions.

- a. Emission data obtained from owners and operators of stationary sources under the provisions of this section will be correlated with applicable emission limitations and other control measures.
 - b. All such emission data and correlations will be available during normal business hours at the office of the health officer. The health officer may designate one or more additional places where such data and correlations will be available for public inspection.
- (3) Investigate complaints of violations of this chapter and issue written notices and orders granting a reasonable time to comply with the provisions of this chapter. While conducting an investigation, the health officer may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this chapter, or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.
- (4) Request the county attorney to bring the appropriate legal action in a court of competent jurisdiction in order to prosecute violations of this chapter and to compel the prevention and abatement of air pollution or nuisances arising there from.
- (5) Examine the plans for fuel and refuse-burning equipment, process equipment, and control equipment to be installed, constructed, reconstructed, added to, or altered, to assure that they are in accordance with the requirements of this chapter.
- (6) Require a permit to be obtained from the health officer for any person planning to construct, alter, reconstruct, or install any equipment or related control equipment prior to the initiation of construction, installation, or alteration of any portion of stationary source.
- (7) Advise planning and zoning agencies regarding air pollution aspects of planning and zoning functions in order to prevent land use conflicts resulting in air pollution problems.
- (8) Make recommendations regarding needed revisions or additions in this chapter pertaining to air pollution control.
- (9) Collect and disseminate information on air pollution control.
- (10) Carry out a continuing program of outdoor air monitoring to evaluate the air quality in the jurisdictional area of the health officer.
- (11) Review those matters having a bearing upon air pollution, referred by other departments such as plan and zoning, building, and fire departments, and make reports and recommendations where necessary.
- (12) Encourage the voluntary cooperation of civic, technical, scientific, and educational societies to achieve the purposes of this chapter in restoring and preserving the National Ambient Air Quality Standards (NAAQS) in the jurisdictional area of the health officer.

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- (13) Require each owner or operator of any equipment, as defined herein, upon notification from the health officer, to maintain records as may be deemed necessary by the health officer, to determine whether such source is in compliance with the applicable emission limitations or other control measures.
 - a. The information recorded shall be summarized and reported as deemed necessary by the health officer.
 - b. Information recorded by the owner or operator and copies of the summarizing reports submitted to the health officer shall be retained by the owner or operator for five years after the date on which the pertinent report is submitted.
- (14) Determine the characteristics of a violation, recommend civil penalties for violations of this Chapter in accordance with Subsection 5-75(2) and demand payment of the applicable civil penalty from the owner or operator of equipment in violation or any other person who has violated this Chapter.

ARTICLE III. OPEN BURNING

5-5. RESERVED.

5-6. RESERVED.

5-7. OPEN BURNING PROHIBITED.

(1) **Prohibition.**

No person shall allow, cause or permit open burning of combustible materials within Polk County except as provided in Subsections 5-7(2)"a" through "i".

For purposes of this Section, a person shall be deemed to have permitted the open burning if that person permits the setting or use of open burning for the disposal of refuse, rubbish, garbage or other combustible material under his control, on land under his control, or by employees or other persons under his control.

It shall be unlawful for any person to open burn or to permit open burning of any landscape waste within Polk County from any industrial source, commercial source, or multiple dwelling containing two or more apartment units.

It shall be unlawful for any person to open burn or to permit open burning of any refuse, rubbish, garbage, landscape waste or other combustible material within the cities of Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, and Pleasant Hill from any source from and after September 21, 1983.

In all other areas of Polk County, it shall be unlawful to open burn or permit open burning of any refuse, rubbish, garbage, landscape waste, or other combustible material, except on any land site where the land use is for single-family dwelling or agricultural operations. On any land site where the land use is for single-family dwelling or agricultural operations, open burning may be used to dispose of landscape waste originating on or growing on the same site, unless prohibited by local ordinance.

The controlled burning of a demolished building is prohibited within Polk County.

The controlled burning of agricultural structures is prohibited within Polk County.

(2) **Burn Permits.**

Upon receipt of a written request on a form provided by the PCAQD, the health officer is authorized to issue a permit for an open fire for the following purposes. Such permit may contain conditions and is subject to the provisions set forth in this chapter.

- a. *Disaster rubbish.* The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists. Burning any structures or demolished structures shall be conducted in accordance with 40 CFR Section 61.145 as amended through January 16, 1991, and as adopted in 567 IAC Chapter 23, which is the "Standard for Demolition

ARTICLE III. OPEN BURNING

and Renovation” of the asbestos National Emission Standard for Hazardous Air Pollutants.

- b. *Tree and tree trimmings.* The open burning of trees and tree trimmings not originating on the premises provided that the burning site is operated by a local governmental entity, the burning site is fenced and access is controlled, burning is conducted on a regularly scheduled basis and is supervised at all times, burning is conducted only when weather conditions are favorable with respect to surrounding property, and the burning site is limited to areas at least one-quarter mile from any inhabited building. However, when the open burning of trees and tree trimmings causes air pollution as defined in Iowa Code section 455B.131(3), the health officer may take appropriate action to secure relocation of the burning operation. Rubber tires shall not be used to ignite trees and tree trimmings.
- c. *Flare stacks.* The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with Article IV.
- d. *Landscape waste.* The disposal by open burning of landscape waste originating on or growing on the same land site only where permitted in this section. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.
- e. *Training fires.* For purposes of this section, a “training fire” is a fire set for the purposes of conducting bona fide training of public or industrial employees in firefighting methods. For purposes of this paragraph, “bona fide training” means training that is conducted according to the National Fire Protection Association 1403 Standard of Live Fire Training Evolutions (2002 Edition) or a comparable training fire standard. A training fire may be conducted, provided that all of the following conditions are met:
 - (1) A training fire on a building is conducted with the building structurally intact.
 - (2) The training fire does not include the controlled burn of a demolished building.
 - (3) If the training fire is to be conducted on a building, written notification must be provided to the PCAQD and Iowa Department of Natural Resources (IDNR) on DNR Form 542-8010 and is postmarked or delivered to the PCAQD at least ten working days before such action commences.
 - (4) Notification shall be made to the PCAQD and IDNR in accordance with 40 CFR Section 61.145, “Standard for Demolition and Renovation” of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), as amended through January 16, 1991.
 - (5) All asbestos-containing materials shall be removed prior to the training fire.
 - (6) Asphalt roofing may be burned in the training fire only if notification to the PCAQD contains testing results indicating that none of the layers of asphalt

ARTICLE III. OPEN BURNING

roofing contain asbestos. During each calendar year, each fire department may conduct no more than two training fires on buildings where asphalt roofing has not been removed, provided that for each of those training fires the asphalt roofing material present has been tested to ensure that it does not contain asbestos.

- (7) Rubber tires shall not be burned during a training fire.
- f. *Paper or plastic pesticide containers and seed corn bags.* Open burning as specified in 567 IAC 23.2(3)"h" only where permitted by this section.
- g. For public gatherings under the legitimate sponsorship of civic fraternal, religious, education or similar organization.
- h. Crews operating under the authority of any political subdivision, only where permitted by this section.
- i. Prairie re-establishment and maintenance at sites which are publicly owned or normally open to the general public.

Authorization to permit an open fire will not be granted by the health officer when such conditions arise that would deem such fires to be a safety hazard.

Permit fees may be established by resolution of the Polk County Board of Supervisors.

(3) Exemptions.

- a. *Fireplaces or grills.* This section shall not apply to outdoor fireplaces or grills burning untreated wood or charcoal, used solely for the non-commercial preparation of food or recreation. Such outdoor fireplaces or grills shall not be used for the burning of refuse, rubbish, or garbage.
- b. *Outdoor patio heaters.* This section shall not apply to outdoor patio heaters burning only natural gas, propane, or alcohol. Such outdoor patio heaters shall not be used for the burning of wood, refuse, rubbish, vegetative matter or garbage.
- c. *Recreational bonfires, fireplaces and grills.* Open fires burning charcoal or untreated seasoned wood for cooking, recreation and ceremonies located within a geographic area designated as a neighborhood, community, county or state park; unless prohibited by local authority, ordinance or regulation, provided they comply with Section 5-9. Such fires shall not be used for the burning of refuse, rubbish, or garbage.

(4) Variance application.

- a. Any person wishing to conduct open burning of materials prohibited in Subsection 5-7(1), meeting the permit requirements in Subsection 5-7(2) or not exempted in Subsection 5-7(3) may make application for a variance as specified in Section 5-59.
- b. In addition to requiring the information specified in Section 5-59, the health officer may require any person applying for a variance from the open burning rules to submit adequate documentation to allow the health officer to assess whether granting the variance will hinder attainment or maintenance of a National Ambient Air Quality Standard (NAAQS).

ARTICLE IV. RESTRICTIONS ON EMISSION OF VISIBLE AIR CONTAMINANTS FROM EQUIPMENT

5-8. RESERVED.

5-9. VISIBLE EMISSIONS.

No person shall allow, cause or permit the emission of visible air contaminants into the atmosphere from any equipment, internal combustion engine, premise fire, open fire or stack, equal to or in excess of 40 percent opacity or that level specified in a construction permit, except as provided below and in Sections 5-17 and 5-18.

- (1) **Residential heating equipment.** Residential heating equipment serving dwellings of four family units or less is exempt.
- (2) **Gasoline-powered vehicles.** No person shall allow, cause or permit the emission of visible air contaminants from gasoline-powered motor vehicles for longer than five consecutive seconds.
- (3) **Diesel-powered vehicles.** No person shall allow, cause or permit the emission of visible air contaminants from diesel-powered motor vehicles in excess of 40 percent opacity for longer than five consecutive seconds.
- (4) **Diesel-powered locomotives.** No person shall allow, cause or permit the emission of visible air contaminants from diesel-powered locomotives in excess of 40 percent opacity, except for a maximum period of 40 consecutive seconds during acceleration under load, or for a period of four consecutive minutes when a locomotive is loaded after a period of idling.
- (5) **Startup and testing.** Initial start and warmup of a cold engine; the testing of an engine for trouble, diagnosis or repair; or engine research and development activities, is exempt.
- (6) **Uncombined water.** The provisions of this paragraph shall apply to any emission that would be in violation of these provisions except for the presence of uncombined water, such as condensed water vapor.

5-10. METHODOLOGY AND QUALIFIED OBSERVER (METHOD 9).

The federal method for visual determination of opacity of emissions and requirements for qualified observers as set forth in 567 IAC 21.13 is adopted by reference.

To qualify as an observer, an individual must meet the requirements of 567 IAC 21.13.

ARTICLE V. RESERVED

5-11. RESERVED.

5-12. RESERVED.

5-13. RESERVED.

ARTICLE VI. EMISSION OF AIR CONTAMINANTS FROM INDUSTRIAL PROCESSES

5-14. EMISSION OF AIR CONTAMINANTS FROM INDUSTRIAL PROCESSES – GENERALLY.

- (1) **General.** The emission standards contained in this article shall apply to each source operation unless performance standard for the process is specified in Section 5-16, in which case the performance standard shall apply.
- (2) **Compliance with other requirements.** For the purposes of this chapter, Compliance with other requirements, as set forth in 567 IAC 21.9(455B), is adopted by reference.
- (3) **Particulate matter.** No person shall cause or allow the emission of particulate matter from any source in excess of the emission standards specified in Section 5-14, except as provided in Sections 5-17, 5-17.1, 5-18, 5-59, 5-68.1, 5-69.1, 5-70.1, and 5-71.1.

a. *General emission rate.*

- (1) For sources constructed, modified or reconstructed on or after July 21, 1999, the emission of particulate matter from any process shall not exceed 0.10 grain per dry standard cubic foot of exhaust gas.
- (2) For sources constructed, modified or reconstructed prior to July 21, 1999, the emission of particulate matter from any process shall not exceed 0.10 grain per dry standard cubic foot of exhaust gas.

The process weight rates up to 60,000 lb/hr shall be accomplished by the use of the equation:

$$E = 4.10 P^{0.67},$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation

$$E = 55.0 P^{0.11-40},$$

where E = rate of emission in lb/hr, and

P = process weight in tons/hr

- b. *Combustion for indirect heating.* Emissions of particulate matter from the combustion of fuel for indirect heating or for power generation shall be limited by the ASME Standard APS-1, Second Edition, November 1968, "Recommended Guide for the Control of Dust Emission—Combustion for Indirect Heat Exchangers." For the purpose of this paragraph, the allowable emissions shall be calculated from equation (15) in that standard, with $Comax2=50$ micrograms per cubic meter. The maximum ground level dust concentrations designated are above the background level. For plants with 4,000 million Btu/hour input or more, the "a" factor shall be 1.0. In plants with less than 4,000 million Btu/hour input, appropriate "a" factors, less than 1.0, shall be applied. Pertinent correction factors, as specified in the standard, shall be applied for installations with multiple stacks. However, for fuel-burning units in operation on January 13, 1976, the maximum allowable emissions calculated under APS-1 for the facility's equipment configuration on January 13, 1976, shall not be increased even if

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the changes in the equipment or stack configuration would otherwise allow a recalculation and a higher maximum allowable emission under APS-1.

- (1) Outside any standard metropolitan statistical area, the maximum allowable emissions from each stack, irrespective of stack height, shall be 0.8 pounds of particulates per million Btu input.
- (2) Inside any standard metropolitan statistical area, the maximum allowable emission from each stack, irrespective of stack height, shall be 0.6 pounds of particulates per million Btu input.
- (3) For a new fossil fuel-fired steam generating unit of more than 250 million Btu per hour heat input, 567 IAC 23.1(2)"a" shall apply. For a new unit of between 150 million and 250 million (inclusive) Btu per hour heat input, the maximum allowable emissions from such new unit shall be 0.2 pounds of particulates per million Btu of heat input. For a new unit of less than 150 million Btu per hour heat input, the maximum allowable emissions from such new unit shall be 0.6 pounds of particulates per million Btu of heat input.
- (4) Measurements of emissions from a particulate source will be made in accordance with the provisions of Articles IV and VII.
- (5) For fuel-burning sources in operation prior to July 29, 1977, which are not subject to 567 IAC 23.1(2) and which significantly impact a primary or secondary particulate standard nonattainment area, the emission limitations specified in this subparagraph apply. A significant impact shall be equal to or exceeding 5 micrograms of particulate matter per cubic meter of air (24-hour average) or 1 microgram of particulate matter per cubic meter of air (annual average) determined by an EPA-approved single source dispersion model using allowable emission rates and five-year worst-case meteorological conditions. In the case where two or more boilers discharge into a common stack, the applicable stack emission limitation shall be based upon the heat input of the largest operating boiler. The plantwide allowable emission limitation shall be the weighted average of the allowable emission limitations for each stack or the applicable APS-1 plantwide standard as determined under Subsection 5-14(3) "b", whichever is more stringent.
- (6) The maximum allowable emission rate for a single stack with a total heat input capacity less than 250 million Btu per hour shall be 0.60 pound of particulate matter per million Btu heat input, the maximum allowable emission rate for a single stack with a total heat input capacity greater than or equal to 250 million Btu per hour and less than 500 million Btu per hour shall be 0.40 pound of particulate matter per million Btu heat input, and the maximum allowable emission rate for a single stack with a total heat input capacity greater than or equal to 500 million Btu per hour shall be 0.30 pound of particulate matter per million Btu heat input. All sources regulated under this subparagraph shall demonstrate compliance by October 1, 1981; however, a source is considered

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to be in compliance with this subparagraph if by October 1, 1981, it is on a compliance schedule to be completed as expeditiously as possible, but no later than December 31, 1982.

- (4) **Excess Emissions.** Any excess emissions resulting from the operation of fuel-burning equipment covered under Section 5-14, shall also report such excess emission periods as specified in Section 5-17.

5-15. RESERVED.

5-16. SPECIFIC PROCESS EMISSION STANDARDS.

