ARTICLE 10. NITROGEN OXIDES RULES

Rule 1. Nitrogen Oxides Control in Clark and Floyd Counties

326 IAC 10-1-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11; IC 13-17-3-12
Affected: IC 13-15; IC 13-17

Sec. 1. (a) Emissions of nitrogen oxides (NO_x) from facilities located in Clark or Floyd County shall be controlled as follows, and any proposal to establish an alternative limitation shall be in accordance with section 4(c)(1) of this rule:

(1) Any stationary source located in Clark or Floyd County that exists on or before the effective date of this rule and that emits or has the potential to emit greater than or equal to one hundred (100) tons per year or more of NO_x from all facilities at the source shall apply reasonable available control technology (RACT) as set forth in this rule.

(2) Any facility that exists on or before the effective date of this rule that has the potential to emit NO_x greater than or equal to forty (40) tons per year and that is located at a source that emits or has the potential to emit NO_x greater than or equal to one hundred (100) tons per year, shall comply with the applicable provisions of this rule.

(3) Facilities requiring a permit under 326 IAC 2 that are constructed, modified, or reconstructed after the effective date of this rule and to which a new source performance standard (NSPS) does not apply shall comply with this rule or best available control technology (BACT), whichever is more stringent.

(b) Unless emissions have been limited in accordance with subsection (c), the emission limitations established in section 4 of this rule shall apply to the following facilities at sources meeting the requirements of subsection (a)(1):

(1) Each electric utility steam generating unit of the type listed in section 4(b)(2) of this rule with heat input capacity greater than or equal to two hundred fifty (250) million Btu per hour.

(2) Each industrial, commercial, or institutional steam generating unit of the type listed in section 4(b)(3) of this rule with heat input capacity greater than or equal to one hundred (100) million Btu per hour.

(3) Each portland cement long dry kiln with production capacity greater than or equal to twenty (20) tons of clinker per hour.

(4) Each portland dry preheat process kiln with production capacity greater than or equal to twenty (20) tons of clinker per hour.

(5) Any other type of facility that emits or has the potential to emit NO_x greater than or equal to forty (40) tons per year.

(c) A facility identified in subsection (b) shall not be subject to the emissions limits of section 4 of this rule if the source's actual emissions have been limited to below one hundred (100) tons per year through federally enforceable production or capacity limitations in an operating permit in accordance with section 3(2) of this rule and 326 IAC 2-8 on or before December 14, 1996.

(d) A facility that exists on or before the effective date of this rule that is subject to a NSPS under 40 CFR 60* that affects emissions of NO_x is not subject to this rule.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-1-1; filed May 13, 1996, 5:00 p.m.: 19 IR 2869; filed Apr 22, 1997, 2:00 p.m.: 20 IR 2370; filed Dec 20, 2001, 4:30 p.m.: 25 IR 1602)*

326 IAC 10-1-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 2. The following definitions apply throughout this rule:

(1) "Actual emissions" means a facility's actual emissions for the baseline year.

(2) "Affected facility" means any facility described in section 1(a)(2) or 1(a)(3) of this rule.

(3) "Affected source" means any source described in section 1(a)(1) of this rule.

(4) "Baseline year" means the most recent year prior to the effective date of this rule for which available data is complete, accurate, and representative of normal operations.

(5) "Clinker" means a product produced in a portland cement kiln which is then proportioned with additives and ground into a fine powder called portland cement.

(6) "Coal" means all solid fuels classified as anthracite, bituminous, sub-bituminous, or lignite by the American Society of

Testing and Materials (ASTM) Designation D 388-95*.
(7) "Coal fired steam generating unit" means a facility that, for the purpose of fuel switching in this rule, derived ninety percent (90%) or more of its total heat from combustion of coal in the baseline year.
(8) "Distillate oil" means fuel oil that contains five-hundredths (0.05) weight percent or less nitrogen and complies with the specifications for fuel oil number 1 or 2 as defined by ASTM D 396-92*, Standard Specifications for Fuel Oil.
(9) "Dry bottom boiler" means a boiler that has a furnace bottom temperature below the ash melting point and from which the bottom ash is removed as a solid.
(10) "Facility" is defined at 326 IAC 1-2-27.
(11) "Federally enforceable" is defined at 326 IAC 1-2-28.5.
(12) "Gaseous fuels" means natural gas.
(13) "Industrial, commercial, institutional steam generating unit" means a device that combusts one (1) or more of a combination of coal, oil, and gas and produces steam or hot water primarily to supply power, heat, or hot water to any industrial, commercial, or institutional operation, including boilers used by electric utilities that are not utility boilers.
(14) "Natural gas" means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane.
(15) "Nitrogen oxides" or "NO_x" means all oxides of nitrogen including, but not limited to, nitrogen oxide and nitrogen dioxide, but excluding nitrous oxide, collectively expressed as nitrogen dioxide.
(16) "Oil" means crude oil or petroleum, or liquid fuel derived from crude oil or petroleum, including distillate oil and residual oil.
(17) "Oil fired steam generating unit" means a facility that, for the purpose of fuel switching in this rule, derived ninety percent (90%) or more of its total heat from combustion of oil in the baseline year.
(18) "Operating day" means a twenty-four (24) hour period between midnight (12 p.m.) and the following midnight during which any facility combusts fuel or produces intermediate or final products. It is not necessary for the facility to operate continuously for the entire twenty-four (24) hour period.
(19) "Overfeed stoker" means a boiler design that employs a moving grate assembly where the coal is fed into a hopper and then onto a continuous grate that conveys the coal into the furnace. As coal moves through the furnace, it passes over several air zones for staged burning.
(20) "Owner or operator" means any person who owns, leases, controls, operates, or supervises any source subject to this rule.
(21) "Portland cement dry preheat process kiln" means a reaction vessel that receives dried raw material from a preheater and calcines and sinters the dried raw material into a product called cement clinker.
(22) "Portland cement long dry kiln" means a reactive vessel that dries, calcines, and sinters raw materials into a product called portland cement clinker.
(23) "Portland cement plant" means any facility that manufactures portland cement by either the wet or dry process.
(24) "Potential emissions" means a facility's potential emissions as defined in 326 IAC 1-2-55 for the baseline year.
(25) "Residual oil" means crude oil and fuel oil that do not comply with the specifications under the definition of distillate oil and all fuel oil numbers 3, 4, and 6 as defined by ASTM D 396-92*, Standard Specifications for Fuel Oils.
(26) "Source" is defined at 326 IAC 1-2-73.
(27) "Spreader stoker" means a boiler design where mechanical or pneumatic feeders distribute coal uniformly over the surface of a moving grate.
(28) "Tangentially fired boiler" means a boiler that has coal and air nozzles mounted in each corner of the furnace where the vertical furnace walls meet. Both pulverized coal and air are directed from the furnace corners along a line tangential to a circle lying in a horizontal plane of the furnace.
(29) "Thirty (30) day rolling average" means an emission rate calculated each operating day by averaging all the preceding thirty (30) successive operating days average emission rates.
(30) "Utility steam generating unit" means any facility that is constructed for the purpose of supplying more than one-third (⅓) of its potential electric output capacity and more than twenty-five (25) megawatts of electric output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electric energy for sale is also considered in determining the electric energy output capacity of the affected facility.
(31) "Wall-fired boiler" means a boiler that has pulverized coal burners arranged on the wall of the furnace. The burners have discrete, individual flames that extend perpendicularly into the furnace area.

(32) "Wet bottom" means a boiler that has a furnace bottom temperature above the ash melting point and from which the bottom ash is removed as a liquid.

*These documents are incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-1-2; filed May 13, 1996, 5:00 p.m.: 19 IR 2870; errata filed Mar 21, 1997, 9:50 a.m.: 20 IR 2116; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Aug 26, 2004, 11:30 a.m.: 28 IR 70)*

326 IAC 10-1-3 Requirements

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 3. The owner or operator of an affected source shall comply with this rule as follows:

(1) Within ninety (90) days of the effective date of this rule, the owner or operator of an affected source that has no affected facility shall submit to the department a declaration to that effect and a copy of each permit that affects its NO_x emissions.

(2) The owner or operator of an affected source that has an affected facility, who elects to comply with this rule by limiting actual emissions of a source to below one hundred (100) tons per year through federally enforceable production or capacity limits in an operating permit, shall do the following:

(A) On or before March 14, 1996, or the effective date of this rule, whichever is later, submit to the department a complete application for a permit or a permit revision consistent with 326 IAC 2.

(B) Within one hundred eighty (180) days of the issuance of the permit by the department, achieve compliance with the permit conditions.

(C) Within thirty (30) days of the date in clause (B), submit to the department a statement that compliance with the enforceable permit limitation or limitations has been achieved.

(D) Subsequent to the date in clause (B), comply with the conditions of the permit.

(3) The owner or operator of an affected source to which section 4 of this rule applies shall do the following:

(A) An owner or operator who elects to comply with an alternative emission limit developed according to section 4(c)(1) of this rule shall do the following:

(i) By December 1, 1996, or within thirty (30) days of the effective date of this rule, whichever is later, submit for approval of U. S. EPA and the department a petition for an alternative emission limit in accordance with 326 IAC 8-1-5. Prior to submission of the petition, the owner or operator may submit for department review an alternative emission limit development plan that identifies the following:

(AA) The affected facility.

(BB) Reasons for electing an alternative emissions limit.

(CC) Procedures the source will use to develop the alternative emission limit, including the control measures that will be evaluated.

(DD) Any emissions monitoring that will be performed.

(ii) Within two hundred seventy (270) days of the approval of the petition by U.S. EPA and the department, implement the approved control measures and perform an initial compliance test according to procedures in section 5 of this rule.

(iii) Within ninety (90) days of the initial test in item (ii), submit to the department documents required by section 7(a) of this rule.

(iv) After the date in item (iii), comply with the alternative emissions limit according to procedures in the approved petition and section 5 of this rule as applicable.

(B) An owner or operator who elects to comply with an emission limit based on a fuel switching program developed in accordance with section 4(c)(2) of this rule shall do the following:

(i) Within thirty (30) days of the effective date of this rule, submit to the department a statement identifying the facilities that will be included in the fuel switching program.

(ii) Within one hundred eighty (180) days of the effective date of this rule, submit plans as required in section 4(c)(2) of this rule.

(iii) Implement plans within thirty (30) days of approval by the department.

(iv) On the date in item (iii), notify the department that the plan has been implemented.

(v) After the date in item (iii), comply with the approved plan.

(C) An owner or operator who elects to comply with an emission limit based on an approved emissions averaging plan developed in accordance with section 4(c)(3) of this rule shall do the following:

(i) Within thirty (30) days of the effective date of this rule, submit to the department and to U.S. EPA a statement identifying the facilities that will be included in the emissions averaging plan.

(ii) Within one hundred eighty (180) days of the effective date of this rule, submit plans as required in section 4(c)(2) or 4(c)(3) of this rule.

(iii) Implement plans within thirty (30) days of approval by U.S. EPA and the department.

(iv) On the date in item (iii), notify the department that the plan has been implemented.

(v) After the date in item (iii), comply with the approved plan.

(D) For affected sources with facilities to which section 4(b)(5) of this rule applies, within ninety (90) days of the effective date of this rule, submit to the department the following:

(i) A statement identifying each facility to which section 4(b)(5) of this rule applies.

(ii) Proposed NO_x control measures.

(iii) Expected percentage emission reductions.

(iv) Monitoring and record keeping procedures that will demonstrate compliance with the emission limit.

(4) Utility steam generating units shall achieve compliance with this rule on or before November 1, 1996, and submit to the department documents required in section 7(a) of this rule on or before December 31, 1996.

(5) An owner or operator who elects to comply with emissions limits in section 4(b) of this rule shall do the following:

(A) Within two hundred seventy (270) days of the effective date of this rule, comply with the emission limits in section 4(b) of this rule and perform initial compliance testing according to the procedures in section 5 of this rule.

(B) Within ninety (90) days of completion of initial compliance testing required by clause (A), submit to the department documents required in section 7(a) of this rule.

(Air Pollution Control Board; 326 IAC 10-1-3; filed May 13, 1996, 5:00 p.m.: 19 IR 2871)

326 IAC 10-1-4 Emissions limits

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 4. (a) The owner or operator of an affected source shall limit nitrogen oxide (NO_x) emissions from affected facilities by complying with any of the NO_x limits specified as follows:

(1) Subsection (b).

(2) Subsection (c).

(3) A combination of limits in subsections (b) and (c).

(b) NO_x emissions limits applicable to affected facilities are as follows:

(1) For portland cement kilns, the following:

(A) NO_x emissions from each portland cement long dry kiln with a clinker production capacity greater than or equal to twenty (20) tons per hour shall not exceed ten and eight-tenths (10.8) pounds per ton of clinker produced on an operating day basis and six (6.0) pounds per ton of clinker produced on a thirty (30) day rolling average basis.

(B) NO_x emissions from each portland cement dry preheater process kiln with a clinker production capacity greater than or equal to twenty (20) tons per hour shall not exceed five and nine-tenths pounds per ton (5.9 lbs/ton) of clinker produced on an operating day basis and four and four-tenths pounds per ton (4.4 lbs/ton) clinker produced on a thirty (30) day rolling average basis.

(2) For electric utility steam generating boilers, NO_x emissions from each electric utility steam generating unit that has heat input capacity greater than or equal to two hundred fifty (250) million Btu per hour, and that combusts only coal, oil, or gas shall not exceed the following limits on a thirty (30) day rolling average basis:

Boiler Type	Fuel Type	Emissions Limit (lb/million Btu input)
Wall-fired dry bottom	Pulverized coal	0.5
	Distillate oil	0.2

	Residual oil	0.3
	Gas	0.2

(3) For industrial, commercial, institutional boilers, NO_x emissions from each industrial, commercial, or institutional steam generating unit that has heat input capacity greater than or equal to one hundred (100) million Btu per hour, and that combusts only coal, oil, or gas shall not exceed the following limits:

Boiler Type	Fuel Type	Emissions Limit (lb/million Btu input)
Wall-fired dry bottom	Pulverized coal	0.5
Tangentially fired	Pulverized coal	0.4
Spreader stoker	Pulverized coal	0.5
Overfeed stoker	Pulverized coal	0.4
Oil fired	Distillate oil	0.2
	Residual oil	0.3
Gas fired	Gas	0.2

Limits shall be complied with on a three (3) hour basis in accordance with section 5 of this rule; however, if a continuous emissions monitor (CEM) is installed then limits shall be complied with on a thirty (30) day rolling average basis.

(4) Each facility listed in subdivision (2) or (3) that simultaneously combusts a mixture of coal, oil, or gas shall comply with emissions limits determined by the following equation:

Equation 1

$$E = (A \times E1 + B \times E2 + C \times E3)/(A + B + C)$$

Where:

- E = the NO_x limit expressed as pounds per million Btu.
- A = heat input in million Btu from combustion of coal.
- B = heat input in million Btu from combustion of oil.
- C = heat input in million Btu from combustion of gas.
- E1 = applicable emissions limit in subdivision (2) or (3) in pounds per million Btu for coal.
- E2 = applicable emissions limit in subdivision (2) or (3) in pounds per million Btu for oil.
- E3 = applicable emission limit in subdivision (2) or (3) in pounds per million Btu for gas.

(5) NO_x emissions from any facility other than those listed in subdivision (1), (2), or (3) that emits or that has potential to emit NO_x equal to or greater than forty (40) tons per year shall comply with an emissions limit that shall be achieved by controlling actual NO_x emissions by at least forty percent (40%). This requirement does not apply to facilities of the type listed in subdivision (1), (2), or (3), including those that are smaller than the applicable size cutoff. Limits shall be complied with on a three (3) hour basis in accordance with section 5 of this rule; however, if a CEM is installed then limits shall be complied with on a thirty (30) day rolling average basis.

(c) Instead of complying with the emissions limits in subsection (b), the owner or operator of an affected facility may elect to comply with the following alternative emissions limits:

(1) Where an owner or operator of a source existing on the effective date of this rule claims that an emissions limit in subsection (b) is technically or economically infeasible, the owner or operator may petition for an alternative emissions limit according to the procedures in section 3(3)(A) of this rule and 326 IAC 8-1-5. An alternative RACT petition approved by the department shall be submitted to the U.S. EPA for approval.

(2) Instead of complying with the emissions limits for steam generating units in subsection (b)(2) or (b)(3), the owner or operator may comply with an emissions limit based on a fuel switching program. Provisions applicable to fuel switching are as follows:

(A) Fuel may be switched as follows:

(i) A coal fired unit may combust oil, gas, or a combination of oil and gas during the period from May 1 through and including September 30. The unit shall comply with the applicable limit for coal combustion in subsection (b)(2) or (b)(3) on an annual basis and the applicable limit for coal combustion during the period May 1 through and including September 30.

(ii) An oil fired unit may combust oil with a lower NO_x emitting potential, gas, or a combination of oil and gas during the period from May 1 through and including September 30. The unit shall comply with the applicable

limit for oil combustion in subsection (b)(2) or (b)(3) on an annual basis and the applicable limit for oil during the period May 1 through and including September 30.

(B) The owner or operator shall submit to the department a fuel switching plan addressing the following information:

(i) Date the plan will be implemented.

(ii) Identification of each facility to be included in the fuel switching program.

(iii) For each facility in the fuel switching program the following information:

(AA) Type of steam generating unit based on fuels used in the baseline year and the applicable emissions limit in subsection (b)(2) or (b)(3).

(BB) Fuels that will be combusted.

(CC) Emission rate for each fuel, including basis, expressed as pounds per million Btu, and the amount of heat that will be derived from each fuel, expressed as million Btu.

(DD) Period of time during the year in which each fuel shall be used.

(EE) A demonstration that the actual annual fuel Btu weighted average emissions rate shall not exceed the applicable annual emissions limit using the following equation:

Equation 2

$$EL = (E1 \times H1 + E2 \times H2 + ...)/(H1 + H2 + ...)$$

Where: EL = applicable emissions limit, expressed in pounds per million Btu.

E1, E2,... = emission rate of alternative fuels 1, 2, etc., expressed in pounds per million Btu.

H1, H2,... = amount of heat derived from alternative fuels 1, 2, etc., expressed in million Btu per year.

(FF) Monitoring and record keeping procedures.

(GG) Procedures that shall be used to demonstrate compliance with the emissions limits as follows:

(aa) Annually.

(bb) During the fuel switching period.

(3) Instead of complying with the emissions limits in subsection (b), the owner or operator of an affected source may comply with an emission limit based on an approved emissions averaging plan. Provisions applicable to emissions averaging are as follows:

(A) Emissions may be averaged between facilities located at sources in Indiana provided the following:

(i) The sources are under the control of the same owner and have the same designated representative.

(ii) The facilities in Clark or Floyd County engaging in the averaging plan achieve at least the equivalent NO_x reductions that would be achieved if each facility complied with the emissions limit in subsection (b).

(B) Emissions may be averaged only between the facilities in any category in subsection (b)(1), (b)(2), (b)(3), or (b)(5).

(C) The owner or operator of an affected source electing to comply with emissions averaging shall submit to the department an emissions averaging plan that uses 40 CFR 76.11* as a guideline, except that the compliance averaging time shall be as specified in this section.

