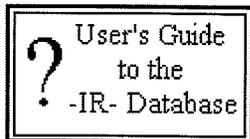


# INDIANA GENERAL ASSEMBLY



-IR- Database: Indiana Register

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## TITLE 326 AIR POLLUTION CONTROL BOARD

### Final Rule

LSA Document #05-117(F)

### DIGEST

Amends 326 IAC 10-3-1, 326 IAC 10-4-2, and 326 IAC 10-4-9 and adds 326 IAC 10-4-16 regarding the nitrogen oxide reduction program for specific source categories and nitrogen oxides budget trading program. Adds 326 IAC 24 concerning the Clean Air Interstate Rule Nitrogen Oxides (NO<sub>x</sub>) Annual Trading Program, the Clean Air Interstate Rule Sulfur Dioxide (SO<sub>2</sub>) Trading Program, and the Clean Air Interstate Rule Nitrogen Oxides (NO<sub>x</sub>) Ozone Season Trading Program. Effective 30 days after filing with the Publisher.

### HISTORY

First Notice: June 1, 2005, Indiana Register (28 IR 2817).

Second Notice of Comment Period and Notice of First Hearing: December 1, 2005, Indiana Register (29 IR 909).

Change in Notice of First Hearing: January 1, 2006, Indiana Register (29 IR 1243).

Continuation of Second Notice of Comment Period: February 1, 2006, Indiana Register (29 IR 1765).

Change in Notice of First Hearing: March 1, 2006, Indiana Register (29 IR 1965).

Date of First Hearing: June 7, 2006.

Proposed Rule and Notice of Third Comment Period: August 9, 2006, Indiana Register (DIN: 20060809-IR-326050117PRA).

Notice of Second Hearing: August 9, 2006, Indiana Register (DIN: 20060809-IR-326050117PHA).

Date of Second Hearing: November 1, 2006.

**326 IAC 10-3-1; 326 IAC 10-4-2; 326 IAC 10-4-9; 326 IAC 10-4-16; 326 IAC 24**

SECTION 1. 326 IAC 10-3-1 IS AMENDED TO READ AS FOLLOWS:

## **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<sub>x</sub> 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)*

SECTION 2. 326 IAC 10-4-2 IS AMENDED TO READ AS FOLLOWS:

## **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<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget source or a group of identified NO<sub>x</sub> budget sources who is authorized to represent the owners or operators of the source or sources and of the NO<sub>x</sub> budget units at the source or sources with regard to matters under the NO<sub>x</sub> budget trading program.

(2) "Account number" means the identification number given by the U.S. EPA to each NO<sub>x</sub> 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<sub>x</sub> allowances to be initially credited to a NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> budget unit under section 1 of this rule on the date the unit commences commercial operation, the date the unit becomes a NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> budget unit under section 1 of this rule on the date of commencement of operation, the date the unit becomes a NO<sub>x</sub> 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<sub>x</sub> allowance tracking system account, established by the U.S. EPA for a NO<sub>x</sub> budget unit under section 10 of this rule, in which the NO<sub>x</sub> allowance allocations for the unit are initially recorded and in which are held NO<sub>x</sub> allowances available for use by the unit for an ozone control period for the purpose of meeting the unit's NO<sub>x</sub> 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<sub>x</sub> budget source's or a NO<sub>x</sub> budget unit's compliance or noncompliance with this rule and that is signed by the NO<sub>x</sub> 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<sub>x</sub>) 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<sub>x</sub> pollutant concentration monitor and an automated DAHS. A NO<sub>x</sub> concentration monitoring system provides a permanent, continuous record of NO<sub>x</sub> emissions in units of parts per million (ppm).

(C) A nitrogen oxides emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of:

- (i) a NO<sub>x</sub> pollutant concentration monitor;
- (ii) a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor; and
- (iii) an automated DAHS.

A NO<sub>x</sub> concentration monitoring system provides a permanent, continuous record of NO<sub>x</sub> concentration in units of parts per million (ppm) and diluent gas concentration in units of percent O<sub>2</sub> or CO<sub>2</sub> (percent O<sub>2</sub> or CO<sub>2</sub>) and NO<sub>x</sub> 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<sub>2</sub>O (percent H<sub>2</sub>O).

(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<sub>x</sub> 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 ~~prior to the effective date of this rule.~~ **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<sub>x</sub> 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<sub>x</sub> emitted by a NO<sub>x</sub> budget unit during an ozone control period that exceeds the NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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.

or

(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. or

(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.

~~Large affected unit~~ **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<sub>2</sub>) concentration, in percent of CO<sub>2</sub>.