- (1) **General.** For the purposes of this section, General, as set forth in 567 IAC 23.4(1), is adopted by reference.
- (2) **Asphalt batching plants.** No person shall cause, permit, or allow the operation of an asphalt batching plant in a manner such that the particulate matter discharged into the atmosphere exceeds 0.15 grain per standard cubic foot of exhaust gas.
- (3) **Cement kilns.** Cement kilns shall be equipped with air pollution control devices to reduce the particulate matter in the gas discharged to the atmosphere to no more than 0.3 percent of the particulate matter entering the air pollution control device. Regardless of the degree of efficiency of the air pollution control device, cement kilns shall not cause, permit or allow particulate matter discharged from such kilns to exceed 0.1 grain per standard cubic foot of exhaust gas.
- (4) **Cupolas for metallurgical melting.** The emissions of particulate matter from all new foundry cupolas, and from all existing foundry cupolas with a process weight rate in excess of 20,000 pounds per hour, shall not exceed the amount specified in Subsection 5-14(3)"a" except as specified in Section 5-17. The emissions of particulate matter from all existing foundry cupolas with a process weight rate less than or equal to 20,000 pounds per hour shall not exceed the amount determined from the table below, except as provided in Section 5-17.

The emissions of particulate matter from all existing foundry cupolas with a process weight rate less than or equal to 20,000 pounds per hour shall not exceed the amount determined from the following table, except as provided in Section 5-17.

TABLE I: ALLOWABLE EMISSIONS FROM EXISTING SMALL FOUNDRY CUPOLAS	
Process weight rate (lb/hr)	Allowable Emission (lb/hr)
1,000	3.05
2,000	4.70
3,000	6.35
4,000	8.00

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TABLE I: ALLOWABLE EMISSIONS FROM EXISTING SMALL FOUNDRY CUPOLAS	
Process weight rate (lb/hr)	Allowable Emission (lb/hr)
5,000	9.58
6,000	11.30
7,000	12.90
8,000	14.30
9,000	15.50
10,000	16.65
12,000	18.70
16,000	21.60
18,000	23.40
20,000	25.10

- (5) **Electric furnaces for metallurgical melting.** The emissions of particulate matter into the atmosphere from electric furnaces used for metallurgical melting shall not exceed 0.1 grain per standard cubic foot of exhaust gas.
- (6) **Sand handling and surface finishing operations in metal processing.** This section shall apply to any new foundry or metal processing operation not properly termed a combustion, melting, baking or pouring operation. For purposes of this section, a new process is any process which has not started operation, or the construction of which has not commenced, or the components of which have not been ordered, or contracts for the construction of which have not been let on August 1, 1977. No person shall allow, cause, or permit the operation of any equipment designed for sand shakeout, mulling, molding, cleaning, preparation, reclamation or rejuvenation or any equipment for abrasive cleaning, shot blasting, grinding, cutting, sawing or buffing in such manner that particulate matter discharged from any stack exceeds 0.05 grain per dry standard cubic foot of exhaust gas, regardless of the types and number of operations that discharge from the stack.
- (7) **Grain handling and processing plants.** The owner or operator of equipment at a permanent installation for the handling or processing of grain, grain products and grain by-products shall not cause, allow or permit the particulate matter discharged to the atmosphere to exceed 0.1 grain per dry standard cubic foot of exhaust gas, except as follows:
 - a. The particulate matter discharged to the atmosphere from a grain bin vent at a country grain elevator, as "country grain elevator" is defined in Section 5-2, shall not exceed 1.0 grain per dry standard cubic foot of exhaust gas.
 - b. The particulate matter discharged to the atmosphere from a grain bin vent that was constructed, modified or reconstructed before March 31, 2008, at a country grain

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terminal elevator, as "country grain terminal elevator" is defined in Section 5-2, or at a grain terminal elevator, as "grain terminal elevator" is defined in Section 5-2, shall not exceed 1.0 grain per dry standard cubic foot of exhaust gas.

- c. The particulate matter discharged to the atmosphere from a grain bin vent that is constructed or reconstructed on or after March 31, 2008, at a country grain terminal elevator, as "country grain terminal elevator" is defined in Section 5-2, shall not exceed 0.1 grain per dry standard cubic foot of exhaust gas.
- (8) **Lime kilns.** No person shall cause, permit or allow the operation of a kiln for the processing of limestone such that the particulate matter in the gas discharged to the atmosphere exceeds 0.1 grain per standard cubic foot of exhaust gas.
- (9) **Meat smokehouses.** No person shall cause, permit or allow the operation of a meat smokehouse, or a group of meat smokehouses, which consume more than ten (10) pounds of wood, sawdust, or other material per hour such that the particulate matter discharged to the atmosphere exceeds 0.2 grain per standard cubic foot of exhaust gas.
- (10) **Phosphate processing plants.**
- a. Reserved.
 - b. Reserved.
 - c. *Nitrophosphate manufacture.* No person shall allow, cause or permit the operation of equipment for the manufacture of nitrophosphate in a manner that produces more than 0.06 pounds of fluoride per ton of phosphorus pentoxide or equivalent input.
 - d. No person shall allow, cause or permit the operation of equipment for the processing of phosphate ore, rock or other phosphatic material (other than equipment used for the manufacture of phosphoric acid, diammonium phosphate or nitrophosphate) in a manner that the unit emissions of fluoride exceed 0.4 pounds of fluoride per ton of phosphorous pentoxide or its equivalent input.
 - e. Notwithstanding "c" and "d", no person shall allow, cause or permit the operation of equipment for the processing of phosphorous ore, rock or other phosphatic material including, but not limited to, phosphoric acid, in a manner that emissions of fluorides exceed 100 pounds per day.
 - f. "Fluoride" means elemental fluorine and all fluoride compounds as measured by reference methods specified in Appendix A to 40 CFR part 60 as amended through March 12, 1996.
 - g. *Calculation.* The allowable total emission of fluoride shall be calculated by multiplying the unit emission specified above by the expressed design production capacity of the process equipment.
- (11) **Portland cement concrete batching plants.** No person shall cause, permit or allow the operation of a Portland cement concrete batching plant such that the particulate matter discharged to the atmosphere exceeds 0.1 grain per standard cubic foot of exhaust gas

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- (12) **Incinerators.** A person shall not cause, allow, or permit the operation of an incinerator unless provided with appropriate control of emissions of particulate matter and visible air contaminants.
- a. *Particulate matter.* A person shall not cause, allow or permit the operation of an incinerator with a rated refuse burning capacity of 1,000 or more pounds per hour in a manner such that the particulate matter discharged to the atmosphere exceeds 0.2 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.
- A person shall not cause, allow or permit the operation of an incinerator with a rated refuse burning capacity of less than 1,000 pounds per hour in a manner such that the particulate matter discharged to the atmosphere exceeds 0.35 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.
- b. *Visible emissions.* A person shall not allow, cause or permit the operation of an incinerator in a manner such that it produces visible air contaminants in excess of 40 percent opacity; except that visible air contaminants in excess of 40 percent opacity but less than or equal to 60 percent opacity may be emitted for periods aggregating not more than 3 minutes in any 60-minute period during an operation breakdown or during the cleaning of air pollution control equipment.
- (13) **Painting and surface coating operations.** No person shall allow, cause, or permit painting and surface coating operations in a manner such that particulate matter in the gas discharge exceeds 0.01 grain per standard cubic foot of exhaust gas.
- (14) **New source performance standards.** As the federal standards of performance for new stationary sources set forth in 567 IAC 23.1(2), are adopted by reference.
- (15) **Emission Guidelines.** Emission guidelines which are contained in 567 IAC 23.1(5), and represent the State of Iowa's 111(d) plan as submitted to the EPA, are adopted by reference.
- (16) **Emission standards for hazardous air pollutants.** The federal standards for emissions of hazardous air pollutants set forth in 567 IAC 23.1(3), are adopted by reference.

5-17. EXCESS EMISSIONS.

- (1) **Excess emission during periods of startup or shutdown.** Excess emission during a period of startup or shutdown is not a violation of the emission standard if the startup or shutdown is accomplished expeditiously and in a manner consistent with good practice for minimizing emissions.
- (2) **Initial Report of Excess Emissions.**
- a. An incident of excess emission shall be reported to the PCAQD within eight (8) hours of, or at the start of the first working day following the onset of the incident. Initial reporting does not relieve the owner or operator of a source with continuous monitoring equipment of the obligation of submitting reports required in Subsection 5-18(2)d.

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- b. An initial report of excess emission is not required for a source with operational continuous monitoring equipment (as specified in Subsection 5-18(2)) if the incident of excess emission continues for less than 30 minutes and does not exceed the applicable emission standard by more than 10 percent or the applicable visible emission standard by more than 10 percent opacity.
- c. The initial report shall be made by electronic mail (e-mail), in person, or by telephone and shall include as a minimum the following:
 - (1) The identity of the equipment or source operation from which the excess emission originated and the associated stack or emission point.
 - (2) The estimated quantity of the excess emission.
 - (3) The time and expected duration of the excess emission.
 - (4) The cause of the excess emission.
 - (5) The steps being taken to remedy excess emission.
 - (6) The steps being taken to limit the excess emission in the interim period.
- (3) **Written report of excess emission.** A written report of an incident of excess emission shall be submitted as a follow up to all required initial reports to the PCAQD within seven (7) days of the onset of the upset condition and shall include as a minimum the following:
 - a. The identity of the equipment or source operation from which the excess emission originated and the associated stack or emission point.
 - b. The estimated quantity of the excess emission.
 - c. The time and duration of the excess emission.
 - d. The cause of the excess emission.
 - e. The steps that were taken to remedy and to prevent the recurrence of the incident of excess emission.
 - f. The steps that were taken to limit the excess emission.
 - g. If the owner claims that the excess emission was due to malfunction, documentation to support this claim.
- (4) **Excess emissions.** An incident of excess emission is a violation. If the owner or operator of a source maintains that the incident of excess emission was due to a malfunction, the owner or operator must show that the conditions which caused the incident of excess emission were not preventable by reasonable maintenance and control measures. Determination of any subsequent enforcement action will be made following review of this report. If excess emissions are occurring, either the control equipment causing the excess emission shall be repaired in an expeditious manner or the process generating the emissions shall be shut down within a reasonable period of time. An expeditious manner is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. A reasonable period of time is eight (8) hours plus the period of time required to shut down the process without damaging the process equipment. In the case of an electric utility,

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a reasonable period of time is eight (8) hours plus the period of time until comparable generating capacity is available to meet consumer demand with the affected unit out of service, unless the health officer shall, upon investigation, reasonably determine that continued operation constitutes an unjustifiable environmental hazard and issue an order that such operation is not in the public interest and require a process shutdown to commence immediately.

5-17.1 MAINTENANCE AND REPAIR REQUIREMENTS.

- (1) **Maintenance and repair.** The owner or operator of any equipment shall:
 - a. Maintain and operate the equipment or control equipment at all times in a manner consistent with good practice for minimizing emissions.
 - b. Remedy any cause of excess emissions in an expeditious manner.
 - c. Minimize the amount and duration of any excess emission to the maximum extent possible during periods of such emissions. These measures may include but not be limited to the use of clean fuels, production cutbacks, or the use of alternate process units or, in the case of utilities, purchase of electrical power until repairs are completed.
 - d. Implement measures contained in any contingency plan prepared in accordance with Subsection 5-17.1(2)"c".
 - e. Schedule, at a minimum, routine maintenance of equipment or control equipment during periods of process shutdown to the maximum extent possible.
- (2) **Maintenance plans.** A maintenance plan will be required for equipment or control equipment where, in the judgment of the health officer, a continued pattern of excess emissions indicative of inadequate operation and maintenance is occurring. The maintenance plan shall include, but not be limited, to the following:
 - a. A complete preventive maintenance schedule including identification of the persons responsible for inspecting, maintaining and repairing control equipment, a description of the items or conditions that will be inspected, the frequency of these inspections or repairs, and an identification of the replacement parts which will be maintained in inventory for quick replacement;
 - b. An identification of the equipment and air pollution equipment operating variables that will be monitored in order to detect a malfunction or failure, the normal operating range of these variables, and a description of the method of monitoring and surveillance procedures.
 - c. A contingency plan for minimizing the amount and duration of any excess emissions to the maximum extent possible during periods of such emissions.

ARTICLE VII. PERFORMANCE TEST FOR STACK EMISSION TEST

5-18. TESTING AND SAMPLING OF NEW AND EXISTING EQUIPMENT.

- (1) When stack emission tests are required, the following conditions must be satisfied.
 - a. *Tests by owner.* The owner of new or existing equipment or the owner's authorized agent shall conduct emission tests to determine compliance with applicable rules in accordance with these requirements.
 - (1) *General.* The owner of new or existing equipment or the owner's authorized agent shall notify the PCAQD in writing not less than thirty (30) days before a required test or before a performance evaluation of a continuous emission monitor to determine compliance with applicable requirements of Chapter V or a permit condition. Such notice shall include the time, the date, the place, the name of the person who will conduct the tests and other information as required by the PCAQD. If the owner or operator does not provide timely notice to the PCAQD, the PCAQD may not consider the test results or performance evaluation results to be a valid demonstration of compliance with applicable rules or permit conditions. Upon written request, the PCAQD may allow a notification period of less than thirty (30) days. Unless specifically waived by the PCAQD, a pretest meeting shall be held not later than fifteen (15) days prior to conducting the compliance demonstration. The PCAQD may accept a testing protocol in lieu of the pretest meeting. A representative of the PCAQD shall be permitted to witness the tests. Results of the tests shall be submitted in writing to the health officer in the form of a comprehensive report within six (6) weeks (42 days) of the completion of the testing. Results shall be accompanied with the appropriate fee as established by the Polk County Board of Supervisors.
 - (2) *New equipment.* Unless otherwise specified by the PCAQD, all new equipment shall be tested by the owner or the owner's authorized agent to determine compliance with applicable emission limits. Tests conducted to demonstrate compliance with the requirements of the rules or a permit shall be conducted within sixty (60) days of achieving maximum production but no later than 180 days of startup, unless a shorter time frame is specified in the permit.
 - (3) *Existing equipment.* The PCAQD may require the owner or the owner's authorized agent to conduct an emission test on any equipment if the PCAQD has reason to believe that the equipment does not comply with applicable requirements. Grounds for requiring such a demonstration of compliance include a modification of control or process equipment, age of equipment, or observation of opacities or other parameters outside the range of those indicative of properly maintained and operated equipment. Testing may be required as necessary to determine actual emissions from a source where that source is believed to have a significant impact on the public health or ambient air quality of an area. The PCAQD shall provide the owner or agent not less

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than thirty (30) days to perform the compliance demonstration and shall provide written notice of the requirement.

- b. *Tests by department.* Representatives of the PCAQD may conduct separate and additional air contaminant emission tests and continuous monitor performance tests of an installation on behalf of the local program. Sampling holes, safe scaffolding, and pertinent allied facilities, but not instruments or sensing devices, as needed, shall be requested in writing by the PCAQD and shall be provided by and at the expense of the owner of the installation at such points as specified in the request. The owner shall provide a suitable power source to the point or points of testing so that sampling instruments can be operated as required. Analytical results shall be furnished to the owner.
- c. *Methods and Procedures.* Performance test (stack test) and associated analytical methods used to evaluate compliance with emission limitations of this Chapter or a permit condition shall be as follows:
 - (1) *Performance test (stack test).* A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended or corrected through March 29, 2023); 40 CFR 60, Appendix A (as amended or corrected through March 29, 2023); 40 CFR 61, Appendix B (as amended or corrected through October 7, 2020); and 40 CFR 63, Appendix A (as amended or corrected through March 29, 2023). Each test shall consist of at least three separate one-hour test runs. Unless otherwise specified by the PCAQD, EPA method, or regulation, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs. The owner of the equipment or the owner's authorized agent may use an alternative methodology if delegated to and approved by the Iowa DNR in writing prior to testing.
 - (2) *Continuous monitoring systems.* Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended or corrected through June 28, 2023); 40 CFR 60, Appendix F (as amended or corrected through March 29, 2023); 40 CFR 75, Appendix A (as amended or corrected through August 30, 2016); 40 CFR 75, Appendix B (as amended or corrected through August 30, 2016); and 40 CFR 75, Appendix F (as amended or corrected through August 30, 2016). The owner of the equipment or the owner's authorized agent may use an alternative methodology for continuous monitoring systems if delegated to and approved by the Iowa DNR in writing prior to conducting the minimum performance specification and quality assurance procedures.
 - (3) *Permit and compliance demonstration requirements.* All stack sampling and associated analytical methods used to evaluate compliance with emission limitations of Articles VI, VIII, and IX, or required in a permit issued by this

ARTICLE VII. PERFORMANCE TEST FOR STACK EMISSION TEST

PCAQD, shall be conducted using the methodology referenced in Articles IV and VII.