(d) The commissioner may require verification of the emissions rates used by the owner or operator in subsection (c)(2) and (c)(3) using procedures and test methods in section 5 of this rule.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-1-4; filed May 13, 1996, 5:00 p.m.: 19 IR 2872; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Aug 26, 2004, 11:30 a.m.: 28 IR 71)*

326 IAC 10-1-5 Compliance procedures

Authority: IC 13-14-8; IC 13-17-3-4

Affected: IC 13-12

Sec. 5. Compliance with the requirements of this rule shall be demonstrated as follows:

(1) The owner or operator shall demonstrate initial compliance either by using a U.S. EPA or department certified continuous emissions monitor (CEM) or by using the test methods and procedures that follow:

(A) 326 IAC 3.

(B) 40 CFR 60*.

(2) After the date that the initial compliance with the emission limits in section 4 of this rule is demonstrated, an owner or operator who installed CEMs shall demonstrate continuous compliance using either U.S. EPA or department certified CEMs.

(3) After the date that initial compliance with the emissions limits in section 4 of this rule is demonstrated, an owner or operator who does not install continuous emissions monitors shall demonstrate compliance with the emissions limits in section 4 of this rule using test methods and procedures in 326 IAC 3 and 40 CFR 60*, if required by the department.

(4) Notwithstanding the provisions in subdivision (1) or (2), the U.S. EPA or the department may require an owner or operator to conduct compliance testing using test methods and procedures in 326 IAC 3 and 40 CFR 60*.

(5) An owner or operator shall conduct compliance tests within ninety (90) days of the receipt of a written request by the department or the U.S. EPA.

(6) All compliance tests shall be conducted according to a protocol developed following procedures in 326 IAC 3.

(7) Compliance tests shall be reported in a format following procedures in 326 IAC 3.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-1-5; filed May 13, 1996, 5:00 p.m.: 19 IR 2874; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Aug 26, 2004, 11:30 a.m.: 28 IR 73)*

326 IAC 10-1-6 Emissions monitoring

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 6. The owner or operator of a facility subject to this rule shall comply with the following emissions monitoring requirements:

(1) NO_x continuous emissions monitors (CEMs) shall be installed at the following facilities:

(A) Steam generating units, including utility and industrial, commercial, or institutional steam generating units according to the requirements of 326 IAC 3.

(B) Each portland cement long dry kiln and preheater process kiln with production capacity equal to or greater than twenty (20) tons of clinker per hour.

(C) Each facility of the type listed in section 1(a)(2) of this rule unless the owner or operator demonstrates to the satisfaction of the department that a NO_x continuous emissions monitor is not technically feasible after considering the following factors:

(i) The physical configuration and mode of operation of the facility.

(ii) The magnitude of and variability in NO_x emissions.

(iii) The type of control measures employed to achieve compliance with the emissions limits in section 4 of this rule.

An owner or operator subject to this clause shall include in the demonstration an alternate method to demonstrate initial and continuous compliance with the emissions limits.

(2) NO_x CEMs at facilities listed in subdivision (1) shall be certified according to procedures contained in 326 IAC 3 and 40 CFR 75* as applicable.

(3) Requirements that follow apply to NO_x CEMs at facilities listed in subdivision (1):

(A) Operating and maintenance procedures contained in 326 IAC 3 and 40 CFR 75* as applicable.

(B) Data recording and reporting procedures contained in 326 IAC 3 and 40 CFR 75* as applicable, except that for the purpose of the excess emissions reporting requirement in 326 IAC 3, the excess emissions reported shall be those emissions that exceed the applicable emissions limits in section 4 of this rule.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-1-6; filed May 13, 1996, 5:00 p.m.: 19 IR 2874; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Aug 26, 2004, 11:30 a.m.: 28 IR 74)*

326 IAC 10-1-7 Certification, record keeping, and reports

Authority: IC 13-14-8; IC 13-17-3-4
Affected: IC 13-12

Sec. 7. (a) Except as specifically exempted in this rule, the owner or operator of an affected source shall submit the following documents:

(1) A statement, signed by the owner or operator, certifying that the source has achieved compliance with the requirements of this rule.

(2) Emissions compliance test reports.

(3) Continuous emissions monitoring system performance evaluation reports.

(b) In addition to complying with the specific record keeping requirements of other sections of this rule, the owner or operator of an affected source shall comply with the following record keeping requirements:

(1) Records shall be maintained for three (3) years.

(2) Records required by this rule shall be submitted to the department or the U.S. EPA within thirty (30) days of receipt of a written request.

(c) A source subject to this rule shall notify the department at least thirty (30) days prior to the addition or modification of a facility that may result in a potential increase in NO_x emissions.

(d) The owner or operator of an affected source may comply with the reporting requirement of this rule by submitting to the department a substitute report. A substitute report is a report that satisfies an applicable state or federal reporting requirement and contains the information required to be submitted by this rule. *(Air Pollution Control Board; 326 IAC 10-1-7; filed May 13, 1996, 5:00 p.m.: 19 IR 2875)*

Rule 2. (Reserved)

Rule 3. Nitrogen Oxide Reduction Program for Specific Source Categories

326 IAC 10-3-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to any of the following:

(1) Portland cement kiln with process rates equal to or greater than:

(A) long dry kilns of twelve (12) tons per hour (tph);

(B) long wet kilns of ten (10) tph;

(C) preheater kilns of sixteen (16) tph; or

(D) precalciner and combined preheater and precalciner kilns of twenty-two (22) tph.

(2) The following affected boilers:

Source	Point ID	Unit
(A) Bethlehem Steel Corporation	075	Boiler #7
	076	Boiler #8
	077	Boiler #9
	078	Boiler #10
	079	Boiler #11
	080	Boiler #12
(B) LTV Steel Company	020	Boiler #4
	021	Boiler #5
	022	Boiler #6
	023	Boiler #7
	024	Boiler #8

(3) Any other blast furnace gas fired boiler with a heat input greater than two hundred fifty million (250,000,000) British

thermal units per hour that is not subject to 326 IAC 10-4 or 326 IAC 24-3.

(b) A unit subject to this rule and a New Source Performance Standard (NSPS), a National Emission Standard for Hazardous Air Pollutants, or an emission limit established under 326 IAC 2 shall comply with the limitations and requirements of the more stringent rule. For a unit subject to this rule and 326 IAC 10-1, compliance with the emission limits in section 3(a)(1)(A) of this rule during the ozone control period shall be deemed to be compliance with the emission limits in 326 IAC 10-1-4(b)(1) during the ozone control period, and such limits shall supersede those in 326 IAC 10-1-4(b)(1) during the ozone control period.

(c) The monitoring, record keeping, and reporting requirements under sections 4 and 5 of this rule shall not apply to a unit that opts into the NO_x budget trading program under 326 IAC 10-4 or 326 IAC 24.

(d) The requirements of this rule shall not apply to the specific units subject to this rule during startup and shutdown periods and periods of malfunction.

(e) During periods of blast furnace reline, startup, and period of malfunction, the affected boilers shall not be required to meet the requirement to derive fifty percent (50%) of the heat input from blast furnace gas. *(Air Pollution Control Board; 326 IAC 10-3-1; filed Aug 17, 2001, 3:45 p.m.: 25 IR 14; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3550; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 10-3-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this rule unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Blast furnace gas fired" means deriving at least fifty percent (50%) of its total heat input from the combustion of blast furnace gas during the ozone control period.

(2) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.

(3) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(4) "Continuous emission monitoring system" or "CEMS" means the total equipment necessary for the determination of a gas or particulate matter concentration or emission rate using pollutant analyzer measurements and a conversion equation, graph, or computer program to produce results in units of the applicable emission limitation or standard.

(5) "Long dry kiln" means a Portland cement kiln fourteen (14) feet or larger in diameter and four hundred (400) feet or greater in length that employs no preheating of the feed. The inlet feed to the kiln is dry.

(6) "Long wet kiln" means a Portland cement kiln fourteen (14) feet or larger in diameter and four hundred (400) feet or greater in length that employs no preheating of the feed. The inlet feed to the kiln is a slurry.

(7) "Low-NO_x burners" means a type of cement kiln burner system designed to lower NO_x formation by controlling flame turbulence, delaying fuel/air mixing, and establishing fuel-rich zones for initial combusting, that for firing of solid fuel by a kiln's main burner includes an indirect firing system or comparable technique for the main burner to lower the amount of primary combustion air supplied with the pulverized fuel. In an indirect firing system, one (1) air stream is used to convey pulverized fuel from the grinding equipment and another air stream is used to supply primary combustion air to the kiln burner with the pulverized fuel, with intermediate storage of the fuel.

(8) "Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(9) "Mid-kiln firing" means the secondary firing in a kiln system by injecting solid fuel at an intermediate point in the kiln system using a specially designed feed injection mechanism for the purpose of decreasing NO_x emissions through:

(A) burning part of the fuel at a lower temperature; and

(B) reducing conditions at the fuel injection point that may destroy some of the NO_x formed upstream in the kiln system.

(10) "Ozone control period" means the period as follows:

(A) For 2004, beginning May 31 and ending on September 30, inclusive.

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year,

inclusive.

(11) "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one (1) or more of the forms of calcium sulfate as an interground addition.

(12) "Portland cement kiln" means a system, including any solid, gaseous, or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

(13) "Precalciner kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and a second burner is used to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln that forms clinker.

(14) "Preheater kiln" means a Portland cement kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln that forms clinker.

(15) "Semi-dry pre-calciner kiln" means a kiln where the inlet feed to the kiln system is a wet slurry. The wet slurry is subsequently processed in an integrated system consisting of a dryer and a separately fired pre-calciner, which in combination, dries the excess moisture from the feed stream (using only exhaust gases from the pre-calciner and kiln), and calcines the resulting dried material before introduction into the rotary kiln. The final fusion in the kiln forms the clinker.

(16) "Shutdown" means the cessation of operation of a Portland cement kiln or affected boiler for any purpose.

(17) "Startup" means the setting in operation of a Portland cement kiln or affected boiler for any purpose.

(Air Pollution Control Board; 326 IAC 10-3-2; filed Aug 17, 2001, 3:45 p.m.: 25 IR 15)

326 IAC 10-3-3 Emissions limits

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. (a) After May 31, 2004, an owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during the ozone control period of each year unless the owner or operator complies with one (1) of the following:

(1) Operation of the kiln with one (1) of the following:

(A) Low-NO_x burners.

(B) Mid-kiln firing.

(2) A limit on the amount of NO_x emitted when averaged over the ozone control period as follows:

(A) For long wet kilns, six (6) pounds of NO_x per ton of clinker produced.

(B) For long dry kilns, five and one-tenth (5.1) pounds of NO_x per ton of clinker produced.

(C) For preheater kilns, three and eight-tenths (3.8) pounds of NO_x per ton of clinker produced.

(D) For precalciner and combined preheater and precalciner kilns, two and eight-tenths (2.8) pounds of NO_x per ton of clinker produced.

(3) Installation and use of alternative control techniques that may include kiln system modifications, such as conversions to semi-dry precalciner kiln processing, subject to department and U.S. EPA approval, that achieve a thirty percent (30%) emissions decrease from baseline ozone control period emissions. Baseline emissions shall be the average of the sum of ozone control period emissions for the two (2) highest emitting years from 1995 through 2000 determined in accordance with subsection (d)(1).

(b) The owner or operator of any Portland cement kiln proposing to install and use an alternative control technique under subsection (a)(3) shall submit the proposed alternative control technique and calculation of baseline emissions with supporting documentation to the department and U.S. EPA for approval by May 1, 2003. The department shall include the approved plan with emission limitations in the source's operating permit.

(c) The owner or operator of any affected boiler subject to this rule shall limit NO_x emissions to seventeen-hundredths (0.17) pound of NO_x per million Btus (lb/MMBtu) of heat input averaged over the ozone control period and ensure that greater than fifty percent (50%) of the heat input shall be derived from blast furnace gas averaged over an ozone control period. By May 1, 2003, the owner or operator of an affected boiler shall submit to the department a compliance plan for approval by the department and U.S. EPA including the following:

(1) Baseline stack test data, or proposed testing, for establishment of fuel specific emission factors, or the emission factors for the type of boiler from the Compilation of Air Pollutant Emission Factors (AP-42), as defined at 326 IAC 1-1-3.5 for each fuel to be combusted. The fuel specific emission factor shall be developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E*, based on a range of typical operating conditions. The owner or operator must:

(A) establish that these operating conditions are representative, subject to approval by the department; and

(B) must certify that the emissions testing is being conducted under representative conditions.

(2) Anticipated fuel usage and combination of fuels.

(3) If desired by the source, a proposal for averaging the emission limit and fuel allocation among commonly owned units, including the proposed methodology for determining compliance.

(d) Baseline ozone control period emissions shall be determined using one (1) of the following methods:

(1) The average of the emission factors for the type of kiln from the Compilation of Air Pollutant Emission Factors (AP-42), Fifth Edition, January 1995*, Supplements A through G, December 2000* and the NO_x Control Technologies for the Cement Industry, Final Report, September 19, 2000*.

(2) The site-specific emission factor developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E*, based on a range of typical operating conditions. The owner or operator must:

(A) establish that these operating conditions are representative, subject to approval by the department; and

(B) certify that the emissions testing is being conducted under representative conditions.

(3) An alternate method for establishing the emissions factors, when submitted with supporting data to substantiate such emissions factors and approved by the department and U.S. EPA as set forth in subsection (b).

(4) For affected boilers, as outlined in the site-specific compliance plan submitted under subsection (c).

*These documents are incorporated by reference and may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-3-3; filed Aug 17, 2001, 3:45 p.m.: 25 IR 16; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1876)*

326 IAC 10-3-4 Monitoring and testing requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 4. (a) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall operate and maintain the device according to a preventative maintenance plan prepared in accordance with 326 IAC 1-6-3.

(b) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln complying with section 3(a)(2) or 3(a)(3) of this rule shall monitor NO_x emissions during the ozone control period of each year using a NO_x CEMS in accordance with 40 CFR 60, Subpart A* and 40 CFR 60, Appendix B*, and comply with the quality assurance procedures specified in 40 CFR 60, Appendix F* and 326 IAC 3, as applicable.

(c) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of an affected boiler or commonly owned affected boilers shall monitor fuel usage and percentage of heat input derived from each fuel combusted to demonstrate that greater than fifty percent (50%) of the heat input is derived from blast furnace gas.

*These documents are incorporated by reference and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-3-4; filed Aug 17, 2001, 3:45 p.m.: 25 IR 16)*

326 IAC 10-3-5 Record keeping and reporting

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. (a) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln or affected boiler shall comply with the following record keeping and reporting requirements:

(1) An owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall create and maintain records that include, but are not limited to, the following:

(A) All routine and nonroutine maintenance, repair, or replacement performed on the device or devices.

(B) The date, time, and duration of any startup, shutdown, or malfunction in the operation of a kiln or the device or

devices.

(2) An owner or operator of a Portland cement kiln complying with section 3(a)(2) or 3(a)(3) of this rule or an affected boiler shall create and maintain records that include, but are not limited to, the following:

(A) For Portland cement kilns, the following:

(i) Emissions, in pounds of NO_x per ton of clinker produced from each affected Portland cement kiln.

(ii) Daily clinker production records.

(B) For affected boilers, daily records of the fuel usage, including percentages of different fuels combusted and heat input derived from each fuel, including the following:

(i) Type of fuel used.

(ii) Quantity of fuel used.

(iii) Fuel specific emission factor (lbs/million cubic feet (mmcft) gas or lbs/1,000 gal oil).

(iv) Fuel specific heat content (mmBtu/1,000 gal for oil or mmBtu/mmcft for gas).

(v) Emissions in lb/mmBtu.

(C) The date, time, and duration of any startup, shutdown, or malfunction in the operation of any of the Portland cement kilns, affected boilers, or the emissions monitoring equipment.

(D) The results of any performance testing.

(E) If a unit is equipped with a CEMS, identification of time periods:

(i) during which NO_x standards are exceeded, the reason for the exceedance, and action taken to correct the exceedance and to prevent similar future exceedances; and

(ii) for which operating conditions and pollutant data were not obtained including reasons for not obtaining sufficient data and a description of corrective actions taken.

(F) All records required to be produced or maintained shall be retained on site for a period of five (5) years. The records shall be made available to the department or the U.S. EPA upon request.

(b) By May 31, 2004, the owner or operator of a Portland cement kiln shall submit to the department the following information:

(1) The identification number and type of each unit subject to this rule.

(2) The name and address of the plant where the unit is located.

(3) The name and telephone number of the person responsible for demonstrating compliance with this rule.

(4) Anticipated control measures, if any.

(c) The owner or operator of a Portland cement kiln subject to this rule shall submit a report documenting for that unit the total NO_x emissions and the average NO_x emission rate for the ozone control period of each year to the department by October 31, beginning in 2004 and each year thereafter. For Portland cement kilns complying with section 3(a)(1) of this rule, estimated emissions and emission rate shall be determined in accordance with section 3(d) of this rule or from CEMS data, if a Portland cement kiln is equipped with a CEMS as of the effective date of this rule.

(d) The owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall include a certification with the report under subsection (c) that the control technology was installed, operated, and maintained in accordance with this rule.

(e) The owner or operator of an affected boiler subject to this rule shall submit a report to the department documenting compliance with all applicable requirements of this rule in accordance with its site specific compliance plan detailed under section 3(c) of this rule for the ozone control period of each year by October 31, beginning in 2004 and each year thereafter. *(Air Pollution Control Board; 326 IAC 10-3-5; filed Aug 17, 2001, 3:45 p.m.: 25 IR 17)*

326 IAC 10-3-6 Violations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 6. For purposes of determining the number of days of violations, if a Portland cement kiln or affected boiler has excess emissions for an ozone control period, each day in the ozone control period constitutes a day in violation unless the owners and operators demonstrate that a lesser number of days should be considered. *(Air Pollution Control Board; 326 IAC 10-3-6; filed Aug 17, 2001, 3:45 p.m.: 25 IR 18)*

Rule 4. Nitrogen Oxides Budget Trading Program

326 IAC 10-4-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule establishes a NO_x emissions budget and NO_x trading program for electricity generating units and large affected units as described in this rule. The following units shall be NO_x budget units, and any source that includes one (1) or more NO_x budget units shall be a NO_x budget source and shall be subject to the requirements of this rule:

(1) An electricity generating unit (EGU) as defined under section 2(16) of this rule.

(2) A large affected unit as defined in section 2(27) of this rule.

(b) A unit described under subsection (a) shall not be a NO_x budget unit if the unit has a federally enforceable permit that meets the requirements of subdivisions (1) and (2) as follows:

(1) The federally enforceable permit includes terms and conditions that restrict the:

(A) unit to burning only natural gas or fuel oil during the ozone control period in 2004 or the first year of operation for the source and each ozone control period thereafter; and

(B) unit's potential NO_x mass emissions for the ozone control period to twenty-five (25) tons or less.

(2) For each ozone control period, the federally enforceable permit must do the following:

(A) Restrict the unit to burning only natural gas or fuel oil during an ozone control period in 2004 or later and each ozone control period thereafter.