(ii) The minimum oxygen (O<sub>2</sub>) concentration, in percent of O<sub>2</sub>.

(31) "Maximum potential NO<sub>x</sub> 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<sub>2</sub>) concentration in percent of O<sub>2</sub>; or

(ii) minimum carbon dioxide (CO<sub>2</sub>) concentration in percent of CO<sub>2</sub>;

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<sub>x</sub> emissions limitation" means the lowest NO<sub>x</sub> 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<sub>x</sub> allowance" means an authorization by the department or the U.S. EPA under the nitrogen oxides (NO<sub>x</sub>) budget trading program to emit up to one (1) ton of NO<sub>x</sub> 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<sub>x</sub> budget trading program established pursuant to 40 CFR 51.121\* and approved and administered by the U.S. EPA.

(38) "NO<sub>x</sub> allowance deduction" or "deduct NO<sub>x</sub> allowances" means the permanent withdrawal of NO<sub>x</sub> allowances by the U.S. EPA from a NO<sub>x</sub> allowance tracking system compliance account or overdraft account to account for the number of tons of NO<sub>x</sub> emissions from a NO<sub>x</sub> 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<sub>x</sub> allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of NO<sub>x</sub> allowances under the NO<sub>x</sub> budget trading program.

(40) "NO<sub>x</sub> allowance tracking system account" means an account in the NO<sub>x</sub> allowance tracking system established by the U.S. EPA for purposes of recording the allocation,

holding, transferring, or deducting of NO<sub>x</sub> allowances.

(41) "NO<sub>x</sub> 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<sub>x</sub> allowances may be submitted for recordation in a NO<sub>x</sub> 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<sub>x</sub> budget emissions limitation for the ozone control period immediately preceding the deadline.

(42) "NO<sub>x</sub> allowances held" or "hold NO<sub>x</sub> allowances" means the NO<sub>x</sub> 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<sub>x</sub> allowance tracking system account.

(43) "NO<sub>x</sub> authorized account representative" means either of the following:

(A) For a NO<sub>x</sub> budget source or NO<sub>x</sub> budget unit at the source, the natural person who is authorized by the owners or operators of the source and all NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances held in the general account.

(44) "NO<sub>x</sub> budget emissions limitation" means, for a NO<sub>x</sub> budget unit, the tonnage equivalent of the NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> budget trading program.

(B) For a change in regulatory status, for a NO<sub>x</sub> budget opt-in source under section 13 (g) through 13(i) of this rule.

(45) "NO<sub>x</sub> budget opt-in permit" means a NO<sub>x</sub> budget permit covering a NO<sub>x</sub> budget opt-in source.

(46) "NO<sub>x</sub> budget opt-in source" means a source that includes one (1) or more NO<sub>x</sub> budget units:

(A) that has elected to become a NO<sub>x</sub> budget source under the NO<sub>x</sub> budget trading program; and

(B) whose NO<sub>x</sub> budget opt-in permit has been issued and is in effect under section 13 of this rule.

(47) "NO<sub>x</sub> 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<sub>x</sub> budget trading program requirements applicable to the following:

(i) A NO<sub>x</sub> budget source.

(ii) Each NO<sub>x</sub> budget unit at the NO<sub>x</sub> budget source.

(iii) The owners or operators and the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit.

(48) "NO<sub>x</sub> budget source" means a source that includes one (1) or more NO<sub>x</sub> budget units.

(49) "NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> budget unit" means a unit that is subject to the NO<sub>x</sub> 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<sub>x</sub> budget permit under section 13(d) of this rule.

(52) "Operator" means any person who operates, controls, or supervises a NO<sub>x</sub> budget unit, a NO<sub>x</sub> budget source, or a unit for which an application for a NO<sub>x</sub> 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<sub>x</sub> budget unit under the NO<sub>x</sub> budget trading program through a final, effective NO<sub>x</sub> budget opt-in permit under section 13 of this rule.

(54) "Overdraft account" means the NO<sub>x</sub> allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO<sub>x</sub> budget source where there are two (2) or more NO<sub>x</sub> 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<sub>x</sub> budget unit or in a unit for which an application for a NO<sub>x</sub> 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<sub>x</sub> budget unit or from a unit for which an application for a NO<sub>x</sub> 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<sub>x</sub> budget unit or the unit for which an application for a NO<sub>x</sub> 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<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the NO<sub>x</sub> authorized account representative to represent that person's ownership interest with respect to NO<sub>x</sub> 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:

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

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<sub>x</sub> allowances, the movement of NO<sub>x</sub> allowances by the U.S. EPA from one (1) NO<sub>x</sub> 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<sub>x</sub> allowances, the unique identification number assigned to each NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> tons apportioned to all NO<sub>x</sub> budget units, in accordance with the NO<sub>x</sub> 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<sub>x</sub> 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)*