(2) The following sets out requirements for continuous monitoring of certain specified sources of air contaminants:

- a. *Continuous monitoring of opacity from coal-fired steam generating units.* The owner or operator of any coal fired or coal gas fired steam generating unit with a rated capacity of greater than 250 million Btu's per hour heat input shall install, calibrate, maintain, and operate continuous monitoring equipment to monitor opacity. If an exhaust services more than one steam generating unit as defined in the preceding sentence, the owner has the option of installing opacity monitoring equipment on each unit or on the common stack.

Such monitoring equipment shall conform to performance specifications specified in Subsection 5-18(1)"c".

The health officer may require the owner or operator of any coal-fired or coal-gas-fired steam generating unit to install, calibrate, maintain and operate continuous monitoring equipment to monitor opacity whenever the compliance status, history of operations, ambient air quality in the vicinity surrounding the generator or the type of control equipment utilized would warrant such monitoring.

- b. *Continuous monitoring of sulfur dioxide from sulfuric acid plants.* The owner or operator of any sulfuric acid plant of greater than 300 tons per day production capacity, the production being expressed as 100 percent acid, shall install, calibrate, maintain and operate continuous monitoring equipment to monitor sulfur dioxide emissions. Said monitoring equipment shall conform to the minimum performance specifications specified in Subsection 5-18(1)"c".
- c. *Maintenance of records of continuous monitors.* The owner or operator of any facility which is required by Subsections 5-18(2)"a" through "b" to install, calibrate, maintain, and operate continuous monitoring equipment shall maintain, for a minimum of two years, a file of all information pertinent to each monitoring system present at the facility. Such information must include but is not limited to all emissions data (raw data, adjusted data, and any or all adjusted factors used to convert emissions from units of measurement to units of the applicable standard), performance evaluations, calibrations and zero checks, and records of all malfunctions of monitoring equipment or source and repair procedures performed.
- d. *Reporting of continuous monitoring information.* The owner or operator of any facility required to install a continuous monitoring system or systems shall provide quarterly reports to the health officer, no later than 30 calendar days following the end of the calendar quarter. All periods of recorded emissions in excess of the applicable standard(s), the results of all calibrations and zero checks and performance evaluations occurring during the reporting period, and any periods of monitoring equipment malfunctions or source upsets and any apparent reasons for these malfunctions and upsets shall be included in the report.

ARTICLE VII. PERFORMANCE TEST FOR STACK EMISSION TEST

- e. *Exemptions from continuous monitoring requirements.* The owner or operator of any source affected by Subsections 5-18(2)"a" through "b" is exempt if it can be demonstrated that any of the conditions set forth in this subsection is met with the provision that periodic recertification of the existence of these conditions can be requested.
 - (1) An affected source is subject to a new source performance standard.
 - (2) Reserved.
 - (3) An affected steam generator is scheduled to be retired from service.
 - (4) The health officer may provide a temporary exemption from the monitoring and reporting requirements during any period of monitoring system malfunction, provided that the source owner or operator shows, to the satisfaction of the health officer that the malfunction was unavoidable and is being repaired as expeditiously as practical.
- f. *Extensions.* The owner or operator of any source affected by Subsections 5-18(2)"a" through "b" may request an extension of time provided for installation of the required monitor by demonstrating to the health officer that good faith efforts have been made to obtain and install the monitor in the prescribed time.
- g. *Continuous emission monitoring under the acid rain program.* The continuous emission monitoring requirements for affected units under the acid rain program as set forth in 567 IAC 21.11 are adopted by reference.

5-19. RESERVED.

ARTICLE VIII. EMISSION STANDARDS FOR AIR POLLUTANTS FOR SOURCE CATEGORIES

5-20. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) FOR SOURCE CATEGORIES.

The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63, as set forth in 567 IAC 23.1(4), are adopted by reference.

5-21. STANDARDS FOR MARIJUANA PRODUCTION AND MARIJUANA PROCESSING.

- (1) **Purpose.** The production and processing of marijuana emits air contaminants. Section 5-21 establishes standards to minimize air contaminants from stationary sources that produce or process marijuana.
- (2) **Applicability.** This Section applies to all persons or entities having an active license for marijuana production operations and marijuana processing operations in Polk County, Iowa.
- (3) **Agency review.** As outlined in Sections 5-3 and 5-4, PCAQD will conduct a case-by-case review of marijuana production and marijuana processing facilities to quantify emissions and conduct ambient air analysis to determine compliance with the National Ambient Air Quality Standards (NAAQS).
- (4) **Reserved.**
- (5) **Requirements.** All persons or entities subject to the requirements of Section 5-21 must comply with the following:
 - a. Production must occur indoors or outdoors, as defined in Section 5-2.
 - b. All processing must occur indoors as defined in Section 5-2.
 - c. Indoor production and processing requirements:
 - (1) Control equipment and facility design:
 1. Operations must be equipped with air pollution control equipment that is properly sized for the air flow to be controlled. Air pollution control equipment may include, but is not limited to, carbon adsorption within the facility, carbon filtration on facility exhaust points, vertical exhaust stacks. Air pollution control equipment is not required for windows, doors, or other openings, provided these openings are kept closed except as needed for active ingress or egress; or
 2. Operations must be designed to prevent exhaust from production and processing operations directly to the outside; or
 3. Both.
 - (2) Operations must meet Section 5-73.
 - d. Outdoor production requirements:
 - (1) Operations must meet Section 5-73.

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- e. *Operation and maintenance plan.* Air pollution control equipment must be operated and maintained in accordance with the manufacturer's recommendations. An operation and maintenance plan for the air pollution control equipment must be available on-site. The plan must include written operating instructions and maintenance schedules. The plan must also include written inspection and maintenance schedules for carbon bed/filter material replacement at regular intervals, according to manufacturer's instructions. Records shall be kept of the dates and description of all maintenance and repair performed on the air pollution control equipment. Records must be kept on-site for the previous five (5) years and provided to the PCAQD upon request.
 - f. *Notification of change in operations.* Written notification must be submitted to the PCAQD (30) days prior to operational changes. Operational changes include: new installation of air pollution control equipment, modification or replacement of existing air pollution control equipment, or change in facility design to control air contaminant emissions.
 - g. *Harvest schedule.* Written notification from outdoor producers must be submitted no later than thirty (30) days prior to the start of harvest. The written notification must include harvest dates and locations.
- (6) **Compliance with other laws and regulations.** Compliance with Section 5-21, does not constitute an exemption from compliance with other Sections of Chapter V, or other laws or regulations.
 - (7) **Joint producers, processors and responsible persons.** If there is a violation of Section 5-21, a Notice of Violation may be issued to all joint producers and processors on the parcel, and all responsible persons.
 - (8) **Compliance schedule.** All persons or entities subject to the requirements of Section 5-21 must be in compliance with requirements as follows:
 - a. New producers and processors must be in full compliance with Section 5-21 requirements before production and/or processing begins.

5-22. RESERVED.

ARTICLE IX. FUGITIVE DUST; SULFUR COMPOUNDS

5-23. FUGITIVE DUST.

- (1) **Attainment and unclassified areas.** A person shall take reasonable precautions to prevent particulate matter from becoming airborne in quantities sufficient to cause a nuisance as defined in Iowa Code section 657.1 when the person allows, causes or permits any materials to be handled, transported or stored or a building, its appurtenances or a construction haul road to be used, constructed, altered, repaired or demolished, with the exception of farming operations or dust generated by ordinary travel on unpaved roads. Ordinary travel includes routine traffic and road maintenance activities such as scarifying, compacting, transporting road maintenance surfacing material, and scraping of the unpaved public road surface. All persons, with the above exceptions, shall take reasonable precautions to prevent the discharge of visible emissions of fugitive dusts beyond the lot line of the property on which the emissions originate. The public highway authority shall be responsible for taking corrective action in those cases where said authority has received complaints of or has actual knowledge of dust conditions that require abatement pursuant to this subrule. Reasonable precautions may include but not be limited to the following procedures:
 - a. Use, where practical, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
 - b. Application of suitable materials, such as but not limited to asphalt, oil, water or chemicals on unpaved roads, material stockpiles, race tracks and other surfaces which can give rise to airborne dusts.
 - c. Installation and use of containment or control equipment, to enclose or otherwise limit the emissions resulting from the handling and transfer of dusty materials, such as but not limited to grain, fertilizer or limestone.
 - d. Covering, at all times when in motion, open-bodied trucks transporting materials likely to give rise to airborne dusts;
 - e. The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth-moving equipment, erosion by water or other means.
- (2) **Nonattainment areas.** For the purposes of this section, "Nonattainment areas" as set forth in 567 IAC 23.3(2)"c"(2), is adopted by reference.
- (3) **Redesignated areas.** For the purposes of this section, "Redesignated areas" as set forth in 567 IAC 23.3(2)"c"(3), is adopted by reference.

5-24. RESERVED.

5-25. RESERVED.

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5-26. RESERVED.

5-27. SULFUR COMPOUNDS.

The emission standards contained in this rule shall apply to each source operation unless performance standard for the process is specified in 567 IAC 23.1(2) through 23.1(5), in which case the performance standard shall apply.

The provisions of this section shall apply to any installation from which sulfur compounds are emitted into the atmosphere.

(1) Sulfur dioxide from use of solid fuels.

- a. No person shall allow, cause, or permit the emission of sulfur dioxide into the atmosphere from an existing solid fuel-burning unit, in an amount greater than 5 pounds, replicated maximum three-hour average, per million Btu's of heat input.
- b. No person shall allow, cause, or permit the emission of sulfur dioxide into the atmosphere from any new solid fuel-burning unit that has a capacity of 250 million Btu or less per hour heat input, in an amount greater than 6 pounds, replicated maximum three hour average, per million Btu's of heat input.

(2) Sulfur dioxide from liquid fuels.

- a. No person shall allow, cause or permit the combustion of number 1 or number 2 fuel oil exceeding a sulfur content of 0.5 percent by weight.
- b. No person shall allow, cause or permit the emission of sulfur dioxide into the atmosphere in an amount greater than 2.5 pounds of sulfur dioxide, replicated maximum three-hour average, per million Btu's of heat input from a liquid-fuel burning unit.

(3) Sulfur dioxide from sulfuric acid manufacture. After January 1, 1975, no person shall allow, cause or permit the emission of sulfur dioxide from an existing sulfuric acid manufacturing plant in excess of 30 pounds of sulfur dioxide, maximum three-hour average, per ton of product calculated as 100 percent sulfuric acid.

(4) Acid mist from sulfuric acid manufacture. After January 1, 1974, no person shall allow, cause or permit the emission of acid mist calculated as sulfuric acid from an existing sulfuric acid manufacturing plant in excess of 0.5 pounds, maximum three-hour average, per ton of product calculated as 100 percent sulfuric acid.

(5) Other processes capable of emitting sulfur dioxide. After January 1, 1974, no person shall allow, cause or permit the emission of sulfur dioxide from any process, other than sulfuric acid manufacture, in excess of 500 parts per million, based on volume. This paragraph shall not apply to devices which have been installed for air pollution abatement purposes where it is demonstrated by the owner of the source that the ambient air quality standards are not being exceeded.

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5-27.1 ACID RAIN PROGRAM.

For the purposes of this chapter, the provisions set forth in 567 IAC 24.120(455B) through 567 IAC 24.148(455B), are adopted by reference.

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DIVISION 1. CONSTRUCTION PERMITS

5-28. CONSTRUCTION PERMIT REQUIRED (PCAQD).

Unless exempted in Section 5-33 or meeting the parameters established in Subsection 5-28(3), no person shall construct, install, reconstruct or alter any equipment, or control equipment as defined in this Chapter, without first obtaining a construction permit. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source.

- (1) **Existing sources.** Sources built prior to September 23, 1970, are not subject to Section 5-28, unless they have been modified, reconstructed, or altered on or after September 23, 1970.
- (2) **New or reconstructed sources of hazardous air pollutants.** No person shall construct or reconstruct a major source of hazardous air pollutants, as defined in 40 CFR 63.2 and 40 CFR 63.41 as adopted by reference in 567 IAC 23.1(4), unless a construction permit has been obtained which requires maximum achievable control technology for new sources to be applied. The permit shall be obtained prior to the initiation of construction or reconstruction of the major source.
- (3) New, reconstructed, or modified sources may initiate construction prior to issuance of the construction permit if they meet the eligibility requirements stated in a. below. The applicant must assume any liability for construction conducted on a source before the permit is issued. In no case will the applicant be allowed to connect the equipment to the exhaust stack or operate the equipment in any way that may emit any air contaminant prior to receiving a construction permit.
 - a. **Eligibility.**
 - (1) The applicant has submitted a construction permit application to the PCAQD, as specified in Sections 5-28.1, 5-28.2, and 5-29;
 - (2) The applicant has notified the Health Officer of the applicant's intentions in writing five working days prior to initiating construction; and
 - (3) The equipment or process is not subject to:
 1. Prevention of significant deterioration (PSD), as set forth in 567 IAC Chapter 33;
 2. New source performance standards (NSPS), as set forth in 567 IAC 23.1(2);
 3. National emission standards for hazardous air pollutants (NESHAP), as set forth in 567 IAC 23.1(3) through (4);
 4. Emission guidelines, as set forth in 567 IAC 23.1(5);
 5. Nonattainment new source review, as set forth in 567 IAC Chapter 31;or

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6. The equipment or process is a major source of hazardous air pollutants, as defined in 40 CFR Sections 63.2 and 63.41, and as set forth in Subsection 5-28(2).

Prevention of significant deterioration (PSD) provisions and prohibitions remain applicable until a proposed project legally obtains PSD synthetic minor status (i.e., obtains permitted limits which limit the source below the PSD thresholds).

- b. The applicant must cease construction if the health officer's evaluation demonstrates that the construction, reconstruction or modification of the source will interfere with the attainment or maintenance of the national ambient air quality standards or will result in a violation of a control strategy required by 40 CFR Part 51, Subpart G, as amended through February 19, 2015.
- c. The applicant will be required to make any modification to the source that may be imposed in the issued construction permit.
- d. The applicant must notify the health officer of the date that construction or reconstruction actually started. All notifications shall be submitted to the health officer in writing no later than thirty (30) days after construction or reconstruction started. All notifications shall include the following information:
 - (1) The date or dates required for which the notice is being submitted.
 - (2) Facility name.
 - (3) Facility address.
 - (4) PCAQD-assigned facility AIRS number.
 - (5) Construction permit number.
 - (6) The name or number of the emission unit or units in the notification.
 - (7) The emission point number or numbers covered in the notification.
 - (8) The name and signature of the company official.
 - (9) The date the notification was signed.
- (4) The owner or operator of a country grain elevator, country grain terminal elevator, grain terminal elevator or feed mill equipment, as "country grain elevator," "country grain terminal elevator," "grain terminal elevator," and "feed mill equipment," as these terms are defined in Section 5-2, may elect to comply with the requirements specified in Section 5-28.2 as an alternative to the construction permitting requirements set forth in Section 5-28.