(B) Include one (1) of the following mechanisms for ensuring that the unit's ozone control period NO_x emissions do not exceed twenty-five (25) tons:

(i) Limit the unit's total actual control period emissions to twenty-five (25) tons of NO_x emissions, measured by a continuous emissions monitoring system (CEMS) in accordance with 40 CFR 75, Subpart H* and section 12 of this rule or monitoring approved under 40 CFR 75, Appendix E*.

(ii) Restrict the unit's fuel use and operating hours to the number calculated by dividing twenty-five (25) tons of potential NO_x mass emissions by the unit's maximum potential hourly NO_x mass emissions, where the unit's potential NO_x mass emissions shall be calculated as follows:

(AA) Select the default NO_x emission rate in 40 CFR 75.19(c), Table LM-2* that would otherwise be applicable assuming that the unit burns only the type of fuel, for example, only natural gas or only fuel oil, that has the highest default NO_x emission factor of any type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Multiply the default NO_x emission rate under subitem (AA) by the unit's maximum rated hourly heat input. The owner or operator of the unit may petition the department to use a lower value for the unit's maximum rated hourly heat input than the value as defined under section 2(25) of this rule. The department may approve the lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative, and that the lower value is representative of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently.

(iii) Restrict the unit's usage of each fuel that it is authorized to burn such that the unit's potential NO_x mass emissions will not exceed twenty-five (25) tons per ozone control period, calculated as follows:

(AA) Identify the default NO_x emission rate in 40 CFR 75.19(c), Table LM-2* or an alternative emission rate determined in accordance with 40 CFR 75.19(c)(1)(iv)* for each type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Identify the amount of each type of fuel (in MMBtu) that the unit burned during the ozone control period.

(CC) For each type of fuel identified in subitem (BB), multiply the default NO_x emission rate under subitem (AA) and the amount (in MMBtu) of the fuels burned by the unit during the ozone control period.

(DD) Sum the products in subitem (CC) to verify that the unit's NO_x emissions were equal to or less than twenty-five (25) tons.

(C) Require that the owner or operator of the unit shall retain records, on site at the source or at a central location within Indiana for those owner or operators with unattended sources that includes the unit for a period of five (5) years, demonstrating that the terms and conditions of the permit related to these restrictions were met. Records retained at a

central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA within three (3) business days following receipt of a written request. Nothing in this clause shall alter the record retention requirements for a source under 40 CFR 75*.

(D) Require that the owner or operator of the unit shall report the unit's fuel use and hours of operation, treating any partial hour of operation as a whole hour of operation, or such other parameter as is being used to demonstrate compliance with the twenty-five (25) ton per ozone control period during each ozone control period to the department by November 1 of each year for which the unit is subject to the federally enforceable permit.

The unit shall be subject only to the requirements of this subsection starting with the effective date of the federally enforceable permit under subdivision (1).

(3) Within thirty (30) days after a final decision, the department shall notify the U.S. EPA in writing when a unit under subsection (a):

(A) is issued a federally enforceable permit under this subsection; or

(B) whose federally enforceable permit issued by the department under this subsection:

(i) is revised to remove any restriction;

(ii) includes any restriction that is no longer applicable; or

(iii) does not comply with any restriction.

(4) A unit described under this subsection shall be a NO_x budget unit subject to the requirements of this rule if one (1) of the following occurs for any ozone control period:

(A) The fuel use restriction under subdivision (2)(A) or the applicable restriction under subdivision (2)(B) is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable.

(B) The unit does not comply with the fuel use restriction under subdivision (3)(A) or the applicable restriction under subdivision (2)(B).

The unit shall be treated as commencing operation and, for a unit under subsection (a)(1), commencing commercial operation on September 30 of the ozone control period for which the fuel use restriction or the applicable restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the applicable restriction.

(5) A unit exempt under this subsection shall comply with the restriction in subdivision (2) during the ozone control period in each year.

(6) The department will allocate NO_x allowances to the unit under section 9(d) of this rule. For each control period for which the unit is allocated NO_x allowances under section 9(d) of this rule:

(A) the owners or operators of the unit must specify a general account, in which U.S. EPA will record the NO_x allowances; and

(B) after U.S. EPA records the NO_x allowance allocation under section 9(d) of this rule, the U.S. EPA will deduct, from the general account in clause (A), NO_x allowances that:

(i) are allocated for the same or a prior ozone control period as the NO_x allowances allocated under section 9(d) of this rule; and

(ii) equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under this subsection is based.

The NO_x authorized account representative shall ensure that the general account contains the NO_x allowances necessary for completion of the deduction.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-1; filed Aug 17, 2001, 3:45 p.m.: 25 IR 18; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3551; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1877)*

326 IAC 10-4-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this

rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account certificate of representation" means the completed and signed submission required by section 6 of this rule for certifying the designation of a NO_x authorized account representative for a NO_x budget source or a group of identified NO_x budget sources who is authorized to represent the owners or operators of the source or sources and of the NO_x budget units at the source or sources with regard to matters under the NO_x budget trading program.

(2) "Account number" means the identification number given by the U.S. EPA to each NO_x allowance tracking system account.

(3) "Acid rain emissions limitation" means, as defined in 40 CFR 72.2*, a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program under Title IV of the Clean Air Act (CAA).

(4) "Allocate" or "allocation" means the determination by the department or the U.S. EPA of the number of NO_x allowances to be initially credited to a NO_x budget unit or an allocation set-aside.

(5) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under 40 CFR 75, Subpart H*, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by 40 CFR 75, Subpart H*.

(6) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.

(7) "Combined cycle system" means a system comprised of one (1) or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(9) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of commercial operation.

(10) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, startup of a unit's combustion chamber subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of operation.

(11) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(12) "Compliance account" means a NO_x allowance tracking system account, established by the U.S. EPA for a NO_x budget unit under section 10 of this rule, in which the NO_x allowance allocations for the unit are initially recorded and in which are held NO_x allowances available for use by the unit for an ozone control period for the purpose of meeting the unit's NO_x budget emissions limitation.

(13) "Compliance certification" means a submission to the department or the U.S. EPA, as appropriate, that is required under section 8 of this rule to report a NO_x budget source's or a NO_x budget unit's compliance or noncompliance with this rule and that is signed by the NO_x authorized account representative in accordance with section 6 of this rule.

(14) "Continuous emission monitoring system" or "CEMS" means the equipment required under 40 CFR 75, Subpart H* to sample, analyze, measure, and provide, by means of readings taken at least once every fifteen (15) minutes using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides (NO_x) emissions, stack gas volumetric flow rate or stack gas moisture content (as applicable), in a manner consistent with 40 CFR 75*. The following are the principal types of continuous emission monitoring systems required under section 12 of this rule:

(A) A flow monitoring system, consisting of a stack flow rate monitor and an automated DAHS. A flow monitoring system provides a permanent, continuous record of stack gas volumetric flow rate, in units of standard cubic feet per hour (scfh).

(B) A nitrogen oxides concentration monitoring system, consisting of a NO_x pollutant concentration monitor and an automated DAHS. A NO_x concentration monitoring system provides a permanent, continuous record of NO_x emissions in units of parts per million (ppm).

(C) A nitrogen oxides emission rate (or NO_x-diluent) monitoring system, consisting of:

(i) a NO_x pollutant concentration monitor;

(ii) a diluent gas (CO_2 or O_2) monitor; and

(iii) an automated DAHS.

A NO_x concentration monitoring system provides a permanent, continuous record of NO_x concentration in units of parts per million (ppm) and diluent gas concentration in units of percent O_2 or CO_2 (percent O_2 or CO_2) and NO_x emission rate in units of pounds per million British thermal units.

(D) A moisture monitoring system is required by 40 CFR 75, Subpart H*. A moisture monitoring system provides a permanent, continuous record of the stack gas moisture content, in units of percent H_2O (percent H_2O).

(E) An automated data acquisition and handling system.

(15) "Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

(16) "Electricity generating unit" or "EGU" means the following:

(A) For units other than cogeneration units commencing operation:

(i) before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid;

(ii) on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity greater than twenty-five (25) megawatts and producing electricity for sale under a firm contract to the electric grid; or

(iii) on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than twenty-five (25) megawatts and produces electricity for sale.

(B) For cogeneration units commencing operation:

(i) before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit for 1995 or 1996 under the acid rain program;

(ii) in 1997 or 1998, a unit serving a generator during 1997 or 1998 with a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit for 1997 or 1998 under the acid rain program; or

(iii) on or after January 1, 1999, a unit serving at any time as a generator with a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit under the acid rain program for any year.

(17) "Emissions", for the purpose of this rule, means nitrogen oxides exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

(18) "Energy efficiency or renewable energy projects" means any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity or steam generation for the predominant use of a single end- user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed the following thresholds:

(i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).

(iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).

(iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, and hydropower projects. Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed before September 16, 2001.

(D) Energy efficiency projects generating electricity through the capture of methane gas from municipal solid waste landfills, water treatment plants, sewage treatment plants, or anaerobic digestion systems operating on animal or plant wastes.

(E) The installation of highly efficient electricity generation equipment for the sale of power where such equipment replaces or displaces retired electrical generating units. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

(i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).

(ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).

(F) Improvements to existing fossil fuel fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity.

(G) The installation of integrated gasification combined cycle equipment for producing electricity for sale.

(H) Renewable energy projects that displace some portion of the combustion of coal, natural gas, or oil through the use of solar energy or methane from landfills, water treatment plants, sewage treatment plants, or anaerobic digestion systems on animal or plant wastes and reduce NO_x emissions.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

(19) "Energy Information Administration" means the Energy Information Administration of the United States Department of Energy.

(20) "Excess emissions" means any tonnage of NO_x emitted by a NO_x budget unit during an ozone control period that exceeds the NO_x budget emissions limitation for the unit.

(21) "Fossil fuel" means any of the following:

(A) Natural gas.

(B) Petroleum.

(C) Coal.

(D) Any form of solid, liquid, or gaseous fuel derived from the above material.

(22) "Fossil fuel-fired" means, with regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(A) Fossil fuel actually combusted comprises more than fifty percent (50%) of the annual heat input on a British thermal unit (Btu) basis during any year starting in 1995. If a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995.

(B) Fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input on a Btu basis during any year, provided that the unit shall be fossil fuel-fired as of the date, during the year, that the unit begins combusting fossil fuel.

(23) "General account" means a NO_x allowance tracking system account, established under section 10 of this rule, that is not a compliance account or an overdraft account.

(24) "Generator" means a device that produces electricity.

(25) "Heat input" means the product, in million British thermal units per unit of time (MMBtu/time), of the following:

(A) The gross calorific value of the fuel, in British thermal units per pound (Btu/lb).

(B) The fuel feed rate into a combustion device, in mass of fuel per unit of time (lb/time), as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

Heat input does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(26) "Heat input rate" means the amount of heat input (in MMBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in MMBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

(27) "Large affected unit" means the following for units that commenced operation:

(A) For units other than cogeneration units, the following:

(i) Before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(ii) On or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.

(iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour that:

(AA) at no time serves a generator producing electricity for sale; or

(BB) at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five (25) megawatts or less and has the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit.

(B) For cogeneration units commencing operation, the following:

(i) Before January 1, 1997, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1995 and 1996.

(ii) In 1997 or 1998, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1997 and 1998.

(iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for each year.

The term does not include a unit subject to 326 IAC 10-3.

(28) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of the unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period equal to or greater than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(29) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(30) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. The unit may use either of the following:

(A) 40 CFR 75, Appendix D* to report heat input. Calculate this value in accordance with 40 CFR 75*, using the maximum fuel flow rate and the maximum gross calorific value.

(B) A flow monitor and a diluent gas monitor. Report this value in accordance with 40 CFR 75*, using the maximum potential flow rate and either of the following:

(i) The maximum carbon dioxide (CO_2) concentration, in percent of CO_2.

(ii) The minimum oxygen (O_2) concentration, in percent of O_2.

(31) "Maximum potential NO_x emission rate" means:

(A) the emission rate of nitrogen oxides, in pounds per million British thermal units (lb/MMBtu);

(B) calculated in accordance with 40 CFR 75, Appendix F, Section 3*;

(C) using the maximum potential nitrogen oxides concentration as defined in 40 CFR 75, Appendix A, Section 2*; and

(D) either the:

(i) maximum oxygen (O_2) concentration in percent of O_2; or

(ii) minimum carbon dioxide (CO_2) concentration in percent of CO_2;

under all operating conditions of the unit except for unit start up, shutdown, and upsets.

(32) "Maximum rated hourly heat input" means a unit-specific maximum hourly heat input, in million British thermal units (MMBtu), that is the higher of either the manufacturer's maximum rated hourly heat input or the highest observed hourly heat

input.

(33) "Monitoring system" means any monitoring system that meets the requirements of 40 CFR 75, Subpart H*, including the following:

(A) A continuous emissions monitoring system.

(B) An excepted monitoring system under 40 CFR 75.19* or 40 CFR 75, Appendix D or E*.

(C) An alternative monitoring system.

(34) "Most stringent state or federal NO_x emissions limitation" means the lowest NO_x emissions limitation, in terms of pounds per million British thermal units (lb/MMBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(35) "Nameplate capacity" means the maximum electrical generating output, in megawatt electrical (MWe), that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(36) "Nontitle V permit" means a federally enforceable permit issued by the department under 326 IAC 2-8.

(37) "NO_x allowance" means an authorization by the department or the U.S. EPA under the nitrogen oxides (NO_x) budget trading program to emit up to one (1) ton of NO_x during the ozone control period of the specified year or of any year thereafter, except as provided in section 14(b) of this rule. The term also includes an authorization to emit up to one (1) ton of nitrogen oxides during the ozone control period of the specified year or of any year thereafter by the U.S. EPA under 40 CFR 97* or by a permitting authority in accordance with a state NO_x budget trading program established pursuant to 40 CFR 51.121* and approved and administered by the U.S. EPA.

(38) "NO_x allowance deduction" or "deduct NO_x allowances" means the permanent withdrawal of NO_x allowances by the U.S. EPA from a NO_x allowance tracking system compliance account or overdraft account to account for the number of tons of NO_x emissions from a NO_x budget unit for an ozone control period, determined in accordance with 40 CFR 75, Subpart H* and section 12 of this rule, or for any other allowance surrender obligation under this rule.

(39) "NO_x allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of NO_x allowances under the NO_x budget trading program.

(40) "NO_x allowance tracking system account" means an account in the NO_x allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of NO_x allowances.

(41) "NO_x allowance transfer deadline" means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO_x allowances may be submitted for recordation in a NO_x budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO_x budget emissions limitation for the ozone control period immediately preceding the deadline.

(42) "NO_x allowances held" or "hold NO_x allowances" means the NO_x allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 10 and 11 of this rule, in a NO_x allowance tracking system account.

(43) "NO_x authorized account representative" means either of the following:

(A) For a NO_x budget source or NO_x budget unit at the source, the natural person who is authorized by the owners or operators of the source and all NO_x budget units at the source, in accordance with section 6 of this rule, to represent and legally bind each owner or operator in matters pertaining to the NO_x budget trading program.

(B) For a general account, the natural person who is authorized, in accordance with section 10 of this rule, to transfer or otherwise dispose of NO_x allowances held in the general account.

(44) "NO_x budget emissions limitation" means, for a NO_x budget unit, the tonnage equivalent of the NO_x allowances available for compliance deduction for the unit and for an ozone control period under sections 10(i) and 10(k) of this rule, adjusted by any deductions of the NO_x allowances for any of the following reasons:

(A) To account for:

(i) excess emissions for a prior ozone control period under section 10(k)(5) of this rule; or

(ii) withdrawal from the NO_x budget trading program.

(B) For a change in regulatory status, for a NO_x budget opt-in source under section 13(g) through 13(i) of this rule.

(45) "NO_x budget opt-in permit" means a NO_x budget permit covering a NO_x budget opt-in source.

(46) "NO_x budget opt-in source" means a source that includes one (1) or more NO_x budget units:

(A) that has elected to become a NO_x budget source under the NO_x budget trading program; and

(B) whose NO_x budget opt-in permit has been issued and is in effect under section 13 of this rule.

(47) "NO_x budget permit" means the legally binding and federally enforceable written document or portion of the document:

(A) issued by the department under this rule, including any permit revisions; and

(B) specifying the NO_x budget trading program requirements applicable to the following:

(i) A NO_x budget source.

(ii) Each NO_x budget unit at the NO_x budget source.

(iii) The owners or operators and the NO_x authorized account representative of the NO_x budget source and each NO_x budget unit.

(48) "NO_x budget source" means a source that includes one (1) or more NO_x budget units.

(49) "NO_x budget trading program" means a multistate nitrogen oxides air pollution control and emission reduction program established in accordance with this rule, 40 CFR 97*, and a state NO_x budget trading program established pursuant to 40 CFR 51.121*and approved and administered by the U.S. EPA as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(50) "NO_x budget unit" means a unit that is subject to the NO_x budget emissions limitation under section 1(a) or 13(a) of this rule.

(51) "Operating" means, with regard to a unit under sections 7(c)(4)(B) and 13(a) of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO_x budget permit under section 13(d) of this rule.

(52) "Operator" means any person who operates, controls, or supervises a NO_x budget unit, a NO_x budget source, or a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of a unit or source.

(53) "Opt-in" means to elect to become a NO_x budget unit under the NO_x budget trading program through a final, effective NO_x budget opt-in permit under section 13 of this rule.

(54) "Overdraft account" means the NO_x allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO_x budget source where there are two (2) or more NO_x budget units.

(55) "Owner" means any of the following persons:

(A) Any holder of:

(i) any portion of the legal or equitable title; or

(ii) a leasehold interest;

in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(B) Any purchaser of power from a NO_x budget unit or from a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x budget unit or the unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(C) With respect to any general account, any person who has an ownership interest with respect to the NO_x allowances held in the general account and who is subject to the binding agreement for the NO_x authorized account representative to represent that person's ownership interest with respect to NO_x allowances.

(56) "Ozone control period" means the period as follows:

(A) For 2004, beginning May 31 and ending on September 30, inclusive.

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(57) "Percent monitor data availability" means, for purposes of sections 13(e)(2) and 15(b)(1)(D) of this rule, total unit operating hours for which quality-assured data were recorded under 40 CFR 75, Subpart H* and section 12 of this rule in a control period, divided by the total number of unit operating hours per control period, and multiplied by one hundred percent (100%).

(58) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input.

(59) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four

hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$Eff\% = (NEO + UTO)/GEI$$

Where:
- Eff% = Rated energy efficiency.
- NEO = Net electrical output of the system converted to British thermal units per unit of time.
- UTO = Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.
- GEI = Gross energy input, based upon the higher heating value of fuel, per unit of time.

(60) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in writing or by authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(61) "Recordation", "record", or "recorded" means, with regard to NO_x allowances, the movement of NO_x allowances by the U.S. EPA from one (1) NO_x allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

(62) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 60, Appendix A*.

(63) "Repowered natural gas-fired generating unit" means an electricity generating unit that is fueled by natural gas and provides steam to a generation turbine that was previously served by a coal-fired unit that was retired in 2000 or later.

(64) "Serial number" means, when referring to NO_x allowances, the unique identification number assigned to each NO_x allowance by the U.S. EPA, under section 10(e) through 10(g) of this rule.