SECTION 3. 326 IAC 10-4-9 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 10-4-9 NO<sub>x</sub> 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<sub>x</sub> emissions apportioned to the NO<sub>x</sub> 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<sub>x</sub> emissions that are available for each ozone control period for allocation as NO<sub>x</sub> 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<sub>x</sub> limitations (in tons) for each unit under section 1(b) of this rule that is not allocated any NO<sub>x</sub> allowances under subsection (d) for the ozone control period and whose NO<sub>x</sub> emission limitation (in tons of NO<sub>x</sub>) 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<sub>x</sub> allowances to NO<sub>x</sub> 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) ~~Within thirty (30) days of the effective date of this rule,~~ **By October 16, 2001,** the department shall submit to the U.S. EPA the NO<sub>x</sub> 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<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control period in 2007, 2008, and 2009.

~~(C) By December 31, 2006, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control period in 2010, 2011, and 2012.~~

~~(D) By December 31, 2009, and by December 31 every three (3) years thereafter, the department shall submit to the U.S. EPA, the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control periods four (4) years, five (5) years, and six (6) years after the year of the allowance allocation.~~

(2) For large affected units, ~~within thirty (30) days of the effective date of this rule~~ **by October 16, 2001,** the department shall submit to the U.S. EPA the NO<sub>x</sub> allowances for the ozone control periods in 2004 through 2009. ~~By December 31, 2006, the department shall review the allocations in light of emission trends, new units, and other relevant factors to determine whether revisions are appropriate.~~

(3) If the department fails to submit to the U.S. EPA the NO<sub>x</sub> allowance allocations in accordance with this rule, the U.S. EPA will allocate, for the applicable ozone control period, the same number of NO<sub>x</sub> allowances as were allocated for the preceding ozone control period.

(4) The department shall:

- (A) make available for review to the public the NO<sub>x</sub> allowance allocations under subdivision (1)(B) ~~(1)(C), and (1)(D)~~ on December 31 of each year cited in subdivision (1)(B); ~~(1)(C), and (1)(D)~~; and
- (B) provide a thirty (30) day opportunity for submission of objections to the NO<sub>x</sub> allowance allocations.

Objections shall be limited to addressing whether the NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowance allocations for each NO<sub>x</sub> budget unit under section 1 of this rule shall be:

(1) For a NO<sub>x</sub> 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) ~~through (b)(1)(D)~~, 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<sub>x</sub> 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<sub>x</sub> budget unit does not have a full five (5) years of ozone control period heat inputs, the following shall apply for a NO<sub>x</sub> 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<sub>x</sub> allowance allocation under subsection (b)(1)(B) ~~through (b)(1)(D)~~ 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances equal to the amount under subsection (a) (1), in accordance with the following procedures:

- (1) The department shall allocate NO<sub>x</sub> 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<sub>x</sub> allowance, as appropriate.

(2) If the initial total number of NO<sub>x</sub> 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<sub>x</sub> allowances allocated to all NO<sub>x</sub> budget units for the ozone control period under subdivision (1) so that the total number of NO<sub>x</sub> 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<sub>x</sub> allowances allocated under subdivision (1) and rounding to the nearest whole NO<sub>x</sub> allowance, as appropriate.

(3) The department shall allocate NO<sub>x</sub> 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
	003	238
(G) New Energy		
(H) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion	34
	Turbine	
(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<sub>x</sub> ozone season allowances in subdivision (3), the department shall allocate to Purdue University for ozone control periods 2007 through 2009 sixty (60) NO<sub>x</sub> 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<sub>x</sub> budget units that commenced operation, or are projected to commence

operation, on or after May 1, 2000, or for projects that reduce NO<sub>x</sub> 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<sub>x</sub> allowances in accordance with the following procedures:

(1) The department shall establish allocation set-asides for new NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances equal to one thousand one hundred fifteen (1,115) tons (two percent (2%) of overall trading budget).

(2) The NO<sub>x</sub> authorized account representative of a new NO<sub>x</sub> 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<sub>x</sub> allowances as follows:

(A) For a new NO<sub>x</sub> budget unit, for one (1) ozone control period under subsection (b), during which the NO<sub>x</sub> budget unit commenced, or is projected to commence, operation. The NO<sub>x</sub> authorized account representative shall reapply each year until the NO<sub>x</sub> budget unit is eligible to use NO<sub>x</sub> allowances allocated under subsection (d).