5-28.1 PERMIT BY RULE.

- (1) **Permit by rule for spray booths.** Spray booths that comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths that comply with this rule

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will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in 567—24.100(455B). An owner or operator required to apply for a permit by rule under this subrule shall submit fees as required in Sections 5-34 and 5-35.1.

- a. *Definition.* "Sprayed material" is material applied by spray equipment when used in a surface coating process in a spray booth, including but not limited to paint, solvents, and mixtures of paint and solvents. Powder coatings applied in an indoor-vented spray booth equipped with filters or overspray powder recovery systems are not considered sprayed material for purposes of this rule.
- b. Facilities that facility-wide spray one gallon per day or less of sprayed material are exempt from all other requirements in Article X Division 1, except that they must submit the certification in Subsection 5-28.1(1)"e" to the PCAQD and keep records of daily sprayed material use. Any spray booth or associated equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, shall use sprayed material with a maximum lead content of 0.35 pounds or less per gallon if the booth or associated equipment is subject to the following NESHAP: 40 CFR Part 63, Subpart HHHHHH or Subpart XXXXXX. Any spray booth or associated equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, that is not subject to the NESHAP or is otherwise exempt from the NESHAP shall use sprayed material with a maximum lead content of 0.02 pounds or less per gallon. The owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply and shall keep safety data sheets (SDS) or equivalent records for at least two calendar years to demonstrate that the sprayed materials contain lead at less than the exemption thresholds. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in Subsection 5-28.1(1)"e".
- c. Facilities that facility-wide spray more than one gallon per day but never more than three gallons per day are exempt from all other requirements in Article X Division 1, except that they must submit the certification in Subsection 5-28.1(1)"e" to the PCAQD, keep records of daily sprayed material use, and vent emissions from a spray booth(s) through a stack(s) that is at least 22 feet tall, measured from ground level. Any spray booth or associated equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, shall use sprayed material with a maximum lead content of 0.35 pounds or less per gallon if the booth or associated equipment is subject to the following NESHAP: 40 CFR Part 63, Subpart HHHHHH or Subpart XXXXXX. Any spray booth or associated equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, that is not subject to the NESHAP or is otherwise exempt from the NESHAP shall

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use sprayed material with a maximum lead content of 0.02 pounds or less per gallon. The owner or operator must keep the records of daily sprayed material use for 18 months from the date to which the records apply and shall keep SDS or equivalent records for at least two calendar years to demonstrate that the sprayed materials contain lead at less than the exemption thresholds. The owner or operator must also certify that the facility is in compliance with or otherwise exempt from the federal regulations specified in Subsection 5-28.1(1)“e”.

- d. Facilities that facility-wide spray more than three gallons per day are not eligible to use the permit by rule for spray booths and must apply for a construction permit as required by Section 5-28, unless otherwise exempt.
- e. *Certification.* Facilities that claim to be permitted by provisions of this rule must submit to the PCAQD a written notification as directed by the PCAQD, certifying that the facility meets the following conditions:
 - (1) All spray booths and associated equipment are in compliance with the provisions of Subsection 5-28.1(1);
 - (2) All spray booths and associated equipment are in compliance with all applicable requirements including, but not limited to, the allowable particulate emission rate for painting and surface coating operations of 0.01 gr/scf of exhaust gas as specified in Section 5-16(13); and
 - (3) All spray booths and associated equipment currently are or will be in compliance with or otherwise exempt from the NESHAP for paint stripping and miscellaneous surface coating at area sources (40 CFR Part 63, Subpart HHHHHH) and the NESHAP for metal fabricating and finishing at area sources (40 CFR Part 63, Subpart XXXXXX) by the applicable NESHAP compliance dates.

5-28.2 PERMITTING REQUIREMENTS FOR COUNTRY GRAIN ELEVATORS, COUNTRY GRAIN TERMINAL ELEVATORS, GRAIN TERMINAL ELEVATORS AND FEED MILL EQUIPMENT.

The requirements of this rule apply only to country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment, as these terms are defined in 567 IAC rule 22.10(455B). This rule does not apply to equipment located at grain processing plants or grain storage elevators, as “grain processing” and “grain storage elevator” are defined in 567 IAC 22.10(455B). Compliance with the requirements of this rule does not alleviate any affected person’s duty to comply with any applicable local, state or federal regulations. In particular, the emission standards set forth in Articles VI, VIII, and IX, including the regulations for grain elevators contained in 40 CFR Part 60, Subpart DD (as adopted by reference in 567 IAC paragraph 23.1(2)“ooo”), may apply. The requirements for permitting country grain elevators, country grain terminal elevators, grain terminal elevators, and feed mill equipment in 567 IAC 22.10(455B) are adopted by reference. An owner or operator subject to this rule shall submit fees as required in Sections 5-34 and 5-35.1.

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5-29. APPLICATION FOR A CONSTRUCTION PERMIT (PCAQD).

- (1) **Regulatory applicability determinations.** If requested in writing, the PCAQD will review the design concepts of equipment and associated control equipment prior to application for a construction permit. The purpose of the review would be to determine the acceptability of the location of the equipment. If the review is requested, the requester shall supply the following information and submit the appropriate fee as established by the Polk County Board of Supervisors:
 - a. Preliminary plans and specifications of equipment and related control equipment.
 - b. The exact site location and a plot plan of the immediate area, including the distance to and height of nearby buildings and the estimated location and elevation of the emission points.
 - c. The estimated emission rates of any air contaminants that are to be considered.
 - d. The estimated exhaust gas temperature, velocity at the point of discharge, and stack diameter at the point of discharge.
 - e. An estimate of when construction would begin and when construction would be completed.
- (2) **Construction permit applications.**
 - a. *Application submission method.* To obtain a permit under Sections 5-28, 5-28.1, or 5.28.2, the owner or operator of a new or modified stationary source shall apply for a construction permit. Each application for a construction permit shall be submitted to the PCAQD on a form provided by the PCAQD.
 - (1) Until December 31, 2025, each application for a construction permit shall be submitted to the PCAQD through one of the following methods:
 1. U.S. Postal Service
 2. Private parcel delivery services
 3. Hand delivery
 4. Electronic submittal format specified by PCAQD
 - (2) On or after January 1, 2026, construction permit applications, including the information referenced in Subsection 5-29(2)"b", shall be submitted in the electronic format specified by PCAQD, if electronic submittal is provided. On a case-by-case basis, a hardship waiver may be granted to allow for alternative submission options.
 - b. *Application content.* Applications specified in Subsection 5-29(2)"a" shall be accompanied by detailed plans and specifications prepared by or under the direct supervision of an engineer in conformance with Iowa Code Chapter 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while the employee is doing work for that corporation.

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Applications, plans, specifications and information submitted shall include the following:

- (1) A description of the equipment or control equipment which is the subject of the application;
- (2) A plot plan, including the distance and height of nearby buildings, and including the location and elevation of any existing and proposed emission points;
- (3) The composition of the effluent stream, both before and after any control equipment, with estimates of emission rates, concentration, volume, and temperature;
- (4) The physical and chemical characteristics of the air contaminants;
- (5) The proposed dates and description of any tests to be made by the owner or operator of the completed installation to verify compliance with applicable emission limits or standards of performance;
- (6) The sampling holes, scaffolding, power sources for operation of appropriate sampling instruments, and pertinent allied facilities for making tests to ascertain compliance with this chapter;
- (7) Any additional pertinent information as might be deemed necessary by the health officer to determine compliance with this chapter; and
- (8) A signed statement that ensures the applicant's legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects that are intended to be located at a site only for the duration of the specific, identified construction project.

(3) **Application fee.**

- a. The owner or operator shall submit a fee as required in Section 5-34 to obtain a permit under Sections 5-28, 5-28.1, or 5.28.2;
- b. The PCAQD shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the PCAQD.

5-30. PROCESSING OF APPLICATIONS FOR CONSTRUCTION PERMITS (PCAQD).

- (1) **Incomplete applications.** The health officer shall notify the applicant in writing of the completeness of the construction permit application as soon as practicable but in no event shall such notification be made later than 60 days after application is made. When this schedule would cause undue hardship to an applicant, a request for priority consideration and the justification therefore shall be submitted to the health officer.

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

5-31. ISSUANCE OF CONSTRUCTION PERMITS (PCAQD).

- (1) **Stationary sources.** In no case shall a construction permit, which results in an increase in emissions, be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa State Implementation Plan. If the violation has been addressed by an order or permit condition, the health officer may consider issuance of a construction permit. A construction permit shall be issued when the health officer concludes that the preceding requirements have been met and:
- a. That the required plans and specifications represent equipment which reasonably can be expected to comply with all applicable emission standards; and
 - b. That the expected emissions from the proposed source or modification in conjunction with all other emissions will not prevent the attainment or maintenance of the ambient air quality standards, and
 - c. That the applicant has not relied on emission limits based on stack height that exceeds good engineering practice or any other dispersion techniques as defined in 567 IAC 23.1(6). For the purpose of this section, 567 IAC 23.1(6), Calculation of emission limitations based upon stack height, is adopted by reference and is incorporated herein as fully as though set forth in its entirety.
 - d. That the applicant has met all other applicable requirements.
- (2) **Conditions of approval.** A permit shall be in writing and shall be sent by mail to the applicant. A permit may be issued subject to reasonable conditions and safeguards which shall be specified in writing by the health officer. The health officer may limit a source's potential to emit, as defined in Section 5-2, in the source's construction permit for the purpose of establishing federally enforceable limits on the source's potential to emit. In addition, the construction permit shall contain the following information and qualifications:
- a. Each permit shall specify the date upon which it will become void if work on the installation for which it was issued has not been initiated;
 - b. A permit is not transferable from one location to another or from one piece of equipment to another unless the equipment is portable. When portable equipment for which a permit has been issued is to be transferred from one location to another, the health officer shall be notified in writing at least seven days prior to the transfer of the portable equipment to the new location. Written notification shall be submitted to

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the PCAQD through one of the following methods: electronic mail (email), mail delivery service (including U.S. Mail), hand delivery, facsimile (fax), or by electronic format specified by the PCAQD (at such time as an Internet-based submittal system or other, similar electronic submittal system becomes available). However, if the owner or operator is relocating the portable equipment to an area currently classified as nonattainment for ambient air quality standards or to an area under a maintenance plan for ambient air quality standards, the owner or operator shall notify the PCAQD at least 14 days prior to transferring the portable equipment to the new location. A list of nonattainment and maintenance areas may be obtained from the IDNR, upon request, or on the IDNR's Internet website. The owner or operator will be notified by the PCAQD at least ten days prior to the scheduled relocation if said relocation will prevent the attainment or maintenance of ambient air quality standards and thus require a more stringent emission standard and the installation of additional control equipment. In such a case, the owner or operator shall obtain a supplemental permit prior to the initiation of construction, installation, or alteration of such additional control equipment;

- c. If changes in the final plans and specifications are proposed by the permittee after a construction permit has been issued, a supplemental permit shall be obtained;
 - d. Each permit shall list the requirements for notifying the PCAQD of the dates of intended startup, start of construction, and actual equipment startup. All notifications shall be in writing and include the following information:
 - (1) The date or dates required by Subsection 5-31(2) for which the notice is being submitted.
 - (2) Facility name.
 - (3) Facility address.
 - (4) PCAQD-assigned facility AIRS number.
 - (5) Construction permit number.
 - (6) The name or the number of the emission unit or units in the notification.
 - (7) The emission point number or numbers in the notification.
 - (8) The name and signature of a company official.
 - (9) The date the notification was signed.
 - e. Each permit shall specify that no review has been undertaken on the various engineering aspects of the equipment other than the potential of the equipment for reducing air contaminant emissions;
 - f. The issuance of a permit (approval to construct) shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirement under local, state or federal law.
- (3) **Modification of a permit.** The health officer may, after public notice of such decision, modify a condition of approval of an existing permit for a major stationary source or an emission limit

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contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard, or to mitigate excessive deposition of mercury.

- (4) **Limits on hazardous air pollutants.** The health officer may limit a source's hazardous air pollutant potential to emit, as defined in 567 IAC 24.100(455B), in the source's construction permit for the purpose of establishing federally enforceable limits on the source's hazardous air pollutant potential to emit.
- (5) **Revocation of a permit.** The PCAQD may revoke a permit upon obtaining knowledge that a permit holder has lost legal entitlement to use the property identified in the permit to install and operate equipment covered by the permit, upon notice that the property owner does not wish to have continued the operation of the permitted equipment, or upon notice that the owner of the permitted equipment no longer wishes to retain the permit for future operation.
- (6) **Ownership change of permitted equipment.** The new owner shall notify the PCAQD in writing no later than 30 days after the change in ownership of equipment covered by a construction permit pursuant to Article X Division 1. The notification to the PCAQD shall be mailed to the Polk County Air Quality Division, at 5885 NE 14th Street, Des Moines, Iowa 50313, and shall include the following information:
 - a. The date of ownership change;
 - b. The name, address and telephone number of the responsible official, the contact person and the owner of the equipment both before and after ownership change; and
 - c. The construction permit number of the equipment changing ownership.

5-32. DENIAL OF CONSTRUCTION PERMIT (PCAQD).

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

5-33. EXEMPTIONS FROM CONSTRUCTION PERMIT REQUIREMENTS (PCAQD).

An owner or operator may opt to use one of the permitting exemptions in this subrule in lieu of obtaining an air quality construction permit if the equipment, control equipment, or process meets the condition in the specific exemption and is not:

- Subject to nonattainment new source review, as set forth in 567 IAC Chapter 31.
- Subject to PSD, as set forth in 567 IAC Chapter 33.

A permitting exemption may be used only if a permit is not necessary to establish federally enforceable limits that restrict potential to emit.

An owner shall keep records at the facility and will make the records available to the PCAQD upon request if any of the exemptions under the following paragraphs are claimed:

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- Section 5-33(1) (for equipment >1 million Btu per hour input)
- Section 5-33(2)
- Section 5-33(6)
- Section 5-33(17) or
- Section 5-33(58)

Records kept onsite shall contain the following information:

- The specific exemption claimed; and
- A description of the associated equipment.

The permitting exemptions in this section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements.

- (1) Fuel-burning equipment for indirect heating and reheating furnaces or cooling units using natural or liquefied petroleum gas exclusively, with a capacity of less than ten (10) million Btu per hour input per combustion unit;
- (2) Fuel burning equipment for indirect heating or cooling with a capacity less than one (1) million Btu per hour input when burning untreated wood, untreated seeds or pellets, other untreated vegetative materials, or fuel oil, provided that the equipment and the fuel meet the conditions specified in this paragraph. Used oils meeting the specification from 40 CFR Section 279.11 as amended through July 14, 2006, are acceptable fuels for this exemption. When combusting used oils, the equipment must have a maximum rated capacity of 50,000 Btu or less per hour of heat input or a maximum throughput of 3,600 gallons or less of used oils per year. When combusting untreated wood, untreated seeds or pellets, or other untreated vegetative materials, the equipment must have a maximum rated capacity of 265,600 Btu or less per hour or a maximum throughput of 378,000 pounds or less per year of each fuel or any combination of fuels. Records shall be maintained on site by the owner or operator for at least two calendar years to demonstrate that fuel usage is less than the exemption thresholds. Owners or operators initiating construction, installation, reconstruction, or alteration of equipment (as defined in Section 5-2) on or before October 23, 2013, burning coal, used oils, untreated wood, untreated seeds or pellets, or other untreated vegetative materials that qualified for this exemption may continue to claim this exemption after October 23, 2013, without being restricted to the maximum heat input or throughput specified in this paragraph;
- (3) Residential heaters, cook stoves, or fireplaces, which burn untreated wood, untreated seeds or pellets, or other untreated vegetative materials;
- (4) Mobile internal combustion engines and jet engines, marine engines, and locomotives;
- (5) Equipment used for cultivating land, harvesting crops, or raising livestock other than anaerobic lagoons. This exemption is not applicable if the equipment is used to remove substances from grain which were applied to the grain by another person. This exemption is also not applicable to equipment used by a person to manufacture commercial feed, as defined in Iowa Code section 198.3, which is normally not fed to livestock, owned by the

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person or another person, in a feedlot, as defined in Iowa Code section 172D.1(6), or a confinement building owned or operated by that person and located in this state.