(65) "Source" means any governmental, institutional, commercial, or industrial:

(A) structure;
(B) installation;
(C) plant;
(D) building; or
(E) facility;

that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

(66) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(A) in person;
(B) by United States Postal Service; or
(C) by other means of dispatch or transmission and delivery.

Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(67) "Title V operating permit" means a permit issued under 326 IAC 2-7.

(68) "Title V operating permit regulations" means the rules under 326 IAC 2-7.

(69) "Ton" or "tonnage" means any short ton, two thousand (2,000) pounds. For the purpose of determining compliance with the NO_x budget emissions limitation, total tons for an ozone control period shall be calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with 40 CFR 75, Subpart H*, with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) ton deemed to equal one (1) ton and any fraction of a ton less than fifty-hundredths (0.50) ton deemed to equal zero (0) tons.

(70) "Trading program budget" means the total number of NO_x tons apportioned to all NO_x budget units, in accordance with the NO_x budget trading program, for use in a given ozone control period.

(71) "Unit" means a fossil fuel-fired:

(A) stationary boiler;
(B) combustion turbine; or
(C) combined cycle system.

(72) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(73) "Unit operating hour" or "hour of unit operation" means any hour, or fraction of an hour, during which a unit combusts

any fuel.

(74) "United States Environmental Protection Agency" or "U.S. EPA" means the administrator of the U.S. EPA or the administrator's duly authorized representative. The department authorizes the U.S. EPA to assist the department in implementing this rule by carrying out the functions set forth for the U.S. EPA in this rule.

(75) "Utilization" means the heat input, expressed in million British thermal units per unit of time, for a unit. The unit's total heat input for the ozone control period in each year shall be:

(A) determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year; or

(B) based on the best available data reported to the U.S. EPA for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-2; filed Aug 17, 2001, 3:45 p.m.: 25 IR 19; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3552; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1879; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 10-4-3 Retired unit exemption

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. (a) This section applies to any NO_x budget unit, other than a NO_x budget opt-in source, that is permanently retired.

(b) Any NO_x budget unit, other than a NO_x budget opt-in source, that is permanently retired shall be exempt from the NO_x budget trading program, except for the provisions of this section and sections 1, 2, 5, and 9 through 11 of this rule.

(c) An exemption under this section shall become effective the day on which the unit is permanently retired. Within thirty (30) days of permanent retirement, the NO_x authorized account representative, authorized in accordance with section 6 of this rule, shall submit a notice to the department and the U.S. EPA. The notice shall state, in a format prescribed by the department, that the unit:

(1) is permanently retired; and

(2) shall comply with the requirements of subsection (e).

(d) After receipt of the notice under subsection (c), the department shall amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

(2) The owners or operators of the unit shall be allocated allowances in accordance with section 9 of this rule. For each ozone control period for which the unit is allocated one (1) or more NO_x allowances, the owners or operators of the unit shall specify a general account, in which U.S. EPA will record the NO_x allowances.

(3) If the unit is located at a source that is required or, but for this exemption, would be required to have an operating permit under 326 IAC 2-7, the unit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x budget permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days prior to the later of:

(A) May 31, 2004; or

(B) the date on which the unit is to first resume operation.

(4) If the unit is located at a source that is required or, but for this exemption, would be required to have a FESOP permit under 326 IAC 2-8, the unit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x budget permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days prior to the later of:

(A) May 31, 2004; or

(B) the date on which the unit is to first resume operation.

(5) The owners or operators and, to the extent applicable, the NO_x authorized account representative shall comply with the requirements of the NO_x budget trading program concerning all periods for which the exemption is not in effect, even if the requirements arise, or must be complied with, after the exemption takes effect.

(6) A unit that is exempt under this section is not eligible to be a NO_x budget opt-in unit under section 13 of this rule.

(7) The owners or operators shall retain records at the source, or at a central location within Indiana for those owners or operators with unattended sources, demonstrating that the unit is permanently retired for a period of five (5) years. The five (5) year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the department or the U.S. EPA. The owners or operators bear the burden of proof that the unit is permanently retired. Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA within three (3) business days following receipt of a written request. Nothing in this subdivision shall alter the record retention requirements for a source under 40 CFR 75*.

(8) A unit exempt under subsection (b) shall lose its exemption on the earlier of the date on which the:

(A) NO_x authorized account representative:

(i) submits a NO_x budget permit application under subdivision (3) or (4); or

(ii) is required under subdivision (3) or (4) to submit a NO_x budget permit application; or

(B) unit resumes operation, if the unit is not required to submit a permit application for NO_x.

For the purpose of applying monitoring requirements under 40 CFR 75, Subpart H*, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-3; filed Aug 17, 2001, 3:45 p.m.: 25 IR 25; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1885)*

326 IAC 10-4-4 Standard requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 4. (a) The owners, operators, and NO_x authorized account representative of each NO_x budget source shall comply with the following permit requirements:

(1) The NO_x authorized account representative of each NO_x budget source required to have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall submit the following:

(A) A complete NO_x budget permit application under section 7(c) of this rule to the department in accordance with the deadlines specified in section 7(b) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a NO_x budget permit application in a timely manner and issue or deny a NO_x budget permit.

(2) The owners and operators of each NO_x budget source required to have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall have a NO_x budget permit and operate the unit in compliance with the NO_x budget permit.

(3) The owners and operators of a NO_x budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x budget permit application, nor to have a NO_x budget permit, under section 7 of this rule for the NO_x budget source.

(b) The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x budget source and each NO_x budget unit at the source shall comply with the following monitoring requirements:

(1) The monitoring requirements of 40 CFR 75* and section 12 of this rule.

(2) The emissions measurements recorded and reported in accordance with 40 CFR 75* and section 12 of this rule shall be used to determine compliance by the unit with the NO_x budget emissions limitation under subsection (c).

(c) The owners and operators of each NO_x budget source shall comply with the following NO_x requirements:

(1) The owners and operators of each NO_x budget source and each NO_x budget unit at the source shall hold NO_x allowances available for compliance deductions under section 10(j) of this rule, as of the NO_x allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount:

(A) not less than the total NO_x emissions for the ozone control period from the unit, as determined in accordance with 40 CFR 75* and section 12 of this rule;

(B) to account for excess emissions for a prior ozone control period under section 10(k)(5) of this rule; or

(C) to account for withdrawal from the NO_x budget trading program, or a change in regulatory status of a NO_x budget opt-in unit.

(2) Each ton of NO_x emitted in excess of the NO_x budget emissions limitation shall constitute a separate violation of the Clean Air Act (CAA) and this rule.

(3) A NO_x budget unit shall be subject to the requirements under subdivision (1) starting on the later of:

(A) May 31, 2004; or

(B) the date on which the unit commences operation.

(4) NO_x allowances shall be held in, deducted from, or transferred among NO_x allowance tracking system accounts in accordance with sections 9 through 11, 13, and 14 of this rule.

(5) A NO_x allowance shall not be deducted, in order to comply with the requirements under subdivision (1), for an ozone control period in a year prior to the year for which the NO_x allowance was allocated.

(6) A NO_x allowance allocated under the NO_x budget trading program is a limited authorization to emit one (1) ton of NO_x in accordance with the NO_x budget trading program. No provision of the NO_x budget trading program, the NO_x budget permit application, the NO_x budget permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the U.S. EPA or the department to terminate or limit the authorization.

(7) A NO_x allowance allocated under the NO_x budget trading program does not constitute a property right.

(8) Upon recordation by the U.S. EPA under section 10, 11, or 13 of this rule, every allocation, transfer, or deduction of a NO_x allowance to or from a NO_x budget unit's compliance account or the overdraft account of the source where the unit is located is deemed to amend automatically, and become a part of, any NO_x budget permit of the NO_x budget unit by operation of law without any further review.

(d) The owners and operators of a NO_x budget unit that has excess emissions in any ozone control period shall do the following:

(1) Surrender the NO_x allowances required for deduction under section 10(k)(5) of this rule.

(2) Pay any fine, penalty, or assessment or comply with any other remedy imposed under section 10(k)(7) of this rule.

(e) The owners and operators of each NO_x budget source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the NO_x budget source and each NO_x budget unit at the source shall keep either on site at the source or at a central location within Indiana for those owners or operators with unattended sources, each of the following documents for a period of five (5) years. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the department or the U.S. EPA:

(A) The account certificate of representation for the NO_x authorized account representative for the source and each NO_x budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with section 6(h) of this rule. The certificate and documents shall be retained either on site at the source or at a central location within Indiana for those owners or operators with unattended sources beyond the five (5) year period until the documents are superseded because of the submission of a new account certificate of representation changing the NO_x authorized account representative.

(B) All emissions monitoring information, in accordance with 40 CFR 75* and section 12 of this rule, provided that to the extent that 40 CFR 75* and section 12 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x budget trading program.

(D) Copies of all documents used to complete a NO_x budget permit application and any other submission under the NO_x budget trading program or to demonstrate compliance with the requirements of the NO_x budget trading program.

Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA within three (3) business days following receipt of a written request. Nothing in this subdivision shall alter the record retention requirements for a source under 40 CFR 75*.

(2) The NO_x authorized account representative of a NO_x budget source and each NO_x budget unit at the source shall submit the reports and compliance certifications required under the NO_x budget trading program, including those under section 8, 12, or 13 of this rule.

(f) The owners and operators of each NO_x budget source shall be liable as follows:

(1) Any person who knowingly violates any requirement or prohibition of the NO_x budget trading program, a NO_x budget permit, or an exemption under section 3 of this rule shall be subject to enforcement pursuant to applicable state or federal law.

(2) Any person who knowingly makes a false material statement in any record, submission, or report under the NO_x budget trading program shall be subject to criminal enforcement pursuant to the applicable state or federal law.

(3) No permit revision shall excuse any violation of the requirements of the NO_x budget trading program that occurs prior to the date that the revision takes effect.

(4) Each NO_x budget source and each NO_x budget unit shall meet the requirements of the NO_x budget trading program.

(5) Any provision of the NO_x budget trading program that applies to a NO_x budget source, including a provision applicable to the NO_x authorized account representative of a NO_x budget source, shall also apply to the owners and operators of the source and of the NO_x budget units at the source.

(6) Any provision of the NO_x budget trading program that applies to a NO_x budget unit, including a provision applicable to the NO_x authorized account representative of a NO_x budget unit, shall also apply to the owners and operators of the unit. Except with regard to the requirements applicable to units with a common stack under 40 CFR 75* and section 12 of this rule, the owners and operators and the NO_x authorized account representative of one (1) NO_x budget unit shall not be liable for any violation by any other NO_x budget unit of which they are not owners or operators or the NO_x authorized account representative and that is located at a source of which they are not owners or operators or the NO_x authorized account representative.

(g) No provision of the NO_x budget trading program, a NO_x budget permit application, a NO_x budget permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_x authorized account representative of a NO_x budget source or NO_x budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the CAA.

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-4; filed Aug 17, 2001, 3:45 p.m.: 25 IR 26; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569)*

326 IAC 10-4-5 Computation of time

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the NO_x budget trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO_x budget trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period except the ozone control period as defined under section 2(56) of this rule, under the NO_x budget trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day. *(Air Pollution Control Board; 326 IAC 10-4-5; filed Aug 17, 2001, 3:45 p.m.: 25 IR 28)*

326 IAC 10-4-6 NO_x authorized account representative for NO_x budget sources

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 6. (a) Except as provided under subsection (f), each NO_x budget source, including all NO_x budget units at the source, shall have one (1) and only one (1) NO_x authorized account representative, with regard to all matters under the NO_x budget trading program concerning the source or any NO_x budget unit at the source.

(b) The NO_x authorized account representative of the NO_x budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_x budget units at the source.

(c) Upon receipt by the U.S. EPA of a complete account certificate of representation under subsection (h), the NO_x authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_x budget source represented and each NO_x budget unit at the source in all matters pertaining to the NO_x budget trading program, not withstanding any agreement between the NO_x authorized account representative and the owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_x authorized account representative

by the department, the U.S. EPA, or a court regarding the source or unit.

(d) A NO_x budget permit shall not be issued, and a NO_x allowance tracking system account shall not be established for a NO_x budget unit at a source, until the U.S. EPA has received a complete account certificate of representation under subsection (h) for a NO_x authorized account representative of the source and the NO_x budget units at the source.

(e) The following shall apply to a submission made under the NO_x budget trading program:

(1) Each submission under the NO_x budget trading program shall be submitted, signed, and certified by the NO_x authorized account representative for each NO_x budget source on behalf of which the submission is made. Each submission shall include the following certification statement by the NO_x authorized account representative: "I am authorized to make this submission on behalf of the owners and operators of the NO_x budget sources or NO_x budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(2) The department and the U.S. EPA shall accept or act on a submission made on behalf of the owner or operators of a NO_x budget source or a NO_x budget unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a NO_x budget source chose to designate an alternate NO_x authorized account representative:

(1) An account certificate of representation may designate one (1) and only one (1) alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(2) Upon receipt by the U.S. EPA of a complete account certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(3) Except in this subsection, subsections (a), (g), and (h), and section 10(c) through 10(f) of this rule, whenever the term NO_x authorized account representative is used in this rule, the term shall be construed to include the alternate NO_x authorized account representative.

(g) The following shall apply when changing the NO_x authorized account representative, the alternate NO_x authorized account representative or there are changes in the owners and operators:

(1) The NO_x authorized account representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete account certificate of representation under subsection (h). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding account certificate of representation shall be binding on the new NO_x authorized account representative and the owners and operators of the NO_x budget source and the NO_x budget units at the source.

(2) The alternate NO_x authorized account representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete account certificate of representation under subsection (h). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding account certificate of representation shall be binding on the new alternate NO_x authorized account representative and the owners and operators of the NO_x budget source and the NO_x budget units at the source.

(3) Changes in the owners and operators shall be made as follows:

(A) In the event a new owner or operator of a NO_x budget source or a NO_x budget unit is not included in the list of owners and operators submitted in the account certificate of representation, the new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the department or the U.S. EPA, as if the new owner or operator were included in the list.

(B) Within thirty (30) days following any change in the owners and operators of a NO_x budget source or a NO_x budget unit, including the addition of a new owner or operator, the NO_x authorized account representative or alternate NO_x

authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

(h) A complete account certificate of representation for a NO_x authorized account representative or an alternate NO_x authorized account representative shall include the following elements in a format prescribed by the U.S. EPA:

(1) Identification of the NO_x budget source and each NO_x budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the NO_x authorized account representative and any alternate NO_x authorized account representative.

(3) A list of the owners and operators of the NO_x budget source and of each NO_x budget unit at the source.

(4) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or alternate NO_x authorized account representative, as applicable, by an agreement binding on the owners and operators of the NO_x budget source and each NO_x budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x budget trading program on behalf of the owners and operators of the NO_x budget source and of each NO_x budget unit at the source and that each owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department, the U.S. EPA, or a court regarding the source or unit.".

(5) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA will be under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(i) The following shall apply to an objection concerning the NO_x authorized account representative:

(1) Once a complete account certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under subsection (h) is received by the U.S. EPA.

(2) Except as provided in subsection (g)(1) and (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or the finality of any decision or order by the department or the U.S. EPA under the NO_x budget trading program.

(3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_x authorized account representative, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(Air Pollution Control Board; 326 IAC 10-4-6; filed Aug 17, 2001, 3:45 p.m.: 25 IR 28; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183)

326 IAC 10-4-7 Permit requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15-5; IC 13-17

Sec. 7. (a) For each NO_x budget source required to have a federally enforceable permit, the permit shall include a NO_x budget permit administered by the department as follows:

(1) For NO_x budget sources required to have a Part 70 operating permit under 326 IAC 2-7, the NO_x budget portion of the Part 70 permit shall be administered in accordance with 326 IAC 2-7, except as provided otherwise by this section or section 13 of this rule.

(2) For NO_x budget sources required to have a FESOP permit, the NO_x budget portion of the FESOP permit shall be administered in accordance with 326 IAC 2-8, except as provided otherwise by this section or section 13 of this rule.

(3) Each NO_x budget permit, including a draft or proposed NO_x budget permit, if applicable, shall contain all applicable NO_x budget trading program requirements and shall be a complete and segregable portion of the permit.

(b) The NO_x authorized account representative of any NO_x budget source required to have a federally enforceable permit shall submit to the department a complete NO_x budget permit application under subsection (c) as follows:

(1) For NO_x budget sources required to have a Part 70 operating permit under 326 IAC 2-7 the following shall apply:

(A) For any source, with one (1) or more NO_x budget units that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application to the department at least two hundred seventy (270) days prior to May 31, 2004.

(B) For any source, with one (1) or more NO_x budget unit that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application at least two hundred seventy (270) days prior to the later of:

(i) May 31, 2004; or

(ii) the date on which the NO_x budget unit commences operation.

(C) For permit renewal, the NO_x authorized account representative shall submit a complete NO_x budget permit application covering the NO_x budget units at the source in accordance with 326 IAC 2-7-4(a)(1)(D).

(2) For NO_x budget sources required to have a FESOP permit under 326 IAC 2-8 the following shall apply:

(A) For any source, with one (1) or more NO_x budget units that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) covering each NO_x budget unit to the department at least two hundred seventy (270) days before May 31, 2004.

(B) For any source, with one (1) or more NO_x budget units that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) covering each NO_x budget unit to the department at least two hundred seventy (270) days before the later of:

(i) May 31, 2004; or

(ii) the date on which the NO_x budget unit commences operation.

(C) For permit renewal, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) for the NO_x budget source covering the NO_x budget units at the source in accordance with 326 IAC 2-8-3(h).

(c) In addition to the requirements of 326 IAC 2-7-4(c) or 326 IAC 2-8-3(c), a complete NO_x budget permit application shall include, in a format prescribed by the department, the following elements concerning the NO_x budget source for which the application is submitted:

(1) Identification of the NO_x budget source, including plant name and the Office of Regulatory Information Systems (ORIS) or facility code assigned to the source by the Energy Information Administration, if applicable.

(2) Identification of each NO_x budget unit at the NO_x budget source and whether it is a NO_x budget unit under section 1(a) or 13 of this rule.

(3) The standard requirements under section 4 of this rule.

(4) For each NO_x budget opt-in unit at the NO_x budget source, the following certification statements by the NO_x authorized account representative:

(A) "I certify that each unit for which this permit application is submitted under 326 IAC 10-4-13 is not a NO_x budget unit under 326 IAC 10-4-1(a) and is not covered by a retired unit exemption under 326 IAC 10-4-3 that is in effect.".

(B) If the application is for an initial NO_x budget opt-in permit, "I certify that each unit for which this permit application is submitted under 326 IAC 10-4-13 is currently operating, as that term is defined under 326 IAC 10-4-2(51).".

(d) In addition to the requirements under 326 IAC 2-7 or 326 IAC 2-8, each NO_x budget permit, including any draft or proposed NO_x budget permit, if applicable, shall contain, in a format prescribed by the department, all elements required for a complete NO_x budget permit application under subsection (c).

(e) Each NO_x budget permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 10, 11, or 13 of this rule, every allocation, transfer, or deduction of a NO_x allowance to or from the compliance accounts of the NO_x budget units covered by the permit or the overdraft account of the NO_x budget source covered by the permit.

(f) Notwithstanding IC 13-15-5, the initial NO_x budget permit covering a NO_x budget unit for which a complete NO_x budget permit application is timely submitted under subsection (b) shall become effective upon issuance.

(g) Except as provided in subsection (e), the department shall revise the NO_x budget permit, as necessary, in accordance with the following:

(1) The permit modification and revision provisions under 326 IAC 2-7, for a NO_x budget source with a Part 70 operating permit.

(2) The permit modification and revision provisions under 326 IAC 2-8, for a NO_x budget source with a FESOP permit.

(Air Pollution Control Board; 326 IAC 10-4-7; filed Aug 17, 2001, 3:45 p.m.: 25 IR 30; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183)

326 IAC 10-4-8 Compliance certification

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 8. (a) For each ozone control period in which one (1) or more NO_x budget units at a source are subject to the NO_x budget emissions limitation, the NO_x authorized account representative of the source shall submit to the department and the U.S. EPA by November 30 of that year, a compliance certification report for each source covering all NO_x budget units.

(b) The NO_x authorized account representative shall include in the compliance certification report under subsection (a) the following elements, in a format prescribed by the U.S. EPA, concerning each NO_x budget unit at the source and subject to the NO_x budget emissions limitation for the ozone control period covered by the report:

(1) Identification of each NO_x budget unit.

(2) At the NO_x authorized account representative's option, the serial numbers of the NO_x allowances that are to be deducted from each unit's compliance account under section 10(k) of this rule for the ozone control period.

(3) At the NO_x authorized account representative's option, for units sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with 40 CFR 75, Subpart H* and section 12 of this rule, the percentage of allowances that is to be deducted from each unit's compliance account under section 10(k)(8) of this rule.

(4) The compliance certification under subsection (c).

(c) In the compliance certification report under subsection (a), the NO_x authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO_x budget units at the source in compliance with the NO_x budget trading program, whether each NO_x budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO_x budget trading program applicable to the unit, including the following:

(1) Whether the unit was operated in compliance with the NO_x budget emissions limitation.

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO_x emissions to the unit, in accordance with 40 CFR 75, Subpart H* and section 12 of this rule.

(3) Whether all the NO_x emissions from the unit, or a group of units, including the unit, using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with 40 CFR 75, Subpart H* and section 12 of this rule. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made.

(4) Whether the facts that form the basis for certification under 40 CFR 75, Subpart H* and section 12 of this rule of each monitor at the unit or a group of units, including the unit, using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under 40 CFR 75, Subpart H* and section 12 of this rule, if any, have changed.

(5) If a change is required to be reported under subdivision (4), the NO_x authorized account representative shall specify the following:

(A) The nature of the change.

(B) The reason for the change.

(C) When the change occurred.

(D) How the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

(d) The department or the U.S. EPA may review and conduct independent audits concerning any compliance certification or any other submission under the NO_x budget trading program and make appropriate adjustments of the information in the compliance certifications or other submissions.

(e) The U.S. EPA may deduct NO_x allowances from or transfer NO_x allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under subsection (a).

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management,

Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-8; filed Aug 17, 2001, 3:45 p.m.: 25 IR 31; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569)*

326 IAC 10-4-9 NO_x allowance allocations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 9. (a) The trading program budget allocated by the department under subsections (d) through (f) for each ozone control period shall equal the total number of tons of NO_x emissions apportioned to the NO_x budget units under section 1 of this rule for the ozone control period, as determined by the procedures in this section. The total number of tons of NO_x emissions that are available for each ozone control period for allocation as NO_x allowances under this rule are fifty-five thousand seven hundred twenty-nine (55,729) tons apportioned as follows:

(1) For existing units:

(A) forty-three thousand six hundred fifty-four (43,654) tons for electricity generating units in 2004 through 2009 and forty-five thousand thirty-three (45,033) tons thereafter; and

(B) eight thousand five hundred sixty-four (8,564) tons for large affected units;

less the sum of the NO_x limitations (in tons) for each unit under section 1(b) of this rule that is not allocated any NO_x allowances under subsection (d) for the ozone control period and whose NO_x emission limitation (in tons of NO_x) is not included in the amount calculated under subsection (e) for the control period.

(2) For new unit allocation set-asides:

(A) two thousand two hundred ninety-eight (2,298) tons for electricity generating units in 2004 through 2009, and nine hundred nineteen (919) tons thereafter; and

(B) ninety-eight (98) tons for large affected units in 2004 and each year thereafter.

(3) For the energy efficiency and renewable energy allocation set-aside, one thousand one hundred fifteen (1,115) tons.

(b) The department shall allocate NO_x allowances to NO_x budget units according to the following schedule:

(1) For EGUs, a three (3) year allocation that is recorded three (3) years in advance of the ozone control period that the allowances may be used as follows:

(A) By October 16, 2001, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods in 2004, 2005, and 2006.

(B) By December 31, 2003, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control period in 2007, 2008, and 2009.

(2) For large affected units, by October 16, 2001, the department shall submit to the U.S. EPA the NO_x allowances for the ozone control periods in 2004 through 2009.

(3) If the department fails to submit to the U.S. EPA the NO_x allowance allocations in accordance with this rule, the U.S. EPA will allocate, for the applicable ozone control period, the same number of NO_x allowances as were allocated for the preceding ozone control period.

(4) The department shall:

(A) make available for review to the public the NO_x allowance allocations under subdivision (1)(B) on December 31 of each year cited in subdivision (1)(B); and

(B) provide a thirty (30) day opportunity for submission of objections to the NO_x allowance allocations.

Objections shall be limited to addressing whether the NO_x allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section. Any revised NO_x allowance allocations shall be submitted to the U.S. EPA for recordation by the following April 1.

(c) The heat input, in million British thermal units (MMBtu), used for calculating NO_x allowance allocations for each NO_x budget unit under section 1 of this rule shall be:

(1) For a NO_x allowance allocation under:

(A) subsection (b)(1)(A), the average of the two (2) highest amounts of the unit's heat input for the ozone control periods in 1995 through 1999; and

(B) subsection (b)(1)(B) the unit's average of the two (2) highest heat inputs for the ozone control period in the years that are one (1), two (2), three (3), four (4), and five (5) years before the year when the NO_x allocation is being

calculated.

For the purpose of this subdivision, the ozone control period for the year 2004 shall be from May 1 through September 30.

(2) If a NO_x budget unit does not have a full five (5) years of ozone control period heat inputs, the following shall apply for a NO_x budget unit:

(A) With ozone control period heat inputs for more than two (2) years, the average of the two (2) highest ozone control period heat inputs.

(B) With two (2) years of ozone control period heat input, the average of the ozone control period heat input for the two (2) years.

(C) With one (1) year of ozone control period heat input, the actual ozone control period heat input for that year.

(3) For a NO_x allowance allocation under subsection (b)(1)(B) for a unit exempt under section 1(b) of this rule, the heat input shall be treated as zero (0) if the unit was exempt during the previous allocation period.

The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year or shall be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year. The owner or operator of a NO_x budget unit shall submit heat input data within thirty (30) days if requested by the department.

(d) For each ozone control period under subsection (b), the department shall allocate to all NO_x budget units that have been in operation for at least one (1) year prior to the year in which allocations are made, and for new NO_x budget units that have commenced operation on or after May 1, 2000, and that have not submitted notification in accordance with subsection (i), a total number of NO_x allowances equal to the amount under subsection (a)(1), in accordance with the following procedures:

(1) The department shall allocate NO_x allowances to each electricity generating unit in an amount equaling:

(A) fifteen-hundredths (0.15) pound per million British thermal units; or

(B) the allowable emission rate as of the date that the unit becomes affected by this rule;

whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit, that is not repowered, with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen-hundredths (0.15) lb/MMBtu notwithstanding the allowable emission rate, multiplied by the heat input determined under subsection (c) and the product divided by two thousand (2,000) pounds per ton, rounded to the nearest whole NO_x allowance, as appropriate.

(2) If the initial total number of NO_x allowances allocated to all electricity generating units for an ozone control period under subdivision (1) does not equal the amount under subsection (a)(1), the department shall adjust the total number of NO_x allowances allocated to all NO_x budget units for the ozone control period under subdivision (1) so that the total number of NO_x allowances allocated equals the amount under subsection (a)(1). This adjustment shall be made by:

(A) multiplying each unit's allocation by the amount under subsection (a)(1); and

(B) dividing by the total number of NO_x allowances allocated under subdivision (1) and rounding to the nearest whole NO_x allowance, as appropriate.

(3) The department shall allocate NO_x allowances to each large affected unit in an amount equaling the following:

Source	Unit	Allowances
(A) Alcoa	1	1,089
	2	1,057
	3	1,026
(B) American Electric Power-Rockport	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	1
(C) BP Amoco-Boiler House 1	1	21
	2	21
	3	21
	4	21
	5	22
(D) BP Amoco-Boiler House 3	1	252
	2	252

	3	252
	4	252
	5	252
(E) Citizens Thermal Energy	11	120
	12	138
	13	85
	14	75
	15	54
	16	69
(F) Ispat Inland	211	110
	212	110
	213	109
	401	255
	402	255
	403	257
	404	257
	405	344
	501	137
	502	137
	503	137
(G) New Energy	003	238
(H) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34
(I) Purdue University	1	90
	2	91
	3	8
	5	72
(J) U.S. Steel-Gary Works	720	107
	Boiler #1	
	720	107
	Boiler #2	
	720	107
	Boiler #3	
	701	78
	Boiler #1	
	701	78
	Boiler #2	
	701	78
	Boiler #3	
	701	86
	Boiler #5	
	701	145
	Boiler #6	

(4) Notwithstanding subsection (e), in addition to the NO_x ozone season allowances in subdivision (3), the department shall allocate to Purdue University for ozone control periods 2007 through 2009 sixty (60) NO_x ozone season allowances for each

control period from the energy efficiency and renewable energy allocation set-aside under subsection (a)(3) within one hundred twenty (120) days of the effective date of the 2007 amendments to this rule.

For units having an emission limitation only in tons on an annual basis, the allowable emission rate in pounds per million Btu (lb/MMBtu) shall be determined by dividing the emission limitation by eight thousand seven hundred sixty (8,760) hours, multiplying by two thousand (2,000) pounds, and dividing the result by the unit's permitted heat input rate. For units having an emission limitation only in parts per million (ppm), the conversion factors under 326 IAC 3-4-3 shall be used.

(e) For new NO_x budget units that commenced operation, or are projected to commence operation, on or after May 1, 2000, or for projects that reduce NO_x emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during an ozone control period beginning May 1, 2004, the department shall allocate NO_x allowances in accordance with the following procedures:

(1) The department shall establish allocation set-asides for new NO_x budget units and for energy efficiency and renewable energy projects for each ozone control period as follows:

(A) The new unit allocation set-asides shall be allocated NO_x allowances equal to the following:

(i) For EGUs, two thousand two hundred ninety-eight (2,298) tons (five percent (5%) of EGU budget) for each ozone control period in 2004 through 2009, and nine hundred nineteen (919) tons (two percent (2%) of the EGU budget) for each ozone control period thereafter.

(ii) For large affected units, ninety-eight (98) tons (one percent (1%) of the large affected unit budget) in 2004 and each year thereafter.

(B) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to one thousand one hundred fifteen (1,115) tons (two percent (2%) of overall trading budget).

(2) The NO_x authorized account representative of a new NO_x budget unit or a general account may submit to the department a request, in writing or in a format specified by the department, for NO_x allowances as follows:

(A) For a new NO_x budget unit, for one (1) ozone control period under subsection (b), during which the NO_x budget unit commenced, or is projected to commence, operation. The NO_x authorized account representative shall reapply each year until the NO_x budget unit is eligible to use NO_x allowances allocated under subsection (d).

(B) For energy efficiency or renewable energy projects, project sponsors may request the reservation of NO_x allowances, for one (1) control period in which the project is implemented. The NO_x authorized account representative may reapply each year, not to exceed five (5) ozone control periods. Requests for allowances may be made only for projects implemented within two (2) years of the beginning of the first ozone control period for which allowances are requested. Projects must equal at least one (1) ton of NO_x emissions, and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO_x emissions.

The NO_x allowance allocation request must be submitted by September 1 of the calendar year that is one (1) year in advance of the first ozone control period for which the NO_x allowance allocation is requested and for new NO_x budget units, after the date on which the department issues a permit to construct the NO_x budget unit and final approval is granted from the Indiana utility regulatory commission.

(3) In a NO_x allowance allocation request under this subsection, the NO_x authorized account representative may request for an ozone control period, NO_x allowances in an amount that does not exceed the following:

(A) For an electricity generating unit, multiplying:

(i) fifteen-hundredths (0.15) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit that is not repowered with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen-hundredths (0.15) lb/MMBtu notwithstanding the allowable emission rate;

(ii) the NO_x budget unit's maximum design heat input in million British thermal units per hour for a unit that is:

(AA) permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not a simple cycle system, seventy-five percent (75%) of the maximum design heat input;

(BB) not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a combined cycle system, fifty percent (50%) of the maximum design heat input; or

(CC) not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not combined cycle system or for a unit that is permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a simple cycle system, twenty-five percent (25%) of the maximum design heat input; and

(iii) the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton and rounded to the nearest ton. The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(B) For a large affected unit multiplying:

(i) the lesser of:

(AA) seventeen-hundredths (0.17) pound per million British thermal units; or

(BB) the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent;

(ii) the NO_x budget unit's maximum design heat input in million British thermal units per hour; and

(iii) the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton and rounded to the nearest ton. The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(C) For energy efficiency or renewable energy projects, the following:

(i) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during an ozone control period and the following formula:

$$\text{Allowances} = (\text{kWS} * 0.0015)/2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(ii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by NO_x allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} * 0.00075)/2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(iii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not NO_x budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((Et1/Pt1) - (Et2/Pt2)) \times Pt2 \times NPt2 \times (NPt1/NPt2))/2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period prior to project implementation.

Pt1 = Units of product produced per ozone control period prior to project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

NPt1 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

NPt2 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

(iv) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are NO_x budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((Et1/Pt1) - (Et2/Pt2)) \times Pt2 \times NPt2 \times (NPt1/NPt2) \times 0.50)/2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.
Et1 = Energy consumed per ozone control period prior to project implementation.
Pt1 = Units of product produced per ozone control period prior to project implementation.
Et2 = Energy consumed in the most recent ozone control period.
Pt2 = Units of product produced in the most recent ozone control period.
NPt1 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.
NPt2 = NO_x produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

Product produced, as used in the formulas in this item and item (iii), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of NO_x emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

(v) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient electricity generation using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end-user that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$Allow = (kWG \times (0.0015 - NO_x))/2000$$

Where: Allow = The number of allowances awarded to a project sponsor.
kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.
NO_x = The amount of NO_x produced during the generation of electricity measured in pounds per kilowatt hour.

(vi) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end-user that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

$$Allow = (NO_x \text{ convt} - NO_x \text{ CHP})/2{,}000$$

Where: Allow = The number of allowances awarded to a project sponsor.
NO_x convt = $[(0.15 \times 3{,}412 \times kWG / 0.34) + (0.17 \times HeatOut / 0.8)] / 1{,}000{,}000$
NO_x CHP = $(BtuIn \times NO_xRate) / 1{,}000{,}000$
kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.
BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during an ozone control period by the project.
NO_xRate = NO_x emitted during normal system operation by the project measured in pounds per million Btu of fuel input.

(vii) Projects in section 2(18)(B) and 2(18)(G) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end-user that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells and that are sponsored by NO_x allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$Allowances = (kWG * (0.0015 - NO_x) * 0.50)/2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.
kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.
NO_x = The amount of NO_x produced during the generation of electricity measured in pounds per kilowatt hour.

(viii) Projects in section 2(18)(C) and 2(18)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period and according to the following formula:

Allowances = (kWG * 0.0015)/2000

Where: Allowances = The number of allowances awarded to a project sponsor.
kWG = The number of kilowatt hours of electricity generated during an ozone control period by the project.

(ix) Projects in section 2(18)(E) and 2(18)(F) of this rule receive allowances based upon the difference in emitted NO_x per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

Allowances = ((Et1 - Et2) * h) * 0.50/2000

Where: Allowances = The number of allowances awarded to a project sponsor.
Et1 = The emission rate in pounds per megawatt hour of NO_x of the unit before improvement or replacement.
Et2 = The emission rate in pounds per megawatt hour of NO_x of the unit after improvement or replacement.
h = The number of megawatt hours of operation during the ozone control period.

(x) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are large affected units shall be awarded allowances according to the following formula:

Allowances = (kWS × NO_x × 0.5)/2,000)

Where: Allowances = The number of allowances awarded to a project sponsor.
kWS = The number of kilowatt hours of electricity saved during a control period by the project.
NO_x = The amount of NO_x produced during the generation of electricity, measured in pounds per kilowatt hour.

(xi) Projects in section 2(18)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

Allowances = (NO_x Rate × HeatOut / 0.8)/1,000,000/2,000

Where: Allowances = The number of allowances awarded to a project sponsor.
NO_x Rate = 0.17 lb/MMBtu or the actual NO_x emission rate, whichever is greater.
HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.

(xii) Projects in section 2(18)(H) of this rule using renewable energy to displace coal, natural gas, or oil combustion and reduce NO_x emissions shall be awarded allowances according to the following formula:

Allowances = ((0.17 × Fuel-Input)/1,000,000)/2,000

Where: Allowances = The number of allowances awarded to a project sponsor.
Fuel-Input = The amount of heat input, in Btu, from the renewable energy.

(xiii) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(18)(B) of this rule, that are large affected units as defined in section 2 of this rule, receive allowances based upon the net amount of energy generated and used during a control period and the following formula:

Allowances = ((NO_x conventional - NO_x CHP)/2,000) × 0.5

Where: Allowances = The number of allowances awarded to a project sponsor.
NO_x conventional = [(0.15 × 3,412 × kWG / 0.34) + (0.17 × HeatOut / 0.8)] / 1,000,000
NO_x CHP = (BtuIn × NO_xRate)/1,000,000
Where: = kWG = The number of net kilowatt hours of electricity generated during a control period by the project.
HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.
NO_xRate = NO_x emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during a control period by the project.

Allowances will be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department will consult the Indiana department of commerce concerning verification and certification.

(4) The department shall review, and allocate NO_x allowances pursuant to, each NO_x allowance allocation request by December 31 of each year as follows:

(A) Upon receipt of the NO_x allowance allocation request, the department shall determine whether and shall make any necessary adjustments to the request to ensure that for:

(i) electricity generating units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(A);

(ii) large affected units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(B);

(iii) energy efficiency and renewable energy projects, the number of allowances specified are consistent with the requirements of subdivision (3)(C); and

(iv) units exempt under section 1(b) of this rule, the department will determine the sum of the NO_x emission limitations (in tons of NO_x) on which the unit's exemption under section 1(b) of this rule is based.

(B) The department shall allocate allowances to all qualifying energy efficiency and renewable energy projects prior to allocating allowances to any new NO_x budget unit. For energy efficiency and renewable energy projects, the department shall give first priority to projects under section 2(18)(A), 2(18)(C), 2(18)(D), and 2(18)(H) of this rule, second priority to projects under section 2(18)(B) and 2(18)(G) of this rule, third priority to projects under section 2(18)(E) of this rule, and fourth priority to projects under section 2(18)(F) of this rule.