- (6) Incinerators and pyrolysis cleaning furnaces with a rated refuse burning capacity of less than 25 pounds per hour for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013. Pyrolysis cleaning furnace exemption is limited to those units that use only natural gas or propane. Salt bath units are not included in this exemption. Incinerators or pyrolysis cleaning furnaces for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, shall not qualify for this exemption. After October 23, 2013, only paint clean-off ovens with a maximum rated capacity of less than 25 pounds per hour that do not combust lead-containing materials shall qualify for this exemption.
- (7) The equipment in laboratories used exclusively for non-production chemical and physical analyses. Non-production analyses means analyses incidental to the production of a good or service and includes analyses conducted for quality assurance or quality control activities, or for the assessment of environmental impact;
- (8) Cooling and ventilating equipment: Comfort air conditioning not designed or used to remove air contaminants generated by, or released from, specific units of equipment;
- (9) Asbestos demolition and renovation projects subject to 40 CFR 61.145 adopted by reference in 567 IAC 22.1(2)"k";
- (10) Stacks or vents to prevent escape of sewer gases through plumbing traps. Systems which include any industrial waste are not exempt;
- (11) Storage tanks with a capacity of less than 19,812 gallons and an annual throughput of less than 200,000 gallons;
- (12) Fugitive dust controls unless a control efficiency can be assigned to the equipment or control equipment;
- (13) Equipment or control equipment which emits odors unless such equipment or control equipment also emits particulate matter, or any other regulated air contaminant;
- (14) Brazing, soldering or welding equipment or portable cutting torches used only for non-production activities;
- (15) A non-production surface coating process that uses only hand-held aerosol spray cans;
- (16) Retail gasoline and diesel fuel handling facilities with throughput below 10,000 gallons per month (Thirty-Day Rolling Average Usage Records). The facility must be able to demonstrate, within 24 hours upon request to this PCAQD that their throughput is below the monthly (Thirty-Day Rolling Average Usage Records) 10,000 gallon limit. A permit will not be required if the alterations to the equipment will not change the emissions from that equipment. However, a review of the project plans by the PCAQD may be required to substantiate the permit exemption.

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- (17) An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft, provided that the owner or operator meets all of the conditions in this paragraph. For the purposes of this exemption, the manufacturer's nameplate rated capacity at full load shall be defined as the brake horsepower output at the shaft. The owner or operator of an engine that was manufactured, ordered, modified or reconstructed after March 18, 2009, may use this exemption only if the owner or operator, prior to installing, modifying or reconstructing the engine, submits to the PCAQD a completed registration on forms provided by the PCAQD (unless the engine is exempted from registration, as specified in this paragraph or on the registration form) certifying that the engine is in compliance with the following federal regulations:
- a. NSPS for stationary compression ignition internal combustion engines (40 CFR Part 60, Subpart IIII); or
 - b. NSPS for stationary spark ignition internal combustion engines (40 CFR Part 60, Subpart JJJJ); and
 - c. NESHAP for reciprocating internal combustion engines (40 CFR Part 63, Subpart ZZZZ).
- Use of this exemption does not relieve an owner or operator from any obligation to comply with NSPS or NESHAP requirements. An engine that meets the definition of a nonroad engine as specified in 40 CFR Section 1068.30, as amended through January 24, 2023, is exempt from the registration requirements of this paragraph).
- (18) Manually operated equipment, as defined in Section 5-2, used for buffing, polishing, carving, cutting, drilling, routing, sanding, sawing, scarfing, surface grinding, or turning.
- (19) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planning, buffing, sandblast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, and wood or wood products, where such equipment is used for non-production activities or exhausted inside a building;
- (20) Cafeterias, kitchens, and other facilities used for preparing food or beverages primarily for consumption at the source;
- (21) Consumer use of office equipment and products, not including printers or businesses primarily involved in photographic reproduction;
- (22) Janitorial services and consumer use of janitorial products;
- (23) Internal combustion engines used for lawn care, landscaping, and grounds keeping purposes;
- (24) Laundry activities located at a stationary source that uses washers and dryers to clean, with water solutions of bleach or detergents, or to dry clothing, bedding, and other fabric items used on site. This exemption does not include laundry activities that use dry cleaning equipment or steam boilers;
- (25) Blacksmith forges;
- (26) Plant maintenance and upkeep activities and repair or maintenance activities (e.g., grounds keeping, general repairs, cleaning, painting, welding, plumbing, roof repair, installing

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insulation, and paving parking lots), provided that these activities are not conducted as part of a manufacturing process, are not related to the facility's primary business activity, and do not otherwise trigger a permit modification. Cleaning and painting activities qualify if they are not subject to control requirements for volatile organic compounds or hazardous air pollutants as defined in as defined in 567 IAC 24.100(455B);

- (27) Air compressors and vacuum pumps, including hand tools;
- (28) Batteries and battery charging stations, except at battery manufacturing or remanufacturing facilities;
- (29) Equipment used to store, mix, pump, handle or package soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, and aqueous salt or caustic solutions, provided that appropriate lids and covers are utilized and that no organic solvent has been mixed with such materials;
- (30) Equipment used exclusively to slaughter animals, but not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
- (31) Vents from continuous emissions monitors and other analyzers;
- (32) Natural gas pressure regulator vents, excluding at oil and gas production facilities;
- (33) Equipment used by surface coating operations that apply the coating by brush, roller, or dipping, except equipment that emits volatile organic compounds or hazardous air pollutants as defined in 567 IAC 24.100(455B));
- (34) Hydraulic and hydrostatic testing equipment;
- (35) Environmental chambers not using gases which are hazardous air pollutants as defined in 567 IAC 24.100(455B);
- (36) Shock chambers, humidity chambers, and solar simulators;
- (37) Process water filtration systems and demineralizers, demineralized water tanks, and demineralizer vents;
- (38) Boiler water treatment operations, not including cooling towers or lime silos;
- (39) Oxygen scavenging (deaeration) of water;
- (40) Fire suppression systems;
- (41) Emergency road flares;
- (42) Steam sterilizers, steam vents, safety relief valves, and steam leaks;
- (43) Application of hot melt adhesives from closed-pot systems using polyolefin compounds, polyamides, acrylics, ethylene vinyl acetate and urethane material when stored and applied at the manufacturer's recommended temperatures. Equipment used to apply hot melt adhesives shall have a safety device that automatically shuts down the equipment if the hot melt temperature exceeds the manufacturer's recommended application temperature;

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- (44) Closed refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;
- (45) Pretreatment application processes that use aqueous-based chemistries designed to prepare a substrate for an organic coating, provided that the chemical concentrate contains no more than 5 percent organic solvents by weight. This exemption includes pretreatment processes that use aqueous-based cleaners, cleaner-phosphatizers, and phosphate conversion coating chemistries;
- (46) Indoor vented powder coating operations with filters or powder recovery systems;
- (47) Electric curing ovens or curing ovens that run on natural gas or propane with a maximum heat input of less than 10 million Btu per hour and that are used for powder coating operations, provided that the total cured powder usage is less than 75 tons of powder per year at the facility. Records shall be maintained on site by the owner or operator for a period of at least two calendar years to demonstrate that cured powder usage is less than the exemption threshold;
- (48) Any production surface coating activity that uses only nonrefillable hand-held aerosol cans, where the total volatile organic compound emissions from all these activities at the facility do not exceed 5.0 tons per year;
- (49) Production welding.
 - a. Consumable Electrode.
 - (1) Welding for which initiation of construction, installation, reconstruction or alteration (as defined in Section 5-2) occurred on or before October 23, 2013, using a consumable electrode, provided that the consumable electrode used falls within American Welding Society specification A5.18/A5.18M for Gas Metal Arc Welding (GMAW), A5.1 or A5.5 for Shielded Metal Arc Welding (SMAW), and A5.20 for Flux Core Arc Welding (FCAW), and provided that the quantity of all electrodes used at the stationary source of the acceptable specifications is below 200,000 pounds per year for GMAW and 28,000 pounds per year for SMAW or FCAW. Records that identify the type and annual amount of welding electrode used shall be maintained on site by the owner or operator for a period of at least two (2) calendar years. For stationary sources where electrode usage exceeds these levels, the welding activity at the stationary source may be exempted if the amount of electrode used (Y) is less than:

$$Y = \text{the greater of } 1380x - 19,200 \text{ or } 200,000 \text{ for GMAW, or}$$
$$Y = \text{the greater of } 187x - 2,600 \text{ or } 28,000 \text{ for SMAW or FCAW}$$

Where "x" is the minimum distance to the property line in feet and "Y" is the annual electrode usage in pounds per year.

If the stationary source has welding processes that fit into both of the specified exemptions, the most stringent limits must be applied.

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- (2) Welding operations for which initiation of construction, installation, reconstruction or alteration (as defined in Section 5-2) occurred after October 23, 2013, using a consumable electrode, provided that the consumable electrode used falls within American Welding Society specification A5.18/A5.18M for Gas Metal Arc Welding (GMAW), A5.1 or A5.5 for Shielded Metal Arc Welding (SMAW), and A5.20 for Flux Core Arc Welding (FCAW), and provided that the quantity of all electrodes used at the stationary source of the acceptable specifications is below 12,500 pounds per year for GMAW and 1,600 pounds per year for SMAW or FCAW. Records that identify the type and annual amount of welding electrode used shall be maintained on site by the owner or operator for a period of at least two (2) calendar years. For stationary sources where electrode usage exceeds these levels, the welding activity at the stationary source may be exempted if the amount of electrode used (Y) is less than:

$Y = \text{the greater of } 84x - 1,200 \text{ or } 12,500 \text{ for GMAW, or}$

$Y = \text{the greater of } 11x - 160 \text{ or } 1,600 \text{ for SMAW or FCAW}$

Where "x" is the minimum distance to the property line in feet and "Y" is the annual electrode usage in pounds per year.

If the stationary source has welding processes that fit into both of the specified exemptions, the most stringent limits must be applied.

- b. Resistance welding, submerged arc welding, or arc welding that does not use a consumable electrode, provided that the base metals do not include stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium and provided that the base metals are uncoated, excluding manufacturing process lubricants;
- (50) Electric hand soldering, wave soldering, and electric solder paste reflow ovens for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013. Electric hand soldering, wave soldering, and electric solder paste reflow ovens for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred after October 23, 2013, shall be limited to 37,000 pounds or less per year of lead-containing solder. Records shall be maintained on site by the owner or operator for at least two calendar years to demonstrate that use of lead-containing solder is less than the exemption thresholds.
- (51) Pressurized piping and storage systems for natural gas, propane, liquefied petroleum gas (LPG), and refrigerants, where emissions could only result from an upset condition;
- (52) Emissions from the storage and mixing of paints and solvents associated with the painting operations, provided that the emissions from the storage and mixing are accounted for in an enforceable permit condition or are otherwise exempt;
- (53) Product labeling using laser and ink-jet printers with target distances less than or equal to six inches and an annual material throughput of less than 1,000 gallons per year as calculated on a facility wide basis.

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- (54) Cold solvent cleaning machines that are not in-line cleaning machines, where the maximum vapor pressure of the solvents used shall not exceed 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F). The machine must be equipped with a tightly fitted cover or lid that shall be closed at all times except during parts entry and removal. This exemption cannot be used for cold solvent cleaning machines that use solvent containing methylene chloride (CAS # 75-09-2), perchloroethylene (CAS # 127-18-4), trichloroethylene (CAS # 79-01-6), 1,1,1-trichloroethane (CAS # 71-55-6), carbon tetrachloride (CAS # 56-23-5) or chloroform (CAS # 67-66-3), or any combination of these halogenated HAP solvents in a total concentration greater than 5 percent by weight.
- (55) Emissions from mobile over-the-road trucks, and mobile agricultural and construction internal combustion engines that are operated only for repair or maintenance purposes at equipment repair shops or equipment dealerships, and only when the repair shops or equipment dealerships are not major sources as defined in Section 5-2.
- (56) Bathroom vent emissions, including toilet vent emissions.
- (57) Equipment that is not related to the production of goods or services and used exclusively for academic purposes, located at educational institutions. For purposes of this exemption, "educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities. The equipment covered under this exemption is limited to: lab hoods, art class equipment, wood shop equipment in classrooms, wood fired pottery kilns, and fuel-burning units with a capacity of less than one million Btu per hour fuel capacity. This exemption does not apply to incinerators.
- (58) Any container, storage tank, or vessel that contains a fluid having a maximum true vapor pressure of less than 0.75 psia. "Maximum true vapor pressure" means the equilibrium partial pressure of the material considering:
 - a. For material stored at ambient temperature, the maximum monthly average temperature as reported by the National Weather Service, or
 - b. For material stored above or below the ambient temperature, the temperature equal to the highest calendar-month average of the material storage temperature.
- (59) Fugitive dust emissions related to movement of passenger vehicles on unpaved road surfaces, provided that the emissions are not counted for applicability purposes and that any fugitive dust control plan or its equivalent is submitted as required by the health officer.

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- (60) Equipment related to research and development activities at a stationary source, provided that:
- a. Actual emissions from all research and development activities at the stationary source based on a 12-month rolling total are less than the following levels:
 - (1) 2 pounds per year of lead and lead compounds expressed as lead (40 pounds per year for research and development activities that commenced on or before October 23, 2013);
 - (2) 5 tons per year of sulfur dioxide;
 - (3) 5 tons per year of nitrogen oxides;
 - (4) 5 tons per year of volatile organic compounds;
 - (5) 5 tons per year of carbon monoxide;
 - (6) 5 tons per year of particulate matter (particulate matter as defined in 40 CFR 51.100(pp) as amended through November 7, 1986);
 - (7) 2.5 tons per year of PM₁₀;
 - (8) 0.52 tons per year of PM_{2.5} (does not apply to research and development activities that commenced on or before October 23, 2013); and
 - (9) 5 tons per year of hazardous pollutants (as defined in 567 IAC 24.100(455B)); and
 - b. The owner or operator maintains records of actual operations demonstrating that the annual emissions from all research and development activities conducted under this exemption are below the levels listed in Subsection 5-33(60)"a". These records shall:
 - (1) Include a list of equipment that is included under the exemption;
 - (2) Include records of actual operation and detailed calculations of actual annual emissions, reflecting the use of any control equipment and demonstrating that the emissions are below the levels specified in the exemption;
 - (3) Include, if air pollution equipment is used in the calculation of emissions, a copy of any report of manufacturer's testing, if available. The PCAQD may require a test if it believes that a test is necessary for the exemption claim; and
 - (4) Be maintained on site for a minimum of two years, be made available for review during normal business hours and for local, state and EPA on-site inspections, and be provided to the PCAQD upon request. Facilities designated as major sources pursuant to 567 IAC Chapter 33 and 567 IAC 24.101(455B), or subject to any applicable federal requirements, shall retain all records demonstrating compliance with this exemption for five years.

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- c. An owner or operator using this exemption obtains a construction permit or ceases operation of equipment if operation of the equipment would cause the emission levels listed in this exemption to be exceeded.

For the purposes of this exemption, “research and development activities” shall be defined as activities:

- (1) That are operated under the close supervision of technically trained personnel;
- (2) That are conducted for the primary purpose of theoretical research or research and development into new or improved processes and products;
- (3) That do not manufacture more than de minimus amounts of commercial products; and
- (4) That do not contribute to the manufacture of commercial products by collocated sources in more than a de minimus manner.

- (61) A nonroad diesel fueled engine, as “nonroad engine” is defined in 40 CFR 1068.30 as amended through January 24, 2023, with a brake horsepower rating of less than 1,100 at full load measured at the shaft, used to conduct periodic testing and maintenance on natural gas pipelines. For the purposes of this exemption, the manufacturer’s nameplate rating shall be defined as the brake horsepower output at the shaft at full load.

- a. To qualify for the exemption, the engine must:

- (1) Be used for periodic testing and maintenance on natural gas pipelines outside the compressor station, which shall not exceed 330 hours in any 12-month consecutive period at a single location; or
- (2) Be used for periodic testing and maintenance on natural gas pipelines within the compressor station, which shall not exceed 330 hours in any 12-month consecutive period.

- b. The owner or operator shall maintain a monthly record of the number of hours the engine operated and a record of the rolling 12-month total of the number of hours the engine operated for each location outside the compressor station and within the compressor station. These records shall be maintained for two years. Records shall be made available to the PCAQD upon request.

- c. This exemption shall not apply to the replacement or substitution of engines for backup power generation at a pipeline compressor station.

- (62) Equipment or control equipment that reduces or eliminates all emission to the atmosphere. An owner or operator electing to use this exemption shall provide to the PCAQD the following information:

- a. Name and location of the facility;
- b. Detailed description of each change being made;
- c. Date of the beginning of actual construction and date that operation will begin after the changes are made;

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- d. Detailed emissions estimates showing:
 - (1) The actual and potential emissions, specifically noting increases or decreases, for the project for all regulated pollutants (as defined in 567 IAC 24.100(455B)); and
 - (2) The accumulated emissions increases associated with each change when totaled with other net emissions increases at the facility contemporaneous with the proposed change (occurring within five years before construction of the particular change commences).
- e. Documentation of the basis for all emissions estimates;
- f. Height of the emission point or stack and height of the highest building within 50 feet;
- g. Statement that the provisions of 567 IAC Chapters 31 and 33 do not apply; and
- h. Written statement containing certification by a responsible official as defined in 567 IAC 24.100(455B) of truth, accuracy, and completeness that:
 - (1) Accumulated emissions with other contemporaneous net increases have not exceeded significant levels, as defined in 40 CFR 52.21(b)(23), and adopted in 567 IAC 33.3(455B);
 - (2) The changes will not prevent the attainment or maintenance of the ambient air quality standards specified in 567 IAC 22.11(455B);
 - (3) Based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- i. The conditions listed below also apply to this exemption:
 - (1) If an owner or operator opts to use this exemption for equipment or a process not yet constructed or modified, the information shall be provided to the PCAQD at least 30 days in advance of the beginning of construction on the project.
 - (2) If an owner or operator opts to use this exemption for equipment or a process that has already been constructed or modified and that does not have a construction permit for that construction or modification, the owner or operator shall not operate until the information listed above is provided to the PCAQD.
 - (3) If a construction permit has been previously issued for the equipment or control equipment, all other conditions of the construction permit remain in effect.
 - (4) If an owner or operator wishes to obtain credit for emission reductions, an air quality construction permit must be obtained for the reduction prior to the time the reduction is made.

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(63) Small unit exemption.

- a. "Small unit" means any emission unit and associated control (if applicable) that emits less than the following:
 - (1) 2 pounds per year of lead and lead compounds expressed as lead (40 pounds per year of lead or lead compounds for equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013);
 - (2) 5 tons per year of sulfur dioxide;
 - (3) 5 tons per year of nitrogen oxides;
 - (4) 5 tons per year of volatile organic compounds;
 - (5) 5 tons per year of carbon monoxide;
 - (6) 5 tons per year of particulate matter (particulate matter as defined in 40 CFR 51.100(pp), as amended through November 7, 1986);
 - (7) 2.5 tons per year of PM₁₀;
 - (8) 0.52 tons per year of PM_{2.5} (does not apply to equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013); and
 - (9) 5 tons per year of hazardous air pollutants (as defined in 567 IAC 24.100(455B)).

For the purposes of this exemption, "emission unit" means any part or activity of a stationary source that emits or has the potential to emit any pollutant subject to regulation under the Act. This exemption applies to existing and new or modified "small units."

An emission unit that emits hazardous air pollutants (as defined in 567 IAC 24.100(455B)) is not eligible for this exemption if the emission unit is required to be reviewed for compliance with 567 IAC 23.1(3), emission standards for hazardous air pollutants (40 CFR 61, NESHAP), or 567 IAC 23.1(4), emission standards for hazardous air pollutants for source categories (40 CFR 63, NESHAP).

An emission unit that emits air pollutants that are not regulated air pollutants as defined in 567 IAC 24.100(455B) shall not be eligible to use this exemption.

- b. Permit requested. If a construction permit is requested in writing by the owner or operator of a small unit, the PCAQD may issue a construction permit for the emission point associated with that emission unit.
- c. An owner or operator that utilizes the small unit exemption must maintain on site an "exemption justification document." The exemption justification document must document conformance and compliance with the emission rate limits contained in the definition of "small unit" for the particular emission unit or group of similar emission units obtaining the exemption. Controls that may be part of the exemption

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justification document include, but are not limited to, the following: emission control devices, such as cyclones, filters, or baghouses; restricted hours of operation or fuel; and raw material or solvent substitution. The exemption justification document for an emission unit or group of similar emission units must be made available for review during normal business hours and for local, state or EPA on-site inspections and shall be provided to the associated representatives upon request. If an exemption justification document does not exist, the applicability of the small unit exemption is voided for that particular emission unit or group of similar emission units. The controls described in the exemption justification document establish a limit on the potential emissions. An exemption justification document shall include the following for each applicable emission unit or group of similar emission units:

- (1) A narrative description of how the emissions from the emission unit or group of similar emission units were determined and maintained at or below the annual small unit exemption levels.
- (2) If air pollution control equipment is used, a description of the air pollution control equipment used on the emission unit or group of similar emission units and a statement that the emission unit or group of similar emission units will not be operated without the pollution control equipment operating.
- (3) If air pollution control equipment is used, the applicant shall maintain a copy of any report of manufacturer's testing results of any emissions test, if available. The PCAQD may require a test if it believes that a test is necessary for the exemption claim.
- (4) A description of all production limits required for the emission unit or group of similar emission units to comply with the exemption levels.
- (5) Detailed calculations of emissions reflecting the use of any air pollution control devices or production or throughput limitations, or both, for applicable emission unit or group of similar emission units.
- (6) Records of actual operation that demonstrate that the annual emissions from the emission unit or group of similar emission units were maintained below the exemption levels.
- (7) Facilities designated as major sources with respect to 567 IAC Chapter 33 and 567 IAC 24.101(455B), or subject to any applicable federal requirements, shall retain all records demonstrating compliance with the exemption justification document for five years. The record retention requirements supersede any retention conditions of an individual exemption.
- (8) A certification from the responsible official that the emission unit or group of similar emission units have complied with the exemption levels specified in Subsection 5-33(63)"a".

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- d. Requirement to apply for a construction permit. An owner or operator of a small unit will be required to obtain a construction permit or take the unit out of service if the emission unit exceeds the small unit emission levels.
 - (1) If, during an inspection or other investigation of a facility, the PCAQD believes that the emission unit exceeds the emission levels that define a "small unit," then the PCAQD will submit calculations and detailed information in a letter to the owner or operator. The owner or operator shall have 60 days to respond with detailed calculations and information to substantiate a claim that the small unit does not exceed the emission levels that define a small unit.
 - (2) If the owner or operator is unable to substantiate a claim to the satisfaction of the PCAQD, then the owner or operator that has been using the small unit exemption must cease operation of that small unit or apply for a construction permit for that unit within 90 days after receiving a letter of notice from the PCAQD. The emission unit and control equipment may continue operation during this period and the associated initial application review period.
 - (3) If the notification of nonqualification as a small unit is made by the PCAQD following the process described above, the owner or operator will be deemed to have constructed an emission unit without the required permit and may be subject to applicable penalties.
- e. Required notice for construction or modification of a substantial small unit. The owner or operator shall notify the PCAQD in writing at least ten days prior to commencing construction of any new or modified "substantial small unit" as defined in Subsection 5-33(63)"f". The owner or operator shall notify the PCAQD within 30 days after determining an existing small unit meets the criteria of the "substantial small unit" as defined in Subsection 5-33(63)"f". Notification shall include the name of the business, the location where the unit will be installed, and information describing the unit and quantifying its emissions. The owner or operator shall notify the PCAQD within 90 days of the end of the calendar year for which the aggregate emissions from substantial small units at the facility have reached any of the cumulative notice thresholds listed below.
- f. For the purposes of this paragraph, "substantial small unit" means a small unit that emits more than the following amounts, as documented in the exemption justification document:
 - (1) 2 pounds per year of lead and lead compounds expressed as lead (30 pounds per year of lead or lead compounds for equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013);
 - (2) 3.75 tons per year of sulfur dioxide;
 - (3) 3.75 tons per year of nitrogen oxides;
 - (4) 3.75 tons per year of volatile organic compounds;

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- (5) 3.75 tons per year of volatile organic compounds;
- (6) 3.75 tons per year of particulate matter (particulate matter as defined in 40 CFR 51.100(pp), as amended through November 7, 1986);
- (7) 1.875 tons per year of PM₁₀;
- (8) 0.4 tons per year of PM_{2.5} (does not apply to equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013); or
- (9) 3.75 tons per year of any hazardous air pollutant or 3.75 tons per year of any combination of hazardous air pollutants.

An emission unit is a "substantial small unit" only for those substances for which annual emissions exceed the above-indicated amounts.

- g. Required notice that a cumulative notice threshold has been reached. Once a "cumulative notice threshold," as defined in Subsection 5-33(63)"h", has been reached for any of the listed pollutants, the owner or operator at the facility must apply for air construction permits for all substantial small units for which the cumulative notice threshold for the pollutant(s) in question has been reached. The owner or operator shall have 90 days from the date it determines that the cumulative notice threshold has been reached in which to apply for construction permit(s). The owner or operator shall submit a letter to the PCAQD, within five working days of making this determination, establishing the date the owner or operator determined that the cumulative notice threshold had been reached.
- h. "Cumulative notice threshold" means the total combined emissions from all substantial small units using the small unit exemption that emit at the facility the following amounts, as documented in the exemption justification document:
 - (1) 0.6 tons per year of lead and lead compounds expressed as lead;
 - (2) 40 tons per year of sulfur dioxide;
 - (3) 40 tons per year of nitrogen oxides;
 - (4) 40 tons per year of volatile organic compounds;
 - (5) 100 tons per year of carbon monoxide;
 - (6) 25 tons per year of particulate matter (particulate matter as defined in 40 CFR 51.100(pp));
 - (7) 15 tons per year of PM₁₀;
 - (8) 10 tons per year of PM_{2.5} (does not apply to equipment for which initiation of construction, installation, reconstruction, or alteration (as defined in Section 5-2) occurred on or before October 23, 2013); or
 - (9) 10 tons per year of any hazardous air pollutant or 25 tons per year of any combination of hazardous air pollutants.

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- (64) Direct-fired equipment burning natural gas, propane, or liquefied propane with a capacity of less than 10 million Btu per hour input, and direct-fired equipment burning fuel oil with a capacity of less than 1 million Btu per hour input, with emissions that are attributable only to the products of combustion. Emissions other than those attributable to the products of combustion shall be accounted for in an enforceable permit condition or shall otherwise be exempt under this subrule.
- (65) Each production painting, adhesive or coating unit using an application method other than a spray system and associated cleaning operations that use 1,000 gallons or less of coating and solvents annually, unless the production painting, adhesive or coating unit and associated cleaning operations are subject to work practice, process limits, emissions limits, stack testing, recordkeeping or reporting requirements under 567 IAC subrule 23.1(2), 23.1(3) or 23.1(4). Records shall be maintained on site by the owner or operator for a period of at least two calendar years to demonstrate that paint, adhesive, or solvent usage is at or below the exemption threshold.
- (66) A regional collection center (RCC), as defined in 567 IAC Chapter 211, involved in the processing of permitted hazardous materials from households and conditionally exempt small quantity generators (CESQG), not to exceed 1,200,000 pounds of VOC-containing material in a 12-month rolling period. Latex paint drying may not exceed 120,000 pounds per year on a 12-month rolling total. Other nonprocessing emission units (e.g., standby generators and waste oil heaters) shall not be eligible to use this exemption.

5-34. CONSTRUCTION PERMIT FILING AND REVIEW FEES (PCAQD).

- (1) All fees prescribed for construction permit filing review shall be made payable to the County Treasurer or Polk County Air Quality Division, Iowa and shall accompany each application for permit. All sums so received shall become part of the Air Quality Enterprise fund. A receipt shall be issued to the person making such payment, stating the amount and purpose for which the fee has been paid. A duplicate of the receipt shall be made part of the records of the PCAQD.
- (2) **Filing fee schedule.** Filing fees shall be established by resolution of the Polk County Board of Supervisors.
- (3) **Review Fee.** Construction permit application review fees shall be established by resolution of the Polk County Board of Supervisors.
- (4) **Modeling Fee.** When impact on ambient air quality must be analyzed, the computer model approved by the United States Environmental Protection Agency's Region VII office shall be used.
- (5) **Investigation Fees.** Work without a permit. Whenever any work for which a permit is required by this chapter has been commenced without obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by these rules.

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DIVISION 2. OPERATING PERMITS

5-35. MINOR SOURCE OPERATING PERMIT REQUIRED (PCAQD).

- (1) Unless operating in compliance with a properly issued Title V Operating Permit, no person shall operate any existing or new equipment as defined in this chapter, without first securing a minor source operating permit from the PCAQD. Such permit shall be in addition to any permits which may be required by the county department of building or any other permits required by this chapter.
- (2) **Eligibility for operating permits.** Except as provided in 5-39, any source that would otherwise be required to obtain a Title V operating permit, may instead obtain a minor source operating permit following successful demonstration of the following:
 - a. The potential to emit of each pollutant subject to regulation shall be limited to less than 100 tons per 12-month rolling period;
 - b. The actual emissions of each pollutant subject to regulation, including fugitive emissions, has been and is predicted to be less than 100 tons per 12-month rolling period; and
 - c. The potential to emit of each regulated hazardous air pollutant shall be less than 10 tons per 12-month rolling period and the potential to emit of all regulated hazardous air pollutants shall be less than 25 tons per 12-month rolling period.
 - d. The actual emissions of each regulated hazardous air pollutant, including fugitives, has been and is predicted to be less than 10 tons per 12-month rolling period and the actual emissions of all regulated hazardous air pollutants has been and is predicted to be less than 25 tons per 12-month rolling period.
 - e. As of July 1, 2011, the GHG emissions at a stationary source emitting or having the potential to emit less than 100,000 tpy CO₂ equivalent emissions (CO₂e). The term, "tpy CO₂ equivalent emissions (CO₂e)," shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at 40 CFR Part 98, Subpart A, Table A-1, "Global Warming Potentials," (as amended through December 24, 2014), and summing the resultant value for each to compute a tpy CO₂e. For purposes of this section, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).
- (3) No source may operate after the time that it is required to submit a timely and complete application for a minor source operating permit, except in compliance with a properly issued Title V operating permit or a properly issued minor source operating permit. However, if a

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source submits a timely and complete application for a minor source operating permit (or for renewal of an operating permit), then the source's failure to have a permit is not a violation of this chapter until the PCAQD takes final action on the permit application, except as noted in this Article.

This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the health officer, any additional information identified as needed to process the application.

- (4) When portable equipment for which a minor source operating permit has been issued is transferred from one location to another, the PCAQD shall be notified in writing at least 14 days prior to the transfer of the portable equipment to the new location. The owner or operator will be notified at least ten days prior to the scheduled relocation if said relocation will cause disapproval of the existing permit.

5-35.1 MINOR SOURCE OPERATING PERMIT FEES (PCAQD).