(C) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO_x allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects. Any unallocated allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unallocated allowances shall remain in the set-aside for use in the next year's allocation.

(ii) Fifty percent (50%) of the unallocated allowances shall be returned to existing large affected units on a pro rata basis.

(D) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(18)(A), 2(18)(C), 2(18)(D), and 2(18)(H) of this rule shall be allocated first, allocated to projects under section 2(18)(B) and 2(18)(G) of this rule second, allocated to projects under section 2(18)(E) of this rule third, and allocated to projects under section 2(18)(F) of this rule fourth.

(E) If the new unit allocation set-aside for the ozone control period for which NO_x allowances are requested, less the amount under clause (A)(iv), has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO_x allowances requested, as adjusted under clause (A), to the NO_x budget unit. If the energy efficiency and renewable energy set-aside is oversubscribed in clause (D), the remaining allowances shall be transferred to the energy efficiency and renewable energy set-aside. If the energy efficiency and renewable energy set-aside is under subscribed in clause (C), the remaining allowances shall be transferred to existing sources on a pro rata basis.

(F) If the new unit allocation set-aside for the ozone control period for which NO_x allowances are requested, less the amount under clause (A)(iv), has an amount of NO_x allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside to the NO_x budget units on a pro rata basis.

(G) After a new budget unit has operated in one (1) ozone control period, it becomes an existing budget unit unless a notification has been received under subsection (i) requesting allocations under this subsection, and the department will allocate allowances for the ozone control period according to subsections (b) and (d). The unit will continue to receive allowances from the new unit set-aside according to subdivision (3) until it is eligible to use allowances allocated under subsection (d).

By December 31 of each year, the department shall take appropriate action under subdivision (4) and notify the NO_x authorized account representative that submitted the request and the U.S. EPA of the number of NO_x allowances allocated for the ozone control period to the NO_x budget unit or energy efficiency or renewable energy projects.

(f) For a new NO_x budget unit that is allocated NO_x allowances under subsection (e) for an ozone control period, the U.S. EPA will deduct NO_x allowances under section 10(k)(1) or 10(k)(8) of this rule to account for the actual emissions of the unit during the ozone control period. Any allowances remaining in the account shall be returned to the new source unit set-aside.

(g) After making the deductions for compliance under section 10(k)(1) or 10(k)(8) of this rule for an ozone control period, the U.S. EPA will notify the department whether any NO_x allowances remain in the allocation set-asides for the ozone control period. Any NO_x allowances remaining in the new unit allocation set-asides shall remain in the new unit allocation set-aside for use in the next year's allocation.

(h) If the number of banked allowances in the new unit set-asides or the energy efficiency set-aside is greater than:

(1) for the EGU new unit set-aside, three thousand four hundred thirteen (3,413) tons for each year in 2004 through 2009 and two thousand thirty-four (2,034) tons each year thereafter;

(2) for the large affected new unit set-aside, one thousand two hundred thirteen (1,213) tons in 2004 and each year thereafter; or

(3) for energy efficiency and renewable energy set-aside, two thousand two hundred thirty (2,230) tons in 2004 and each year thereafter;

any banked allowances in excess of the values in subsection (e)(1)(A) or (e)(1)(B) shall be allocated to the relevant existing NO_x budget units on a pro rata basis. The allowances from the energy efficiency and renewable energy set-aside shall be allocated to existing large affected units.

(i) A new EGU that commenced operation on or after May 1, 2000, has the option to remain in the new unit set-aside and have allowances allocated in accordance with subsection (e) until such time that it has heat input data for at least two (2) full ozone control periods, but not more than five (5) full ozone control periods for the purpose of determining heat input under subsection (c). The new NO_x budget unit shall submit a notification to the department by no later than December 1 of the year prior to the allocation schedule in subsection (b) indicating the unit is to receive NO_x allowances is accordance with subsection (e).

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-9; filed Aug 17, 2001, 3:45 p.m.: 25 IR 32; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3558; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1886; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

326 IAC 10-4-10 NO_x allowance tracking system

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 10. (a) The U.S. EPA will establish compliance and overdraft accounts consistent with subsection (c). NO_x allowances shall be recorded in the compliance accounts or overdraft accounts according to the following:

(1) Allocations of NO_x allowances pursuant to section 9 or 13(i) of this rule.

(2) Deductions or transfers of NO_x allowances pursuant to one (1) of the following:

(A) Section 8(d), 8(e), 11, 13, or 14 of this rule.

(B) Subsection (j), (k), or (m).

(b) The U.S. EPA will establish, upon request, a general account for any person consistent with subsection (d). Transfers of allowances pursuant to section 11 of this rule shall be recorded in the general account in accordance with this section.

(c) Upon receipt of a complete account certificate of representation under section 6(h) of this rule, the U.S. EPA will establish the following:

(1) A compliance account for each NO_x budget unit for which the account certificate of representation was submitted.

(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two (2) or more NO_x budget units.

(d) Any person may apply to open a general account for the purpose of holding and transferring allowances. The establishment of a general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the NO_x authorized account representative and any alternate NO_x authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) At the option of the NO_x authorized account representative, organization name, and type of organization.

(C) A list of all persons subject to a binding agreement for the NO_x authorized account representative or any alternate NO_x authorized account representative to represent their ownership interest with respect to the allowances held in the general account.

(D) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or the NO_x alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x budget trading program on behalf of persons and that each person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account.".

(E) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA will be under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The NO_x authorized account representative and any alternate NO_x authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_x allowances held in the general account in all matters pertaining to the NO_x budget trading program, notwithstanding any agreement between the NO_x authorized account representative or any alternate NO_x authorized account representative and the person. Any person having an ownership interest with respect to NO_x allowances shall be bound by any order or decision issued to the NO_x authorized account representative or any alternate NO_x authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Each submission concerning the general account shall be submitted, signed, and certified by the NO_x authorized account representative or any alternate NO_x authorized account representative for the persons having an ownership interest with respect to NO_x allowances held in the general account. Each submission shall include the following certification statement by the NO_x authorized account representative or any alternate NO_x authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_x allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(D) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (C).

(3) The following shall apply to the designation of a NO_x authorized account representative, alternate NO_x authorized account representative, or persons having an ownership interest with respect to NO_x allowances in the general account:

(A) An application for a general account may designate the following:

(i) One (1) and only one (1) NO_x authorized account representative.

(ii) One (1) and only one (1) alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative.

The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(B) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), any representation, action, inaction, or submission by any alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(C) The NO_x authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(D) The alternate NO_x authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(E) In the event a new person having an ownership interest with respect to NO_x allowances in the general account is not included in the list of persons having an ownership interest with respect to the NO_x allowances in the account certificate of representation, the new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the U.S. EPA, as if the new person were included in the list.

(F) Within thirty (30) days following any change in the persons having an ownership interest with respect to NO_x allowances in the general account, including the addition of persons, the NO_x authorized account representative or any alternate NO_x authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO_x allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(C) through (3)(F), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative or the finality of any decision or order by the U.S. EPA under the NO_x budget trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(e) The U.S. EPA will assign a unique identifying number to each account established under subsection (c) or (d).

(f) Following the establishment of a NO_x allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_x allowances in the account, shall be made only by the NO_x authorized account representative for the account. The U.S. EPA will assign a unique identifying number to each NO_x authorized account representative.

(g) The U.S. EPA will record the NO_x allowances for 2004 and each year thereafter in the NO_x budget units' compliance accounts and the allocation set-asides, as allocated under section 9 of this rule. The U.S. EPA will also record the NO_x allowances allocated under section 13(i)(1) of this rule for each NO_x budget opt-in source in its compliance account.

(h) Each year, after the U.S. EPA has made all deductions from a NO_x budget unit's compliance account and the overdraft account pursuant to subsection (k), the U.S. EPA will record NO_x allowances, as allocated to the unit under section 9 or 13(i)(2) of this rule, in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the U.S. EPA will also record NO_x allowances, as allocated under section 9 of this rule, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.

(i) When allocating NO_x allowances to and recording them in an account, the U.S. EPA will assign each NO_x allowance a unique identification number that shall include digits identifying the year for which the NO_x allowance is allocated.

(j) The NO_x allowances are available to be deducted for compliance with a unit's NO_x budget emissions limitation for an ozone control period in a given year only if the NO_x allowances:

(1) were allocated for an ozone control period in a prior year or the same year; and

(2) are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_x allowance transfer deadline for that ozone control period or are transferred into the compliance account or overdraft account by a NO_x allowance transfer correctly submitted for recordation under section 11(a) of this rule by the NO_x allowance transfer deadline for that ozone control period.

(k) The following shall apply to deductions for purposes of compliance with a unit's allocations:

(1) Following the recordation, in accordance with section 11(b) or 11(c) of this rule, of NO_x allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_x allowance transfer deadline for an ozone control period, the U.S. EPA will deduct NO_x allowances available under subsection (j) to cover the unit's NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*:

(A) from the compliance account; and

(B) only if no more NO_x allowances available under subsection (j) remain in the compliance account, from the overdraft account.

In deducting allowances for units at the source from the overdraft account, the U.S. EPA will begin with the unit having the compliance account with the lowest NO_x allowance tracking system account number and end with the unit having the compliance account with the highest NO_x allowance tracking system account number, with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters.

(2) The U.S. EPA will deduct NO_x allowances first under subdivision (1)(A) and then under subdivision (1)(B) until:

(A) the number of NO_x allowances deducted for the ozone control period equals the number of tons of NO_x emissions, determined in accordance with 40 CFR 75, Subpart H*, from the unit for the ozone control period for which compliance is being determined; or

(B) no more NO_x allowances available under subsection (j) remain in the respective account.

(3) The NO_x authorized account representative for each compliance account may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under this section. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(4) The U.S. EPA will deduct NO_x allowances for an ozone control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under subdivision (3), or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Those NO_x allowances that were allocated for the ozone control period to the unit under section 9 or 13 of this rule.

(B) Those NO_x allowances that were allocated for the ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(C) Those NO_x allowances that were allocated for a prior ozone control period to the unit under section 9 or 13 of this rule.

(D) Those NO_x allowances that were allocated for a prior ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(5) After making the deductions for compliance under subdivisions (1) and (2), the U.S. EPA will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_x allowances, allocated for an ozone control period after the ozone control period in which the unit has excess emissions, equal to three (3) times the number of the unit's excess emissions.

(6) If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x

allowances are recorded in either account.

(7) Any allowance deduction required under subdivision (5) shall not affect the liability of the owners and operators of the NO_x budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable state law. The following guidelines shall be followed in assessing fines, penalties, or other obligations:

(A) For purposes of determining the number of days of violation, if a NO_x budget unit has excess emissions for an ozone control period, each day in the ozone control period, one hundred fifty-three (153) days, constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(B) Each ton of excess emissions is a separate violation.

(8) In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with 40 CFR 75, Subpart H*, the following shall apply:

(A) The NO_x authorized account representative of the units may identify the percentage of NO_x allowances to be deducted from each unit's compliance account to cover the unit's share of NO_x emissions from the common stack for an ozone control period. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(B) Notwithstanding subdivision (2)(A), the U.S. EPA will deduct NO_x allowances for each unit, in accordance with subdivision (1), until the number of NO_x allowances deducted equals either of the following:

(i) The unit's identified percentage of the number of tons of NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*, from the common stack for the ozone control period for which compliance is being determined.

(ii) If no percentage is identified, an equal percentage for each unit.

(9) The U.S. EPA will record in the appropriate compliance account or overdraft account all deductions from an account pursuant to this section.

(l) The U.S. EPA may at its own discretion and on its own motion correct any error in any NO_x allowance tracking system account. Within ten (10) business days of making the correction, the U.S. EPA will notify the NO_x authorized account representative for the account.

(m) The NO_x authorized account representative of a general account may instruct the U.S. EPA to close the account by submitting a statement requesting deletion of the account from the NO_x allowance tracking system and by correctly submitting for recordation under section 11(a) of this rule, an allowance transfer of all NO_x allowances in the account to one (1) or more other NO_x allowance tracking system accounts.

(n) If a general account shows no activity for a period of one (1) year or more and does not contain any NO_x allowances, the U.S. EPA may notify the NO_x authorized account representative for the account that the account shall be closed and deleted from the NO_x allowance tracking system following twenty (20) business days after the notice is sent. The account shall be closed after the twenty (20) business day period unless before the end of the twenty (20) business day period the U.S. EPA receives a correctly submitted transfer of NO_x allowances into the account under section 11(a) of this rule or a statement submitted by the NO_x authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-10; filed Aug 17, 2001, 3:45 p.m.: 25 IR 38; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3565)*

326 IAC 10-4-11 NO_x allowance transfers

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 11. (a) The NO_x authorized account representatives seeking recordation of a NO_x allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the NO_x allowance transfer shall include the following elements in a format specified by the U.S. EPA:

(1) The numbers identifying both the transferor and transferee accounts.

(2) A specification by serial number of each NO_x allowance to be transferred.

(3) The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

(b) Within five (5) business days of receiving a NO_x allowance transfer, the U.S. EPA will record a NO_x allowance transfer by moving each NO_x allowance from the transferor account to the transferee account as specified by the request, provided the following:

(1) The transfer is correctly submitted under subsection (a).

(2) The transferor account includes each NO_x allowance identified by serial number in the transfer.

(3) The transfer meets all other requirements of this section.

A NO_x allowance transfer that is submitted for recordation following the NO_x allowance transfer deadline and that includes any NO_x allowances allocated for an ozone control period prior to, or the same as, the ozone control period to which the NO_x allowance transfer deadline applies shall not be recorded until after completion of the process of recordation of NO_x allowance allocations in section 10(h) of this rule.

(c) Where a NO_x allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record the transfer.

(d) The following notification requirements shall apply to NO_x allowance transfers:

(1) Within five (5) business days of recordation of a NO_x allowance transfer under subsection (b), the U.S. EPA will notify each party to the transfer. Notice shall be given to the NO_x authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a NO_x allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the NO_x authorized account representatives of both the transferor and transferee accounts subject to the transfer of the following:

(A) A decision not to record the transfer.

(B) The reasons for nonrecordation.

(e) Nothing in this section shall preclude the submission of a NO_x allowance transfer for recordation following notification of nonrecordation. *(Air Pollution Control Board; 326 IAC 10-4-11; filed Aug 17, 2001, 3:45 p.m.: 25 IR 42)*

326 IAC 10-4-12 NO_x monitoring and reporting requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 12. (a) The owners and operators, and to the extent applicable, the NO_x authorized account representative of a NO_x budget unit, shall comply with the monitoring and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H*. For purposes of complying with the requirements, the definitions in section 2 of this rule and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms NO_x budget unit, NO_x authorized account representative, and continuous emission monitoring system (CEMS), respectively, as defined in section 2 of this rule.

(b) The owner or operator of each NO_x budget unit and a unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, as provided in section 13 of this rule, must meet the following requirements:

(1) Install all monitoring systems required under this section for monitoring NO_x mass. This includes all systems required to monitor NO_x emission rate, NO_x concentration, heat input rate, and stack flow rate, in accordance with 40 CFR 75.71* and 40 CFR 75.72*.

(2) Install all monitoring systems for monitoring heat input, if required under subsection (q) for developing NO_x allowance allocations.

(3) Successfully complete all certification tests required under subsections (e) through (k) and meet all other provisions of this section and 40 CFR 75* applicable to the monitoring systems under subdivisions (1) and (2).

(4) Record, report, and quality assure the data from the monitoring systems under subdivisions (1) and (2).

(c) The owner or operator must meet the requirements of subsection (b)(1) through (b)(3) on or before the following dates and must record, report, and quality assure the data from the monitoring systems on and after the following dates:

(1) NO_x budget units for which the owner or operator intends to apply for early reduction credits under section 15(c) of this rule must comply with the requirements of this section by May 1 of the year prior to the year in which early reduction credits will be generated.

(2) Except for NO_x budget units under subdivision (1), NO_x budget units that commence operation before January 1, 2003, must comply with the requirements of this section by May 1, 2003.

(3) NO_x budget units that commence operation on or after January 1, 2003, and that report on an annual basis under subsection (o)(4) must comply with the requirements of this section by the later of the following dates:

(A) May 1, 2003.

(B) The earlier of:

(i) one hundred eighty (180) days after the date on which the unit commences operation; or

(ii) for electricity generating units, ninety (90) days after the date that the unit commences commercial operation.

(4) NO_x budget units that commence operation on or after January 1, 2003, and that report on a control season basis under subsection (o)(4) must comply with the requirements of this section by the later of the following dates:

(A) The earlier of:

(i) one hundred eighty (180) days after the date on which the unit commences operation; or

(ii) for electricity generating units, ninety (90) days after the date on which the unit commences commercial operation.

(B) If the applicable deadline under clause (A) does not occur during an ozone control period, May 1 immediately following the date determined in accordance with clause (A).

(5) For a NO_x budget unit with a new stack or flue for which construction is completed after the applicable deadline under subdivision (1), (2), or (3) or section 13 of this rule, compliance by the later of the following dates:

(A) Ninety (90) days after the date that emissions first exit to the atmosphere through the new stack or flue.

(B) If the unit reports on a control season basis under subsection (o)(4) and the applicable deadline under clause (A) does not occur during the ozone control period, May 1 immediately following the applicable deadline in clause (A).

(6) For a unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, the compliance dates specified under section 13 of this rule.

(d) The owner or operator of a NO_x budget unit that misses the certification deadline under subsection (c)(1):

(1) is not eligible to apply for early reduction credits under section 15 of this rule; and

(2) becomes subject to the certification deadline under subsection (c)(2).

(e) The owner or operator of a NO_x budget under subsection (c)(3) or (c)(4) must determine, record, and report NO_x mass, heat input rate, if required for purposes of allocations, and any other values required to determine NO_x mass, for example, NO_x emission rate and heat input rate or NO_x concentration and stack flow rate, using the provisions of 40 CFR 75.70(g)*, from the date and hour that the unit starts operating until the date and hour that the continuous emission monitoring system, excepted monitoring system under 40 CFR 75, Appendix D* or E*, or excepted monitoring methodology under 40 CFR 75.19* is provisionally certified.

(f) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with subsection (p).

(2) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all the emissions in accordance with the applicable provisions of this rule and 40 CFR 75*, except as provided for in 40 CFR 75.74*.

(3) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall disrupt the CEMS, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this rule and 40 CFR 75* except as provided for in 40 CFR 75.74*.

(4) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall retire or permanently discontinue use of the CEMS, any component thereof, or any other approved emission monitoring system under this section, except under one (1) of the following circumstances:

(A) During the period that the unit is covered by a retired unit exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this rule and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The NO_x authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subsection (h)(2).

(g) The owner or operator of a NO_x budget unit that is subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR 75*, except the following:

(1) If, prior to January 1, 1998, the U.S. EPA approved a petition under 40 CFR 75.17(a)* or 40 CFR 75.17(b)* for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66* for an alternative to a requirement in 40 CFR 75.17*, the NO_x authorized account representative shall resubmit the petition to the U.S. EPA under subsection (p)(1) to determine if the approval applies under the NO_x budget trading program.

(2) For any additional CEMS required under the common stack provisions in 40 CFR 75.72*, or for any NO_x concentration CEMS used under the provisions of 40 CFR 75.71(a)(2)*, the owner or operator shall meet the requirements of subsection (h).

(h) The owner or operator of a NO_x budget unit that is not subject to an acid rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19* shall also meet the requirements of subsection (j) and the owner or operator of a unit that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall also meet the requirements of subsection (k). The owner or operator of a NO_x budget unit that is subject to an acid rain emissions limitation, but requires additional CEMS under the common stack provisions in 40 CFR 75.72*, or that uses a NO_x concentration CEMS under 40 CFR 75.71(a)(2)* also shall comply with the following initial certification and recertification procedures:

(1) The owner or operator shall ensure that each monitoring system required by 40 CFR 75, Subpart H*, that includes the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20*. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in subsection (c). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this section in a location where no monitoring system was previously installed, initial certification according to 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in a certified CEMS that may significantly affect the ability of the system to accurately measure or record NO_x mass emissions or heat input or to meet the requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the flow or concentration profile, the owner or operator shall recertify the CEMS according to 40 CFR 75.20(b)*. Examples of changes that require recertification include replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.

(3) Requirements for the certification approval process for initial certifications and recertification are as follows:

(A) The NO_x authorized account representative shall submit to the appropriate U.S. EPA regional office and the department a written notice of the dates of certification in accordance with subsection (n).

(B) The NO_x authorized account representative shall submit to the department a certification application for each CEMS required under 40 CFR 75, Subpart H*. A complete certification application shall include the information specified in 40 CFR 75, Subpart H*.

(C) Except for units using the low mass emission excepted methodology under 40 CFR 75.19*, the provisional certification date for a monitor shall be determined using the procedures set forth in 40 CFR 75.20(a)(3)*. A provisionally certified monitor may be used under the NO_x budget trading program for a period of time not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the CEMS or associated component thereof under clause (B). Data measured and recorded by the provisionally certified CEMS or associated component thereof, in accordance with the requirements of 40 CFR 75*, shall be considered valid quality assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue a notice within the one hundred twenty (120) day period, each CEMS that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the NO_x budget trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) A certification application shall be considered complete when all of the applicable information required to be submitted under clause (B) has been received by the department. If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative must submit the additional information required to complete the certification application. If the NO_x authorized account representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii).

(iii) If the certification application shows that any CEMS or associated component thereof does not meet the performance requirements of this rule, or if the certification application is incomplete and the requirement for disapproval under item (ii) has been met, the department shall issue a written notice of disapproval of the certification application. Upon issuance of the notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified CEMS or associated component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subsection (i) for each CEMS or associated component thereof which is disapproved for initial certification.

(iv) The department may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (m).

(i) If the department issues a notice of disapproval of a certification application under subsection (h)(3)(D)(iii) or a notice of disapproval of certification status under subsection (h)(3)(D)(iv), then the following shall apply:

(1) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data specified in 40 CFR 75.20(a)(4)(iii)*, 40 CFR 75.20(b)(5)*, 40 CFR 75.20(h)(4)*, or 40 CFR 75.21(e)* and continuing until the date and hour specified under 40 CFR 75.20(a)(5)(i)*:

(A) For units that the owner or operator is monitoring or intending to monitor for NO_x emission rate and heat input rate or intends to use or is using the low mass emission excepted methodology under 40 CFR 75.19*:

(i) the maximum potential NO_x emission rate; and

(ii) the maximum potential hourly heat input of the unit.

(B) For units monitoring or intending to monitor for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor:

(i) the maximum potential concentration of NO_x; and

(ii) the maximum potential flow rate of the unit under 40 CFR 75, Appendix A, Section 2*.

(2) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subsection (h)(3)(A) and (h)(3)(C).

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's notice of disapproval, no later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(j) The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under 40 CFR 75.19* and not subject to an acid rain program emissions limitation under 40 CFR 72* shall meet the applicable general operating requirements of 40 CFR 75.10*, the applicable requirements of 40 CFR 75.19*, and the applicable certification requirements of subsections (h) and (i), except that the excepted methodology shall be deemed provisionally certified for use under the NO_x budget trading program, as of the following dates:

(1) For a unit that does not have monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19* for the unit, starting on the date of such submission until the completion of the period for the department's review.

(2) For a unit that has monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19* for the unit and that reports data on an annual basis under 40 CFR 97.74(d)*, starting January 1 of the year after the year of the certification application submission until the completion of the period for the department's review.

(3) For a unit that has monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19* for the unit and that reports on a control season basis

under 40 CFR 97.74(d)*, starting May 1 of the ozone control period after the year of such submission until the completion of the period for the department's review.

(k) The NO_x authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E* shall apply to the department for certification prior to use of the system under the NO_x trading program. The NO_x authorized account representative shall apply for recertification following a replacement, modification, or change according to the procedures in subsection (h). The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subsection (h)(3) and 40 CFR 75.20(f)*.

(l) Whenever any monitoring system fails to meet the quality assurance requirements of 40 CFR 75*, data shall be substituted using the applicable procedures in:

(1) 40 CFR 75, Subpart D*;

(2) 40 CFR 75, Appendix D*; or

(3) 40 CFR 75, Appendix E*.

(m) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or associated component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (e) through (k) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department shall issue a notice of disapproval of the certification status of the system or associated component. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the U.S. EPA or the department. By issuing the notice of disapproval, the department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in subsections (e) through (k) for each disapproved system or component.

(n) The NO_x authorized account representative for a NO_x budget unit shall submit written notice to the department, the U.S. EPA, and the appropriate U.S. EPA Regional Office in accordance with 40 CFR 75.61*, except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the department.

(o) The NO_x authorized account representative shall comply with all record keeping and reporting requirements in this subsection and with the requirements of section 6(e) of this rule as follows:

(1) If the NO_x authorized account representative for a NO_x budget unit subject to an acid rain emission limitation who signed and certified any submission that is made under 40 CFR 75, Subpart F* or 40 CFR 75, Subpart G* and that includes data and information required under this section or 40 CFR 75, Subpart H* is not the same person as the designated representative or the alternative designated representative for the unit under 40 CFR 72*, the submission must also be signed by the designated representative or the alternative designated representative.

(2) The owner or operator of a NO_x budget unit shall comply with the following monitoring plan requirements:

(A) The owner or operator of a unit subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62*, except that the monitoring plan shall also include all of the information required by 40 CFR 75, Subpart H*.

(B) The owner or operator of a unit that is not subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62*, except that the monitoring plan is only required to include the information required by 40 CFR 75, Subpart H*.

(3) The NO_x authorized account representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (e) through (k), including the information required under 40 CFR 75, Subpart H*.

(4) The NO_x authorized account representative shall submit quarterly reports as follows:

(A) If a unit is subject to an acid rain emission limitation or if the owner or operator of the NO_x budget unit chooses to meet the annual reporting requirements of this section, the NO_x authorized account representative shall submit a quarterly report for each calendar quarter beginning with:

(i) the units that elect to comply with the early reduction credit provisions under section 15 of this rule, the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification;

(ii) the units commencing operation prior to May 31, 2004, that are not required to certify monitors by May 1 prior to the year in which early reduction credits are generated under subsection (c)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003, through June 30, 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May 1, 2003; or

(iii) for a unit that commences operation after May 1, 2003, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(B) If a NO_x budget unit is not subject to an acid rain emission limitation, then the NO_x authorized account representative shall do either the following:

(i) Meet all of the requirements of 40 CFR 75* related to monitoring and reporting NO_x mass emissions during the entire year and meet the reporting deadlines specified in clause (A)(i).

(ii) Submit quarterly reports covering the period May 1 through September 30 of each year and including the data described in 40 CFR 75.74(c)(6)*. The NO_x authorized account representative shall submit a quarterly report for each calendar quarter, beginning with the following:

(AA) The units that elect to comply with the early reduction credit provisions under section 15 of this rule, the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification.

(BB) The units commencing operation prior to May 1, 2003, that are not required to certify monitors by May 1, 2002, under subsection (c)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C), or if the certification tests are not completed by May 1, 2003, the partial calendar quarter from May 1, 2003 through June 30, 2003. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, 2003.

(CC) For units that commence operation after May 1, 2003, during the ozone control period, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(DD) For units that commence operation after May 1, 2003, and before May 1 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May 1 of the year in which the unit commences operation, May 1 of the year in which the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(EE) For units that commence operation after May 1, 2003, and after September 30 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May 1 of the year after the unit commences operation, May 1 of the year after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(C) The NO_x authorized account representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75, Subpart H* and 40 CFR 75.64* and the following:

(i) For units subject to an acid rain emissions limitation, quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart H* for each NO_x budget unit, or group of units using a common stack, as well as information required in 40 CFR 75, Subpart G*.

(ii) For units not subject to an acid rain emissions limitation, quarterly reports are only required to include all of the data and information required in 40 CFR 75, Subpart H* for each NO_x budget unit, or group of units using a common stack.

(D) The NO_x authorized account representative shall submit to the department and the U.S. EPA a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility

for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state the following:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75*, including the quality assurance procedures and specifications.

(ii) For a unit with add-on NO_x emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1)*, the add-on emission controls were operating within the range of parameters listed in the quality assurance and quality control program under 40 CFR 75, Appendix B* and the substitute values do not systematically underestimate NO_x emissions.

(iii) For a unit that is reporting on an ozone control period basis under this subdivision, the NO_x emission rate and NO_x concentration values substituted for missing data under 40 CFR 75, Subpart D* are calculated using only values from an ozone control period and do not systematically underestimate NO_x emissions.

(p) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section as follows:

(A) Application for an alternative to any requirement of this section is in accordance with this subsection only to the extent that the petition is approved by the U.S. EPA, in consultation with the department.

(B) Notwithstanding this subdivision, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72*, the petition is governed by subdivision (2).

(2) The NO_x authorized account representative of a NO_x budget unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section as follows:

(A) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72* or a NO_x concentration CEMS used under 40 CFR 75.71(a)(2)*.

(B) Application of an alternative to any requirement of this section is in accordance with this section only to the extent the petition under this subsection is approved by both the department and the U.S. EPA.

(q) The following applies to the monitoring and reporting of NO_x mass emissions:

(1) The owner or operator of a unit that elects to monitor and report NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75* for any source that has source allocations based upon heat input.

(2) The owner or operator of a unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75* for any source that is applying for early reduction credits under section 15(b) of this rule.

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-12; filed Aug 17, 2001, 3:45 p.m.: 25 IR 42; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569)*

326 IAC 10-4-13 Individual opt-ins

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 13. (a) A unit may qualify to become a NO_x budget opt-in source under this section if the unit meets the following requirements:

(1) Is not a NO_x budget unit under section 1 of this rule.

(2) Has all of its emissions vented to a stack.

(3) Is currently operating.

A unit that is a NO_x budget unit is covered by an exemption under section 1(b) of this rule or a retired unit exemption under section

3 of this rule, or is not operating is not eligible to become a NO_x budget opt-in source.

(b) Except otherwise as provided in this rule, a NO_x budget opt-in source shall be treated as a NO_x budget unit for purposes of applying sections 1 through 12 and 14 of this rule.

(c) A unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, or a NO_x budget opt-in source, located at the same source as one (1) or more NO_x budget units, shall have the same NO_x authorized account representative as the NO_x budget units.

(d) In order to apply for an initial NO_x budget opt-in permit, the NO_x authorized account representative of a unit qualified under subsection (a) may submit an application to the department at any time, except as provided under subsection (g), that includes the following:

(1) A complete NO_x budget permit application under section 7(c) of this rule.

(2) A monitoring plan submitted in accordance with section 12 of this rule.

(3) A copy of the complete account certificate of representation submitted to U.S. EPA under section 6(h) of this rule, if no NO_x authorized account representative has been previously designated for the unit.

The NO_x authorized account representative of a NO_x budget opt-in source shall submit a complete NO_x budget permit application under section 7(c) of this rule to renew the NO_x budget opt-in permit in accordance with section 7(b)(1)(C) and 7(b)(2)(C) of this rule and, if applicable, an updated monitoring plan in accordance with section 12 of this rule.

(e) The department shall issue or deny a NO_x budget opt-in permit for a unit for which an initial application for a NO_x budget opt-in permit under subsection (d) is submitted, in accordance with section 7(a) of this rule and the following:

(1) The department shall determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x budget opt-in permit under subsection (d). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with section 12 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(2) If the department determines that the unit's monitoring plan is sufficient under subdivision (1) and after completion of monitoring system certification under 40 CFR 75, Subpart H* and section 12 of this rule, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with 40 CFR 75, Subpart H* and section 12 of this rule for one (1) full ozone control period during which:

(A) percent monitor data availability is not less than ninety percent (90%); and

(B) the unit is in full compliance with any applicable state or federal NO_x emissions or emissions-related requirements.

Solely for purposes of applying the requirements in the previous sentence, the unit shall be treated as a NO_x budget unit prior to issuance of a NO_x budget opt-in permit covering the unit.

(3) Based on the information monitored and reported under subdivision (2), the unit's baseline heat rate shall be calculated as the unit's total heat input, in million British thermal units, for the ozone control period and the unit's baseline NO_x emissions rate shall be calculated as the unit's total NO_x mass emissions, in pounds, for the ozone control period divided by the unit's baseline heat rate.

(4) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivision (3), the department shall serve a draft NO_x budget opt-in permit on the NO_x authorized account representative of the unit.

(5) Within twenty (20) days after the issuance of the draft NO_x budget opt-in permit, the NO_x authorized account representative of the unit must submit to the department a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_x budget opt-in permit under subsection (d). The department shall treat the failure to make a timely submission as a withdrawal of the NO_x budget opt-in permit application.

(6) If the NO_x authorized account representative confirms the intention to opt in the unit under subdivision (5), the department shall issue the draft NO_x budget opt-in permit in accordance with section 7(a) of this rule.

(7) Notwithstanding subdivisions (1) through (6), if at any time before issuance of a draft NO_x budget opt-in permit for the unit, the department determines that the unit does not qualify as a NO_x budget opt-in source under subsection (a), the department shall issue a draft denial of a NO_x budget opt-in permit for the unit in accordance with section 7(a) of this rule.

(8) A NO_x authorized account representative of a unit may withdraw its application for a NO_x budget opt-in permit under subsection (d) at any time prior to the issuance of the final NO_x budget opt-in permit. Once the application for a NO_x budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply must submit a new application for a NO_x budget permit under subsection (d).

(9) The effective date of the initial NO_x budget opt-in permit shall be May 1 of the first ozone control period starting after the

issuance of the initial NO_x budget opt-in permit by the department. The unit shall be a NO_x budget opt-in source and a NO_x budget unit as of the effective date of the initial NO_x budget opt-in permit.

(f) The following shall apply to the content of a NO_x budget opt-in permit:

(1) Each NO_x budget opt-in permit, including any draft or proposed NO_x budget opt-in permit, if applicable, shall contain all elements required for a complete NO_x budget opt-in permit application under section 7(c) of this rule.

(2) Each NO_x budget opt-in permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 10 and 11 of this rule, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x budget opt-in source covered by the NO_x budget opt-in permit or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located.

(g) The following requirements must be satisfied in order to withdraw an opt-in unit from the NO_x budget trading program:

(1) The NO_x authorized account representative of a NO_x budget opt-in source shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.

(2) Before a NO_x budget opt-in source covered by a request under subdivision (1) may withdraw from the NO_x budget trading program and the NO_x budget opt-in permit may be terminated under subdivision (6), the following conditions must be met:

(A) For the ozone control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report in accordance with section 8 of this rule.

(B) If the NO_x budget opt-in source has excess emissions for the ozone control period immediately before the withdrawal is to be effective, the U.S. EPA will deduct or have deducted from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, the full amount required under section 10(k)(5) through 10(k)(7) of this rule for the ozone control period.

(C) After the requirements for withdrawal under this subdivision and subdivision (1) are met, the U.S. EPA will deduct from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as any NO_x allowances allocated to that source under subsection (i) for any ozone control period for which the withdrawal is to be effective. The U.S. EPA will close the NO_x budget opt-in source's compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners or operators of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(3) A NO_x budget opt-in source that withdraws from the NO_x budget trading program shall comply with all requirements under the NO_x budget trading program concerning all years for which the NO_x budget opt-in source was a NO_x budget opt-in source, even if the requirements arise or must be complied with after the withdrawal takes effect.

(4) After the requirements for withdrawal under subdivisions (1) and (2) are met, including deduction of the full amount of NO_x allowances required, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source of the acceptance of the withdrawal of the NO_x budget opt-in source as of a specified effective date that is after the requirements have been met and that is prior to May 1 or after September 30.

(5) If the requirements for withdrawal under subdivisions (1) and (2) are not met, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source that the NO_x budget opt-in source's request to withdraw is denied. If the NO_x budget opt-in source's request to withdraw is denied, the NO_x budget opt-in source shall remain subject to the requirements for a NO_x budget opt-in source.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the NO_x budget permit covering the NO_x budget opt-in source to terminate the NO_x budget opt-in permit as of the effective date specified under subdivision (1). A NO_x budget opt-in source shall continue to be a NO_x budget opt-in source until the effective date of the termination.

(7) If the department denies the NO_x budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with subdivisions (1) and (2).

Once a NO_x budget opt-in source withdraws from the NO_x budget trading program and its NO_x budget opt-in permit is terminated under this section, the NO_x authorized account representative may not submit another application for a NO_x budget opt-in permit under subsection (d) for the unit prior to the date that is four (4) years after the date on which the terminated NO_x budget opt-in permit became effective.

(h) When a NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the NO_x authorized account representative shall notify the department and the U.S. EPA in writing of the change in the NO_x budget opt-in source's regulatory status within thirty (30) days of the change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning a NO_x budget opt-in source:

(1) When the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the department shall revise the NO_x budget opt-in source's NO_x budget opt-in permit to meet the requirements of a NO_x budget permit under section 7(d) and 7(e) of this rule as of an effective date that is the date on which the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account for the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as follows:

(A) Any NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for any ozone control period after the last ozone control period during which the unit's NO_x budget opt-in permit was effective.

(B) If the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(3) The NO_x authorized account representative shall ensure that the compliance account of the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under subdivision (2). If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(4) For every ozone control period during which the NO_x budget permit revised under subdivision (1) is effective, the following shall apply:

(A) The NO_x budget unit under subdivision (1) shall be:

(i) treated, solely for the purposes of NO_x allowance allocations under section 9(c) through 9(e) of this rule, as a unit that commenced operation on the effective date of the NO_x budget permit revision under subdivision (1); and

(ii) allocated NO_x allowances under section 9(c) through 9(e) of this rule.

(B) Notwithstanding clause (A), if the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the following number of NO_x allowances shall be allocated to the NO_x budget unit. The number of NO_x allowances otherwise allocated to the NO_x budget unit under section 9(c) through 9(e) of this rule for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(5) When the NO_x authorized account representative of a NO_x budget opt-in source does not renew its NO_x budget opt-in permit under subsection (d), the U.S. EPA will deduct from the NO_x budget opt-in unit's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior ozone control period as any NO_x allowances allocated to the NO_x budget opt-in source under subsection (i) for any ozone control period after the last ozone control period for which the NO_x budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, includes the NO_x allowances necessary for completion of the deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(6) After the deduction under subdivision (5) is completed, the U.S. EPA will close the NO_x budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of the deduction and any deduction under section 10(j) and 10(k) of this rule, the U.S. EPA will:

(A) close the NO_x budget opt-in source's compliance account; and

(B) establish, and transfer any remaining allowances to, a new general account for the owners or operators of the NO_x budget opt-in source.