- (1) *Payment of Fees.* All fees prescribed for the issuance of operating permits shall be made payable to the County Treasurer or Air Quality Division and shall accompany each application for a permit. All sums so received shall become part of the Air Quality Enterprise fund.
- (2) *Permit Fee Schedule.* Fees for operating permits shall be established by resolution of the Polk County Board of Supervisors.
- (3) Each source in compliance with a current minor source operating permit shall be exempt from Title V operating permit fees.

5-36. APPLICATION FOR MINOR SOURCE OPERATING PERMIT (PCAQD).

The minor source operating permit shall be renewed annually by December 31st of each year for the following calendar year. Each application for a minor source operating permit shall be submitted to the PCAQD on a form provided by the PCAQD. The completed application shall be returned to the PCAQD within thirty (30) days of the date of the applicant's receipt of the application form.

- (1) **Duty to apply.** Any source which would qualify for an operating permit must apply for either a minor source operating permit or a Title V operating permit. Any source determined not to be eligible for a minor source operating permit shall be subject to enforcement action for operation without a Title V operating permit. For each source applying for a minor source operating permit, the owner or operator or designated representative, where applicable, shall present or mail to the Polk County Air Quality Division, a timely and complete permit application in accordance with this article.
 - a. *Timely application.* Each owner or operator applying for a minor source operating permit shall submit an application:
 - (1) Within 30 days of becoming subject to this rule for a new source or a source which would otherwise become subject to the Title V permit requirement after the effective date.

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- (2) At least 30 days but not more than 90 days prior to the date of renewal.
- b. *Complete application.* To be deemed complete, an application must provide all information required.
- c. *Duty to supplement or correct application.* Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to the issuance of a permit. Applicants who have filed a complete application shall have 30 days following notification by the health officer to file any amendments to the application.
- d. *Certification of truth, accuracy, and completeness.* Any application form, report, or compliance certification submitted pursuant to these rules shall contain certification by a responsible official of truth, accuracy and completeness. This certification and any other certification required under these Articles shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.
- e. *Change of ownership.* The new owner shall notify the PCAQD in writing no later than 30 days after the change in ownership of equipment covered by a minor source operating permit. The notification to the AQD shall be mailed to the Polk County Air Quality, at 5885 NE 14th Street, Des Moines, Iowa 50313, and shall include the following information:
 - (1) The date of ownership change;
 - (2) The name, address and telephone number of the responsible official, the contact person and the owner of the equipment both before and after ownership change; and
 - (3) The PCAQD assigned facility AIRS number of the equipment changing ownership.

5-37. RESERVED

5-38. RESERVED

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5-39. EXEMPTIONS FROM ANNUAL OPERATING PERMIT REQUIREMENT.

The permitting exemptions in this section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements.

- (1) An annual operating permit shall not be required for the equipment listed in Section 5-33 of this chapter, unless said permit is necessary to comply with the requirements of the state's Prevention of Significant Deterioration (PSD) of air quality regulations (567 IAC 22.4(455B)), 567 IAC 23.1(2) New Source Performance Standards (40 CFR Part 60 NSPS), 567 IAC 23.1(3) Emission Standards for Hazardous Air Pollutants (40 CFR Part 61 NESHAP), 567 IAC 23.1(4) National Emission Standards for Hazardous Air Pollutants for Source Categories (40 CFR Part 63 NESHAP), or the state's Special requirements for Nonattainment Areas 567 IAC 22.5(455B).
- (2) The owner shall keep records at the facility and may be required to submit records annually for review during the minor source application renewal period to demonstrate compliance if any of the exemptions under the following paragraphs are claimed:
 - Section 5-33(1) (for equipment >1 million Btu per hour input)
 - Section 5-33(2)
 - Section 5-33(6)
 - Section 5-33(18)
 - Section 5-33(58) or
 - Section 5-33(63)
- (3) For any source that meets an exemption in Section 5-33, but requires any compliance related activity, fees shall apply as established by resolution of the Polk County Board of Supervisors.

5-40. ISSUANCE OF A MINOR SOURCE OPERATING PERMIT (PCAQD).

An annual minor source operating permit shall be issued by the health officer when the health officer determines that the equipment complies with the requirements of this chapter. Said permit shall be in writing and shall be sent by mail to the applicant. A permit may be issued subject to reasonable conditions and safeguards which shall be specified in writing by the health officer. Construction permit conditions issued during the permit term are automatically incorporated as operating permit conditions.

5-41. DENIAL OF A MINOR SOURCE OPERATING PERMIT (PCAQD).

- (1) In the event an application for a minor source operating permit is denied, the applicant shall be so notified in writing stating the reasons therefor. Such a denial shall be without prejudice to the right of the applicant to file further application or provide an additional performance test.

ARTICLE X. PERMITS

- (2) A minor source operating permit application may be denied if:
 - a. The health officer finds that a source is not in compliance with any applicable requirement; or
 - b. An applicant knowingly submits false information in a permit application.
- (3) Once action has occurred denying a voluntary minor source operating permit, the source shall apply for a Title V operating permit. Any source determined not to be eligible for a minor source operating permit may be subject to enforcement action for operating without a Title V operating permit.

5-42. MINOR SOURCE OPERATING PERMIT NOT TO EXCUSE VIOLATION.

The issuance of an operating permit shall not be construed to mean that the applicant and the subject equipment need not meet the requirements of this chapter in the future nor shall it be taken to excuse noncompliance with the provisions of this chapter. Further, such a permit shall not constitute a defense to any action brought to enforce the provisions of this chapter.

5-43. INSPECTION –MINOR SOURCE OPERATING PERMIT.

It shall be the duty of the health officer or designee to inspect all equipment for which an operating permit has been issued to determine if the equipment still complies with the provisions of this chapter.

5-44. SUSPENSION OF A MINOR SOURCE OPERATING PERMIT (PCAQD).

Whenever an enforcement action is taken as provided in Section 5-74 of this chapter, the health officer may give further notice in writing that unless the provisions of the enforcement actions are complied with within a reasonable time, the permit will be suspended. At the end of the period of time stated in the enforcement action, the health officer shall reinspect the equipment and if he finds that the provisions of the enforcement actions have not been complied with, he shall give five days notice in writing by certified mail, return receipt requested, to the owner or operator of the equipment, that the permit is suspended. The owner or operator of the equipment shall cease operating the equipment on the date set forth in the notice.

5-45. TERMINATION OF SUSPENSION.

A suspension will be terminated by the health officer upon completion of the following:

- (1) Notification of the health officer by the owner or operator of the equipment that the provisions of the enforcement actions have been met;

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- (2) That upon reinspection the findings of the health officer demonstrate that full compliance with the enforcement actions have been met, in addition to continued compliance with all provisions of this chapter;
- (3) When the requirements of Subsections 5-45(1) and (2) have been met, the health officer shall reinstate the permit.

5-46. ADDITIONAL ANALYSIS.

Whenever the health officer finds that an analysis of the emissions from any source, in addition to those tests provided in Article VII, is necessary to determine the extent and amount of pollutants being discharged into atmosphere which cannot be determined by visual observation, he may order the collection of samples and the analysis made by qualified personnel of the PCAQD, or by another recognized laboratory, without additional expense to the owner or operator of the source equipment.

5-47. SUBMISSION OF INFORMATION.

To effectuate the purpose of this chapter, the health officer may require information about points of emission of air contaminants, whether by duct, stack, flue, equipment, or by any other means when such information is necessary for the conduct of the work of the health officer. A period of 30 days shall be allowed for the submission of such information. However, in cases of emergency, the health officer may designate any lesser time which he believes to be justified.

5-48. CIRCUMVENTION OF CHAPTER PROHIBITED.

No person shall build, erect, install, or use any article, machine, equipment or other contrivance that conceals an emission which would otherwise constitute violation of this chapter.

5-49. TEMPORARY ELECTRICITY GENERATION FOR DISASTER SITUATIONS.

An electric utility may operate generators at an electric utility substation with a total combined capacity not to exceed two (2) megawatts in capacity for a period of not longer than ten (10) calendar days and only for the purpose of providing electricity generation in the event of a sudden and unforeseen disaster that has disabled standard transmission of electricity to the public. PCAQD approval shall be required if the electric utility intends to operate generators for a period longer than ten (10) calendar days. The electric utility shall provide an oral report to the PCAQD and shall specify the anticipated duration within eight (8) hours of commencing use of a generator or at the start of the first working day following the placement of a generator at each site. A written report shall be submitted to the PCAQD within thirty (30) calendar days following the cessation of use of the generators. The written report shall state the nature of the sudden and unforeseen disaster, the

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location of each site, the number of generators used, the capacity of the generators used, the fuel type of the generators, and the duration of use of each generator. For purposes of this rule, the definition of "disaster" shall be as defined in this chapter, and a disaster may occur before, with, or without a gubernatorial or federal disaster proclamation.

5-50. EVIDENCE USED IN ESTABLISHING THAT A VIOLATION HAS OR IS OCCURRING.

Notwithstanding any other provisions of these rules, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any provisions herein.

Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at a source. The following testing, monitoring, or information-gathering methods are presumptively credible testing, monitoring, or information-gathering methods:

- (1) A monitoring method approved for the source and incorporated in an operating permit;
- (2) Compliance test methods specified in 5-18 of this chapter.
- (3) Testing or monitoring methods approved for the source in an issued construction permit.
- (4) Any monitoring or testing methods provided in these rules; or
- (5) Other testing, monitoring, or information-gathering methods that produce information comparable to that produced by any above.

DIVISION 3. RESERVED

5-51 through 5-55 RESERVED.

ARTICLE XI. COMPLIANCE SCHEDULE

5-56. COMPLIANCE SCHEDULES REQUIRED.

- (1) When the health officer determines that the emissions from existing equipment do not meet the requirements of this chapter and that legal action as provided for in this chapter would be inappropriate, he shall request that the owner or operator of the existing equipment submit a compliance schedule. The purpose of the compliance schedule is to allow a reasonable period of time in which the owner or operator of the existing equipment can implement a program of emission reduction by reconstruction or alteration in order to comply with the provisions of this chapter.
- (2) A compliance schedule submitted to the health officer pursuant to this chapter shall include a written schedule for the installation of pollution control devices or the replacement or alteration of specified facilities in such a way that emissions of air contaminants are reduced to comply with the requirements of this chapter. The schedule must include, as a minimum, the following five increments of progress:
 - a. The date of submittal of the final control plan to the health officer.
 - b. The date by which contracts will be awarded for emission control systems, process modification or the date by which orders will be issued for the purchase of component parts to accomplish emission control or process modifications.
 - c. The date of initiation of on-site construction or installation of emission control equipment or process change.
 - d. The date by which on-site construction or installation of emission control equipment or process modification is to be completed.
 - e. The date by which final compliance is to be achieved. Compliance schedules shall be reviewed at least semi-annually by the health officer.
- (3) Failure to meet any increment of progress in the compliance schedule may result in the disapproval of the program and appropriate legal action under this chapter.
- (4) Each compliance schedule must be accompanied by the following written information:
 - a. The name, address, and telephone number of the person submitting the application or, if such person is a legal entity, the name and address of the individual authorized to accept service of process on its behalf and the name of the person in charge of the premises where the pertinent activities are conducted.
 - b. The type of business or activity involved;
 - c. The nature of the operation or process involved, including information on the air contaminants emitted, the chemical and physical properties of such emissions, and the estimated amount and rate of discharge of such emissions;
 - d. The exact location of the operation or process involved;

ARTICLE XI. COMPLIANCE SCHEDULE

- e. Action taken to control air contaminants within emission limitations in effect prior to October 1, 1978.
 - f. Efficiency of any existing control equipment relative to that which would be required to meet emission limitation of this chapter;
 - g. Temporary interim control measures intended to be taken to minimize existing pollution levels;
 - h. Each compliance schedule shall bear the signature of the person submitting the compliance schedule, following an affirmation that all statements are true and correct.
- (5) Within thirty (30) days following the submittal of the compliance schedule, the health officer will determine if the compliance schedule demonstrates satisfactory progress towards the elimination or prevention of air pollution, the health officer shall submit in writing his findings to the applicant indicating the following:
- a. *Approval of the compliance schedule.* The health officer shall approve the compliance schedule when it concludes that such action is appropriate and if it can be shown that the effect of the air contaminant emission presents no immediate hazard to the public health, safety or welfare. The compliance schedule may be granted approval subject to conditions specified by the health officer; or
 - b. *Denial of a compliance schedule.* The health officer shall deny approval of a compliance schedule when it concludes that the schedule is not appropriate or that such action is required to prevent a hazard to the public health, safety or welfare. A denial shall be without prejudice to the right of the applicant to request a hearing before the assigned hearing officer.

5-57. PROGRESS REPORTS REQUIRED.

- (1) Reports indicating the progress of any reconstruction programs, alterations or other plans to bring existing equipment into compliance with this chapter shall be submitted quarterly to the health officer by any person subject to an approved compliance schedule.
- (2) If the progress of the program is deemed by the health officer to be unsatisfactory because he finds either;
 - a. No progress has been made, or
 - b. The amount of progress shown indicates an insincere attempt to comply with the terms of this chapter, or
 - c. The program intended to be pursued would not reasonably bring the equipment into compliance with the terms of this chapter, or

ARTICLE XI. COMPLIANCE SCHEDULE

- d. The program while sufficient to bring the equipment into compliance with the terms of this chapter is nevertheless designed or established so as to consume an inordinate or an unreasonable amount of time to bring the equipment into compliance.

Upon a determination of unsatisfactory progress, the health officer may deny or suspend the compliance schedule and to institute appropriate legal proceedings to enforce this chapter.

ARTICLE XII. NON-ATTAINMENT AREAS

5-58. NON-ATTAINMENT NEW SOURCE REVIEW.

There is incorporated by this reference the " Nonattainment New Source Review" as specified in 567 IAC Chapter 31 (455B), in its entirety, and to include any amendments or changes through May 15, 2024.

ARTICLE XIII. RESERVED

ARTICLE XIV. BOARD OF HEALTH/HEALTH OFFICER

5-59. APPLICATION FOR VARIANCE.

A person may make application for a variance from applicable rules or standards specified in this chapter.

- (1) **Contents.** Each application for a variance shall be submitted to the health officer stating the following:
 - a. The name, address and telephone number of the person submitting the application, or if such person is a legal entity, the name and address of the individual authorized to accept service of process on its behalf and the name of the person in charge of the premises where the pertinent activities are conducted.
 - b. The type of business or activity involved.
 - c. The nature of the operation or process involved; including information on the air contaminants emitted, the chemical and physical properties of such emissions and the estimated amount and rate of discharge of such emissions.
 - d. The exact location of the operation or process involved.
 - e. The reason or reasons for considering that compliance with the provisions specified in these rules will produce serious hardship without equal or greater benefits to the public, and the reasons why no other reasonable method can be used for such operations without resulting in a hazard to health or property.
 - f. Each application shall bear the signature of the person making the application following an affirmation that all statements are true and correct.
- (2) **Variance extension.** The request for extension of a variance shall be accompanied by a compliance schedule as specified in Section 5-56.

5-60. VARIANCES.

- (1) **Processing of applications.** Each application for a variance and its supporting material shall be reviewed, and an investigation of the facilities shall be made, by the PCAQD for evaluation of the following:
 - a. Whether or not the emissions involved will produce the following effects:
 - (1) Endanger or tend to endanger the health of persons residing in or otherwise occupying the area affected by said emissions.
 - (2) Create or tend to create safety hazards, such as (but not limited to) interference with traffic due to reduced visibility.
 - (3) Damage or tend to damage any property on land that is affected by said emissions and under other ownership.
 - b. The reason or reasons for considering that compliance with the provisions specified in these rules will produce serious hardship without equal or greater benefits to the

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public, and the reasons why no other reasonable method can be used for such operations without resulting in a hazard to health or property.