The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account

representative for the general account.

(i) The department shall allocate NO_x allowances to NO_x budget opt-in sources as follows:

(1) By December 31 immediately before the first ozone control period for which the NO_x budget opt-in permit is effective, the department shall allocate NO_x allowances to the NO_x budget opt-in source and submit to the U.S. EPA the allocation for the ozone control period in accordance with subdivision (3).

(2) By no later than December 31, after the first ozone control period for which the NO_x budget opt-in permit is in effect, and December 31 of each year thereafter, the department shall allocate NO_x allowances to the NO_x budget opt-in source and submit to the U.S. EPA allocations for the next ozone control period in accordance with subdivision (3).

(3) For each ozone control period for which the NO_x budget opt-in source has an approved NO_x budget opt-in permit, the NO_x budget opt-in source shall be allocated NO_x allowances according to the following procedures:

(A) The heat input, in million British thermal units, used for calculating NO_x allowance allocations shall be the lesser of: the NO_x budget opt-in source's:

(i) baseline heat input determined pursuant to subsection (e)(3); or

(ii) heat input, as determined in accordance with section 12 of this rule, for the ozone control period in the year prior to the year of the ozone control period for which the NO_x allocations are being calculated.

(B) The department shall allocate NO_x allowances to the NO_x budget opt-in source in an amount equaling the heat input, in million British thermal units, determined under clause (A) multiplied by the lesser of the following:

(i) the NO_x budget opt-in source's baseline NO_x emissions rate, in pounds per million British thermal units, determined under subsection (e)(3);

(ii) the most stringent state or federal NO_x emissions limitation applicable to the NO_x budget opt-in source during the ozone control period;

and then the product will be divided by two thousand (2,000) pounds per ton and rounded to the nearest ton.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-13; filed Aug 17, 2001, 3:45 p.m.: 25 IR 48; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3568; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1893)*

326 IAC 10-4-14 NO_x allowance banking

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 14. (a) NO_x allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account as follows:

(1) Any NO_x allowance that is held in a compliance account, an overdraft account, or a general account shall remain in the account unless and until the NO_x allowance is deducted or transferred under:

(A) section 8(d), 8(e), 10(j), 10(k), 11, or 13 of this rule; or

(B) subsection (b).

(2) The U.S. EPA will designate, as a banked NO_x allowance, any NO_x allowance that remains in a compliance account, an overdraft account, or a general account after the U.S. EPA has made all deductions for a given ozone control period from the compliance account or overdraft account under section 10(j) and 10(k) of this rule, 40 CFR 97*, a state NO_x budget trading program established pursuant to 40 CFR 51.121*and approved and administered by the U.S. EPA, or a federal implementation plan and that was allocated for that ozone control period or a ozone control period in a prior year.

(b) Each year starting in 2005, after the U.S. EPA has completed the designation of banked NO_x allowances under subsection (a)(2) and before May 1 of the year, the U.S. EPA will determine the extent that banked NO_x allowances may be used for compliance in the ozone control period for the current year as follows:

(1) The U.S. EPA will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts.

(2) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked NO_x allowance may be deducted for compliance in accordance with section 10(k)

of this rule.

(3) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts exceeds ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked allowance may be deducted for compliance in accordance with section 10(k) of this rule, except as follows:

(A) The U.S. EPA will determine the following ratio:

(i) One-tenth (0.10) multiplied by the sum of the trading program budget for the ozone control period.

(ii) Divided by the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts.

(B) The U.S. EPA will multiply the number of banked NO_x allowances in each compliance account or overdraft account by the ratio determined under clause (A). The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with section 10(k) of this rule. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with section 10(k) of this rule, except that, if these NO_x allowances are used to make a deduction, two (2) NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under section 10(k) of this rule.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-14; filed Aug 17, 2001, 3:45 p.m.: 25 IR 52; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3572; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1896)*

326 IAC 10-4-15 Compliance supplement pool

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 15. (a) The department may allow sources required to implement NO_x emission control measures by May 31, 2004, and subject to this rule, to demonstrate compliance in the 2004 and 2005 ozone control periods using credit issued from a compliance supplement pool in accordance with this section. A source may not use credit from the compliance supplement pool to demonstrate compliance after the 2005 ozone control period.

(b) The department may distribute NO_x allocations from the compliance supplement pool to NO_x budget units that are required to implement control measures using one (1) or both of the following mechanisms:

(1) The department may issue credits to NO_x budget units that implement emissions reductions beyond all applicable requirements from May 1 through and including September 30 in any year in 2001 through 2003 according to the following provisions:

(A) The department shall complete the issuance process no later than March 31 of the year after the control measures were implemented.

(B) The emissions reduction may not be required by Indiana's state implementation plan (SIP), state law or rule, or be otherwise required by the Clean Air Act (CAA).

(C) The emissions reduction must be verified by the source as actually having occurred from May 1 through and including September 30 in any year in 2001 through 2003.

(D) Each NO_x budget unit for which the owner or operator requests any early reduction credits under this section shall monitor NO_x emissions in accordance with 40 CFR 75, Subpart H* starting in the ozone control period prior to the ozone control period for which the early reduction credits are requested and for each ozone control period for which the early reduction credits are requested. The unit's percent monitor data availability shall be not less than ninety percent (90%) during the ozone control period prior to the ozone control period for which the early reduction credits are requested, and the unit must be in compliance with any applicable state or federal NO_x emissions or emissions-related requirements during the ozone control period for which the early reduction credits are requested.

(E) The emissions reduction must be quantified according to procedures set forth in 40 CFR 75, Subpart H*.

(F) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of clauses (B) through (D) may submit to the department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the ozone control period for any year in 2001 through 2003. The request shall include the following:

(i) In the early reduction credit request, the NO_x authorized account may request early reduction credits for the ozone control period in an amount equal to the unit's heat input for the ozone control period in which the early reductions occurred multiplied by the difference between the unit's:

(AA) actual average NO_x emission rate in the ozone control period prior to the first ozone control period for which the early reduction credits are requested; and

(BB) NO_x emission rate for the ozone control period in which the early reductions occurred;

divided by two thousand (2,000) pounds per ton and rounded to the nearest ton.

(ii) The early reduction credit request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions on which the request is based are made or a later date approved by the department.

(G) The department shall allocate NO_x allowances from the compliance supplement pool to NO_x budget units meeting the requirements of this subdivision in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the department shall accept the request only if the requirements of clauses (B) through (D) and (F)(ii) are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of clauses (B) through (D).

(ii) If the compliance supplement pool has an amount of NO_x allowances equal to or greater than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate to each NO_x budget unit covered by the accepted requests one (1) allowance for each early reduction credit requested, as adjusted under item (i).

(iii) If the compliance supplement pool has an amount of NO_x allowances less than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate NO_x allowances to each NO_x budget unit covered by the accepted requests according to the formula:

A NO_x budget unit's allocated early reduction credits =

((NO_x budget unit's adjusted early reduction credits) ÷ (total adjusted early reduction credits requested by all NO_x budget units)) × (available NO_x allowances from the compliance supplement pool)

where:

(AA) A NO_x budget unit's adjusted early reduction credits is the number of early reduction credits for the unit for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(BB) Total adjusted early reduction credits requested by all NO_x budget units is the number of early reduction credits for all NO_x budget units for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(CC) Available NO_x allowances from the compliance supplement pool is the number of NO_x allowances in the compliance supplement pool and available for early reduction credits for 2001 through 2003.

(H) By March 31 of the year following the request, the department shall submit to the U.S. EPA the allocations of NO_x allowances determined under clause (G). The U.S. EPA will record the allocations to the extent that they are consistent with the requirements of clauses (B) through (G).

(I) NO_x allowances recorded under clause (H) may be deducted for compliance under section 10(k) of this rule for the ozone control periods in 2004 through 2005. Notwithstanding section 14(a) of this rule, the U.S. EPA will deduct as retired any NO_x allowance that is recorded under clause (G) and is not deducted for compliance in accordance with section 10(k) of this rule for the ozone control period in 2004 or 2005.

(J) Sources that receive credit according to the requirements of this section may trade the credit to other sources or persons according to the provisions in this rule.

(2) The department may issue to NO_x budget units that demonstrate a need for an extension of the May 31, 2004, compliance deadline according to the following provisions:

(A) The department shall initiate the issuance process by the later date of:

(i) September 30, 2002; or

(ii) after the department issues credit according to the procedures in subdivision (1).

(B) The department shall complete the issuance process by no later than May 31, 2004.

(C) The department shall issue credit to a source only if the source demonstrates the following:

(i) For electricity generating units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the reliability of the electricity supply. This demonstration must include a showing that it would not be feasible to import electricity from other electricity generation systems during the installation of control technologies necessary to comply with this rule.

(ii) For large affected units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in item (i).

(iii) For a unit subject to this rule and subdivision (1) that allows for early reduction credits, it was not possible for the source to comply with applicable control measures by generating early reduction credits or acquiring early reduction credits from other sources.

(iv) For a unit subject to an approved emissions trading program under this rule, it was not possible to comply with applicable control measures by acquiring sufficient credit from other sources or persons subject to the emissions trading program.

(D) The department shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of allocating compliance supplement pool credits to a NO_x budget unit under clause (C).

(c) The total number of NO_x allowances available from the compliance supplement pool shall not exceed nineteen thousand nine hundred fifteen (19,915) tons of NO_x. No more than fifty percent (50%) of the compliance supplement pool shall be allocated in 2003 for early reductions implemented in 2001 and 2002. The remainder of the compliance supplement pool shall be allocated in 2004 for early reductions implemented in 2003 and any demonstrations of need. Any NO_x allowances that remain in the compliance supplement pool after the 2005 ozone control period shall be retired.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-15; filed Aug 17, 2001, 3:45 p.m.: 25 IR 53; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3572; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1897)*

326 IAC 10-4-16 Sunset

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 16. (a) Sections 1 through 15 of this rule shall not apply to any control period in 2009 or thereafter. The 2009 NO_x allowances allocated under section 9 of this rule remain in effect for purposes of the Clean Air Interstate Rule (CAIR) NO_x ozone season trading program in 326 IAC 24-3.

(b) By December 31, 2008, the department shall allocate any remaining allowances for the years 2004 through 2008 in the EGU or large affected unit new unit set-aside or the energy efficiency and renewable energy set-aside to the relevant existing NO_x budget units on a pro rata basis. The allowances from the energy efficiency and renewable energy set-aside shall be allocated to existing large affected units. *(Air Pollution Control Board; 326 IAC 10-4-16; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

Rule 5. Nitrogen Oxide Reduction Program for Internal Combustion Engines (ICE)

326 IAC 10-5-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. The requirements of this rule apply to the owner or operator of any large NO_x SIP Call engine. *(Air Pollution Control Board; 326 IAC 10-5-1; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1899)*

326 IAC 10-5-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 2. The following definitions apply throughout this rule:

(1) "Affected engine" means any stationary internal combustion engine that is:

(A) a large NO_x SIP Call engine; or

(B) other stationary internal combustion engine;

that is subject to NO_x control under a compliance plan under section 3 of this rule.

(2) "Engine seasonal NO_x 2007 tonnage reduction" means the year 2007 seasonal NO_x emissions reductions value in tons for a large NO_x SIP Call engine. This is calculated as the difference between the 2007 ozone season base NO_x emissions and the 2007 ozone season budget NO_x emissions contained in the NO_x SIP Call engine inventory.

(3) "Facility seasonal NO_x 2007 tonnage reduction" means the total of the engine seasonal NO_x 2007 tonnage reductions attributable to all of an owner or operator's large NO_x SIP Call engines.

(4) "Large NO_x SIP Call engine" means a stationary internal combustion engine identified and designated as large in the NO_x SIP Call engine inventory as emitting more than one (1) ton of NO_x per average ozone season day in 1995.

(5) "NO_x SIP Call engine inventory" means the inventory of internal combustion engines compiled by U.S. EPA as part of the NO_x SIP Call rule, including technical amendments announced in the March 2, 2000, Federal Register notice (65 FR 11222)*, and the adjustment of the 2007 budget NO_x control efficiency to eighty-two percent (82%) for large gas-fired engines announced in the April 21, 2004, Federal Register notice (69 FR 21604)* for the Phase II NO_x SIP Call rule.

(6) "Ozone season" means the time period between May 1 and September 30.

(7) "Past NO_x emission rate" means the following:

(A) For large NO_x SIP Call engines, the past NO_x emission rate is the 1995 uncontrolled emission rate in grams per brake horsepower hour (g/bhp-hr) that was used to determine NO_x emissions from this engine for the NO_x SIP Call emissions inventory.

(B) For an affected engine other than a large engine, the past NO_x emission rate in grams per brake horsepower per hour (g/bhp-hr) shall be determined based on performance testing consistent with the requirements of 40 CFR 60, Appendix A*. Where such test data are not available, the past NO_x emission rate may be determined on a case-by-case basis using, for example, appropriate emission factors or data from the NO_x SIP Call engine inventory.

(8) "Projected NO_x emission rate" means the projected NO_x emission rate in g/bhp-hr after installation of controls on an affected engine.

(9) "Projected operating hours" means the projected actual number of hours of operation per ozone season for an affected engine.

(10) "Stationary internal combustion engine" means any internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one (1) location to another and remains at a single site at:

(A) a building;

(B) a structure;

(C) a facility; or

(D) an installation;

for more than twelve (12) consecutive months. Any engine that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-5-2; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1899)*

326 IAC 10-5-3 Compliance plan

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. (a) After May 1, 2007, an owner or operator of a large NO_x SIP Call engine shall not operate the engine in the period May 1 through September 30 of 2007, and any subsequent year unless the owner or operator complies with the requirements of a compliance plan that meets the following provisions:

(1) The compliance plan must:

(A) be approved by the department; and

(B) demonstrate enforceable emission reductions from one (1) or more stationary internal combustion engines equal to or higher than the facility seasonal NO_x 2007 tonnage reduction.

(2) The compliance plan must cover some or all engines at:

(A) an individual facility;

(B) several facilities; or

(C) all facilities in the state that are in control of the same owner or operator.

(3) The compliance plan must be submitted to the department by May 1, 2006.

(4) The compliance plan may include credit for decreases in NO_x emissions from large NO_x SIP Call engines due to NO_x control equipment. Credit may also be included for decreases in NO_x emissions from other engines due to NO_x control equipment not reflected in the 2007 ozone season base NO_x emissions in the NO_x SIP Call engine inventory.

(5) The compliance plan must include the following items:

(A) A list of affected engines subject to the plan, including the engine's:

(i) manufacturer;

(ii) model;

(iii) facility location address; and

(iv) facility identification number.

(B) The projected ozone season hours of operation for each engine and supporting documentation.

(C) A description of the NO_x emissions control installed, or to be installed, on each engine and documentation to support projected NO_x emission rates.

(D) The past and projected NO_x emission rates for each affected engine in grams per brake horsepower per hour (g/bhp-hr).

(E) A numerical demonstration that the emission reductions obtained from all engines included under the plan will be equivalent to or greater than the owner or operator's facility seasonal NO_x 2007 tonnage reduction, based on the difference between the:

(i) past NO_x emission rate; and

(ii) projected NO_x emission rate;

multiplied by the projected operating hours for each affected engine and taking into account any credit under subdivision (4).

(F) Provisions for monitoring including the frequency of the monitoring, as specified in section 4 of this rule.

(G) Reporting and record keeping as specified in section 5 of this rule.

(b) The projected NO_x emission rate in grams per brake horsepower per hour (g/bhp-hr) for each affected engine must be included in a federally enforceable permit, and the permit shall contain the following:

(1) The emission rate.

(2) Monitoring requirements.

(3) Record keeping.

(4) Reporting.

(Air Pollution Control Board; 326 IAC 10-5-3; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1900)

326 IAC 10-5-4 Monitoring and testing requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 4. Each affected engine subject to this rule shall comply with the following requirements:

(1) Complete an initial performance test consistent with the requirements of 40 CFR 60, Appendix A*, following installation of emission controls required to achieve the emission rate limit specified in section 3(b) of this rule.

(2) Perform periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of a source's

compliance with the emission rate limit specified in section 3(b) of this rule. Such periodic monitoring may include any of the following:

(A) Performance tests consistent with the requirements of:

(i) 40 CFR 60, Appendix A*; or

(ii) portable monitors using ASTM D6522-00*.

(B) A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance that each affected engine's emissions are consistent with the requirements of section 3 of this rule.

(C) A predictive emissions measurement system that relies on automated data collection from instruments.

(D) A continuous emission monitoring system (CEMS) that complies with 40 CFR 60* or 40 CFR 75* as required under 326 IAC 3-5.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-5-4; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1900)*

326 IAC 10-5-5 Record keeping and reporting

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. (a) Owners or operators shall maintain all records necessary to demonstrate compliance with the requirements of this rule. Each record shall be maintained for a period of two (2) calendar years at the plant at which the subject engine is located. The records shall be made available to the department and U.S. EPA upon request. For each engine subject to the requirements of this rule, the owner or operator shall maintain the following records:

(1) Identification and location of each engine subject to the requirements of this rule.

(2) Calendar date of record.

(3) The number of hours the unit is operated during each ozone season compared to the projected operating hours.

(4) Type and quantity of fuel used.

(5) The results of all compliance tests.

(6) Monitoring data.

(7) Preventative maintenance.

(8) Corrective actions.

(b) Any owner or operator subject to the requirements of this rule shall submit results of all compliance tests to the department within forty-five (45) days after completion of the testing. *(Air Pollution Control Board; 326 IAC 10-5-5; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1900)*

Rule 6. Nitrogen Oxides Emission Limitations for Southern Indiana Gas and Electric Company

326 IAC 10-6-1 Southern Indiana Gas and Electric Company (SIGECO)

Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17; IC 13-22

Sec. 1. The following nitrogen oxides emission limitations apply to Southern Gas and Electric Company (SIGECO) Culley Unit 3 in Warrick County:

(1) Nitrogen oxides (NO_x) emission limit of one hundred-thousandths (0.100) pound per million Btu (lbs/MMBtu) on a thirty (30) day rolling average emission rate.

(2) Selective catalytic reduction technology (SCR) shall be operated at all times the unit is in operation consistent with the technological limitations, manufacturers' specifications, and good operating practices for the SCR.

(3) Emission rates for NO_x shall be determined using a continuous emissions monitoring system (CEMS) in accordance with reference methods specified in 40 CFR 75*. A thirty (30) day rolling average emission rate shall be determined by calculating an arithmetic average of all hourly emission rates in lb/MMBtu for the current day and the previous twenty-nine (29) operating days. A new thirty (30) day rolling average emission rate shall be calculated for each new operating day. Each thirty (30) day

rolling average emission rate shall include all startup, shutdown, and malfunction periods within an operating day.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-6-1; filed Jul 31, 2008, 4:00 p.m.: 20080827-IR-326070309FRA)*

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