- (2) **Trial Burns for alternative fuels.** An alternative fuel shall be defined as a fuel for which the emissions from combusting the fuel are not known and shall exclude natural gas, coal, liquid propane, and all petroleum distillates.
- a. *Variance from construction permit.* The health officer may grant a variance for the purpose of testing an alternative fuel and quantifying the emissions from the alternative fuel, except as prohibited under Subsection 5-60(3)"c".
 - b. *Baseline testing.* In addition to submitting the information required in Section 5-59, the applicant may be required to submit baseline emission data for all applicable pollutants as a condition of approval.
 - c. *Source testing.* Emissions testing deemed necessary for any pollutant may be required as a condition of the variance and shall be conducted in accordance with Section 5-18.
- (3) **Decision.**
- a. *Granting of variance.* The health officer shall grant a variance when the health officer concludes that the action is appropriate. The variance may be granted subject to conditions specified by the health officer. The health officer shall specify the time intervals as are considered appropriate for submission of reports on the progress attained in the compliance schedule.
 - b. *Denial of variance.* The health officer shall deny a variance when the health officer concludes that the action is appropriate. The applicant may request a review hearing before the commission if the application is denied.
 - c. *Ineligibility for variance.* The health officer shall not grant a variance from any of the following requirements:
 - (1) Case-by-case maximum achievable control technology (MACT) standards, 567 IAC paragraph 22.1(1)"b";
 - (2) Prevention of significant deterioration (PSD), 567 IAC Chapter 33, to the extent that variances may not be granted from the preconstruction review and permitting program specified under 567 IAC Chapter 33 (formerly 567—22.4(455B)), or from any PSD requirement contained in a PSD permit issued under 567 IAC Chapter 33, or from any PSD requirement contained in a PSD permit issued under 40 CFR Section 51.166 or 52.21;
 - (3) New source performance standards, 567 IAC 23.1(2);
 - (4) Emission standards for hazardous air pollutants, 567 IAC 23.1(3);
 - (5) Emission standards for hazardous air pollutants for source categories, 567 IAC 23.1(4);
 - (6) Emission guidelines, 567 IAC 23.1(5).

ARTICLE XIV. BOARD OF HEALTH/HEALTH OFFICER

5-61. RESERVED.

5-62. DUTIES GENERALLY.

- (1) In addition to the specific duties of the health officer, set forth in this chapter, it shall be the duty of the health officer or designee to:
 - a. Hold hearings when necessary and issue specific written decisions;
 - b. Generally supervise the administration and enforcement of this chapter;
 - c. Recommend legal proceedings to be taken in appropriate cases when deemed necessary;
 - d. Issue specific orders or recommendations consistent with this chapter.
- (2) In addition to the specific duties of the board of health, set forth in this chapter, it shall be the duty of the board of health or designee to:
 - a. Hold hearings on appeal of an order issued by the hearing officer and issue specific written decisions;
 - b. After the hearing on appeal, the board of health or designee may affirm, modify or rescind the order of the hearing officer.
 - c. Generally supervise the administration and enforcement of this chapter;

5-63. COMPLAINTS FILED.

Any person claiming to be aggrieved by any notice served upon him under this chapter may file with the health officer a written complaint, requesting a hearing before the assigned hearing officer. Such complaint must be so filed within twenty (20) days after a person receives such a notice. After receiving a complaint, the health officer shall forthwith notify the assigned hearing officer of such complaint. The health officer shall set a time, place, and date of hearing on the complaint, and notify the complainant of this fact not less than three days before the date.

5-64. SEALING – SEALING OF OFFENDING EQUIPMENT.

After three notifications of the same violation of this chapter within a twelve (12) month period in respect to the emission of air contaminants from the same source, a violator shall be notified to show cause before the board of health within twenty (20) days why the offending equipment should not be sealed. The hearing shall be conducted in the same manner as prescribed in Section 5-65 of this chapter. If upon a hearing, the hearing officer finds that a violation exists and that corrective measures have not been taken, the hearing officer may authorize and direct the Polk County Attorney to institute legal proceedings in a court of competent jurisdiction to cause the offending equipment to be sealed. This process shall not preclude injunctive actions by the health officer.

ARTICLE XIV. BOARD OF HEALTH/HEALTH OFFICER

5-65. HEARING.

At such hearing, the complainant shall be afforded a full opportunity to be heard, have the right to produce witnesses, and to be represented by counsel. After hearing all relevant evidence and reviewing the actions of the health officer, and if reasonable grounds exist, the hearing officer may modify or rescind the order or notice of the health officer or may order compliance with said order or notice within a specified period of time. The decision of the hearing officer shall be transmitted in writing to both the complainant and the health officer within ten (10) days after the hearing.

(1) Hearing Procedure.

- a. At all non-appellate hearings prescribed by Section 5-65 the PCAQD, or designee, shall preside as the hearing officer.
- b. If a party fails to appear after having been properly notified, the hearing officer may proceed with the hearing and enter a decision in the absence of the party. The parties, at hearing, shall be the owner, permit-holder or applicant for a permit, AND the health officer, air permit engineer, air quality specialist involved.
- c. The hearing officer shall swear the parties and their witnesses, and examine them in such a way as to bring out the truth. The hearing officer shall make detailed minutes of the testimony, or may electronically record it. The parties may participate, either personally or by attorney. The hearing officer may continue the hearing from time to time.
- d. Unless precluded by Polk County Board of Health Rules and Regulation, Chapter V, informal disposition may be made of any case, by stipulation, agreed settlement, consent order or default or by any other method agreed upon by the parties in writing.
- e. The record in each case shall include:
 - (1) The minutes made by the hearing officer, or the electronic recording of the meeting and all other submissions;
 - (2) Copies of all documents served upon or mailed to the owner by the PCAQD;
 - (3) A statement of all matters officially noticed;
- f. All hearings shall be open to the public. The record of the hearing shall be filed and maintained by the PCAQD for at least five (5) years from the date of decision.
- g. Findings of fact shall be based solely on the evidence in the record and on matters officially noticed in the record.
- h. The hearing shall be simple and informal, and shall be conducted by the hearing officer, without regard to technicalities of procedure.

(2) Evidence.

- a. Irrelevant, immaterial or unduly repetitious evidence should be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon

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such evidence even if it would be inadmissible in a jury trial. The hearing officer shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

- b. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.
- c. Witnesses at the hearing, or persons whose testimony has been submitted in written form if available, shall be subject to cross examination by any party as necessary for a full and true disclosure of the facts.
- d. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the PCAQD. Parties shall be notified at the earliest practicable time of the facts proposed to be noticed and their source, including any staff memorandum or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the hearing officer determines as a part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.
- e. The PCAQD's experience, technical competence and specialized knowledge may be utilized in evaluation of the evidence.

(3) Decision/Order.

The decision/order required of the hearing officer by Polk County Board of Health Rules and Regulation, Chapter V-Air Pollution shall constitute a final decision.

Any person aggrieved by the decision of the hearing officer may appeal such decision to the Board of Health or Polk County District Court within thirty (30) days for review of such decision. Such review shall be de novo.

5-66. EFFECT OF COMPLAINT.

After a complaint is filed under this article, the health officer shall stay all proceedings until he has received a report from the hearing officer, prepared pursuant to Section 5-65.

5-67. JUDICIAL REVIEW.

Any person aggrieved by the decision of the hearing officer may appeal such decision to the Polk County District Court within 30 days for review of such decision. Such review shall be de novo.

ARTICLE XV. EMERGENCY AIR POLLUTION EPISODES

5-68. RESERVED.

5-68.1 PREVENTION OF AIR POLLUTION EMERGENCY EPISODES – GENERAL.

The actions taken during emergency episodes set forth in 567 IAC 21.14(455B), are adopted by reference.

5-69. RESERVED.

5-69.1 EPISODE CRITERIA.

The actions taken during emergency episodes set forth in 567 IAC 21.15(455B), are adopted by reference.

5-70. RESERVED.

5-70.1 PREPLANNED ABATEMENT STRATEGIES.

The actions taken during emergency episodes set forth in 567 IAC 21.16(455B), are adopted by reference.

5-71. RESERVED.

5-71.1 ACTIONS TAKEN DURING EPISODES.

The actions taken during emergency episodes set forth in 567 IAC 21.17(455B), are adopted by reference.

5-72. RESERVED.

ARTICLE XVI. NUISANCE ABATEMENT AND ENFORCEMENT

5-73. HEALTH NUISANCES.

"Health nuisances" as defined in Polk County Board of Health Rules and Regulations Chapter II shall be addressed in accordance with said chapter.

5-74. ENFORCEMENT OPTIONS.

- (1) **Enforcement options.** In addition to administrative and civil actions for monetary penalty, the following enforcement options are available to the PCAQD to obtain information and seek compliance.
 - a. *Informal meeting.* PCAQD staff may attempt to resolve a potential violation or obtain additional information with an informal meeting. The discussion will usually focus on corrective actions to be taken, and in most instances, only PCAQD staff and the facility representative will be present.
 - b. *Letter of inquiry (LOI).* The purpose of an LOI is to allow the regulated entity the opportunity to provide information that would be helpful for a determination of whether a violation has occurred.
 - c. *Letter of noncompliance (LNC).* An LNC may be used when no environmental harm or threat to human health or safety has occurred or is imminent, the regulated entity is not a repeat offender, the corrective action is not deemed an emergency, or the violation is considered insignificant. The letter is intended to provide the regulated entity with an opportunity to correct the identified deficiencies prior to further enforcement activity. In an LNC, the PCAQD may suggest remedial measures, set a date for returning to compliance, or request a response from the regulated entity within a specific time period as to how the identified problems will be resolved.
 - d. *Notice of violation (NOV).* When the other compliance and enforcement activities described in this section are not appropriate for a violation, or when the regulated entity has not returned to compliance, the PCAQD may issue an NOV. An NOV may be used when environmental harm or a threat to human health or safety has occurred or is imminent, a regulated entity is a repeat offender, a corrective action is deemed an emergency, or a violation is considered significant. An NOV identifies the nature of the violation and any required corrective action.
- (2) **Options to respond.** Upon receiving an LOI, LNC, or NOV, a regulated entity has the option to respond to the PCAQD, even if a response is not specifically requested. In responding to an LNC or NOV, the regulated entity should clearly outline any disagreements with the LNC or NOV, provide any pertinent additional information, describe any current or planned corrective action, and provide a schedule for returning to compliance. The PCAQD will review written information submitted in response to the compliance and enforcement procedures described in this part and will include this information in the file of record. Nothing in this section adds to or takes away from the appeal rights provided in Sections 5-65 and 5-67 of this chapter.

ARTICLE XVI. NUISANCE ABATEMENT AND ENFORCEMENT

PCAQD discretion. At the PCAQD's sole discretion, the PCAQD may follow the compliance and enforcement procedures described in this part, commence with an LNC or NOV, or forego these options and commence with an administrative action, or the PCAQD may request referral to the Polk County Attorney's office.

5-75. PENALTY.

Unless another penalty is expressly provided by this Regulation for the particular provision, section or Regulation, any person violating any provision of this Regulation, or any rule or Regulation adopted or issued in pursuance thereof, or any provision of any code adopted herein by reference shall, upon conviction, be subject to one of the following:

(1) Criminal.

- a. A person who knowingly violates any provision of this chapter, any permit, rule, standard, or order issued under this chapter, or any condition or limitation included in any permit issued under this chapter, is guilty of an aggravated misdemeanor. A conviction for a violation is punishable by a fine of not more than ten thousand dollars for each day of violation or by imprisonment for not more than two years, or both. If the conviction is for a second or subsequent violation committed by a person under this section, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than four years, or by both.
- b. A person who knowingly makes any false statement, representation, or certification of any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, standard, or order issued under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, or by any permit, rule, standard, or order issued under this chapter, or who knowingly fails to notify or report as required by this chapter or by any permit, rule, standard, or order issued under this chapter, or by any condition or limitation included in any permit issued under this chapter, is guilty of an aggravated misdemeanor punishable by a fine of not more than ten thousand dollars per day per violation or by imprisonment for not more than one year, or by both. If the conviction is for a second or subsequent violation committed by a person under this paragraph, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than two years, or by both.
- c. A person who knowingly fails to pay any fee owed under any provision of this chapter, or any permit, rule, standard, or order issued under this chapter, is guilty of an aggravated misdemeanor punishable by a fine of not more than ten thousand dollars per day per violation or by imprisonment for not more than six months, or by both. If the conviction is for a second or subsequent violation under this paragraph, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than one year, or by both.

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- d. A person who negligently releases into the ambient air any hazardous air pollutant or extremely hazardous substance, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars for each day of violation or by imprisonment for not more than one year, or by both. If the conviction is for a second or subsequent negligent violation committed by a person under this section, however, the conviction is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or by both.
- e. A person who knowingly releases into the ambient air any hazardous air pollutant or extremely hazardous substance, and who knows at the time that the conduct places another person in imminent danger of death or serious bodily injury shall, upon conviction, if the person committing the violation is an individual or a government entity, be punished by a fine of not more than fifty thousand dollars per violation or by imprisonment for not more than two years, or by both. However, if the person committing the violation is other than an individual or a government entity, upon conviction the person shall be punished by a fine of not more than one million dollars per violation. If the conviction is for a second or subsequent violation under this paragraph, the conviction is punishable by a fine or imprisonment, or both, as consistent with federal law.

(2) Civil.

- a. A penalty as determined by the Court, not to exceed ten thousand dollars per day for each day such violation continues as provided in Section 455B.146 Code of Iowa. A separate violation exists with respect to each item or piece of equipment which is not in compliance with this Chapter. A repeat offense is a violation of any provision of this Chapter, or any rule or regulation adopted or issued in pursuance hereof, or any provision of any code adopted by reference herein, by a person who has previously admitted the infraction or been found in a criminal or civil court to have violated the same provision.

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- b. The health officer shall normally request a civil penalty in accordance with the following schedule, unless, in the professional judgment of the health officer, the violation is so minor that a lesser penalty would be appropriate:

TABLE II: CIVIL PENALTY SCHEDULE			
Violation Description	First Offense	Second Offense	Third or Subsequent Offense
Violation on the premises of a single or two-family dwelling, by the owner or a resident of that dwelling.	\$100.00	\$500.00	\$1,000.00
ALL OTHER VIOLATIONS			
No apparent economic gain as a result of the violation and no apparent malice involved.	\$500.00	\$1,000.00	\$2,000.00
Economic gain by the violator and probable knowledge that the action was a violation.	\$1,000.00	\$2,000.00	\$4,000.00
Blatant disregard for the environment causing considerable environmental damage, or intentional violation for large economic gain	\$2,000.00	\$4,000-\$5,000.00	\$8,000-\$10,000.00
Violations of any provision of this chapter, any permit, rule, standard, or order issued under this chapter, or any condition or limitation included in any permit issued under this chapter.	\$1,000-\$2,000.00	\$4,000-\$5,000.00	\$8,000-\$10,000.00
Submission of false statements, representations, or certifications of any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, standard, or order issued under this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, or by any permit, rule, standard, or order issued under this chapter, or who knowingly fails to notify or report as required by this chapter or by any permit, rule, standard, or order issued under this chapter, or by any condition or limitation included in any permit issued under this chapter	\$1,000-\$2,000.00	\$4,000-\$5,000.00	\$8,000-\$10,000.00
Failure to pay any fee owed under any provision of this chapter, or any permit, rule, standard, or order issued under this chapter	\$1,000.00	\$2,000.00	\$4,000.00

5-76. ACTION TO ENJOIN.

In addition to the penalties provided for in Section 5-75, when any equipment structure, device or premises are constructed, altered, operated, or maintained in violation of this chapter, or when

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there has been any other violation of the provisions of this chapter, the health officer may request the Polk County attorney to bring suit in a court of competent jurisdiction to prevent such unlawful construction, alteration, operation, or maintenance, or to restrain, correct, or abate such violation.