(B) For energy efficiency or renewable energy projects, project sponsors may request the reservation of NO<sub>x</sub> allowances, for one (1) control period in which the project is implemented. The NO<sub>x</sub> 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<sub>x</sub> emissions, and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO<sub>x</sub> emissions.

The NO<sub>x</sub> 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<sub>x</sub> allowance allocation is requested and for new NO<sub>x</sub> budget units, after the date on which the department issues a permit to construct the NO<sub>x</sub> budget unit and final approval is granted from the Indiana utility regulatory commission.

(3) In a NO<sub>x</sub> allowance allocation request under this subsection, the NO<sub>x</sub> authorized account representative may request for an ozone control period, NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances requested shall not exceed annual allowable NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances requested shall not exceed annual allowable NO<sub>x</sub> 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<sub>x</sub> 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:

$$\text{Allowances} = (\text{kWS} * \cancel{0.000375}/2000 \mathbf{0.00075})/2000$$

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<sub>x</sub> budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{Npt2} \times (\text{Npt1}/\text{Npt2}))/2000$$

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<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

Npt2 = NO<sub>x</sub> 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<sub>x</sub> budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{Npt2} \times (\text{Npt1}/\text{Npt2}) \times \cancel{0.25}/2000 \mathbf{0.50})/2000$$

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<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

Npt2 = NO<sub>x</sub> 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<sub>x</sub> 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:

$$\text{Allow} = (\text{kWG} \times (0.0015 - \text{NO}_x)) / 2000$$

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<sub>x</sub> = The amount of NO<sub>x</sub> 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:

$$\text{Allow} = (\text{NO}_x \text{ convt} - \text{NO}_x \text{ CHP}) / 2,000$$

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

NO<sub>x</sub> convt =  $[(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$

NO<sub>x</sub> CHP =  $(\text{BtuIn} \times \text{NO}_x \text{Rate}) / 1,000,000$

CHP

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<sub>x</sub>Rate = NO<sub>x</sub> emitted during normal system operation by the project measured in pounds per million Btu of fuel input.

(vii) Projects in section ~~2(18)(D)~~ **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<sub>x</sub> 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:

$$\text{Allowances} = (\text{kWG} * (0.0015 - \text{NO}_x) * \cancel{0.25}/2000 \mathbf{0.50})/2000$$

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<sub>x</sub> = The amount of NO<sub>x</sub> 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:

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

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<sub>x</sub> per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) * h) * \cancel{0.25}/2000 \mathbf{0.50/2000}$$

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

Et1 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit before improvement or replacement.

Et2 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> 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:**

$$\text{Allowances} = (\text{kWS} * \text{NO}_x * 0.5)/2,000$$

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<sub>x</sub> = The amount of NO<sub>x</sub> 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:**

$$\text{Allowances} = (\text{NO}_x \text{ Rate} * \text{HeatOut} / 0.8)/1,000,000/2,000$$

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

sponsor.

**NO<sub>x</sub> Rate = 0.17 lb/MMBtu or the actual NO<sub>x</sub> 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<sub>x</sub> emissions shall be awarded allowances according to the following formula:

$$\text{Allowances} = ((0.17 \times \text{Fuel-Input}) / 1,000,000) / 2,000$$

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:

$$\text{Allowances} = ((\text{NO}_x \text{ conventional} - \text{NO}_x \text{ CHP}) / 2,000) \times 0.5$$

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

$$\text{NO}_x \text{ conventional} = [(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$$

$$\text{NO}_x \text{ CHP} = (\text{BtuIn} \times \text{NO}_x \text{ Rate}) / 1,000,000$$

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<sub>x</sub>Rate = NO<sub>x</sub> 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<sub>x</sub> allowances pursuant to, each NO<sub>x</sub> allowance allocation request by December 31 of each year as follows:

(A) Upon receipt of the NO<sub>x</sub> 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<sub>x</sub> emission limitations (in tons of NO<sub>x</sub>) 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<sub>x</sub> 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), ~~and 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<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO<sub>x</sub> 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<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> 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), ~~and 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<sub>x</sub> allowances are requested, less the amount under clause (A)(iv), has an amount of NO<sub>x</sub> allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO<sub>x</sub> allowances requested, as adjusted under clause (A), to the NO<sub>x</sub> 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<sub>x</sub> allowances are requested, less the amount under clause (A)(iv), has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside to the NO<sub>x</sub> 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<sub>x</sub> authorized account representative that submitted the request and the U.S. EPA of the number of NO<sub>x</sub> allowances allocated for the ozone control period to the NO<sub>x</sub> budget unit or energy efficiency or renewable energy projects.

(f) For a new NO<sub>x</sub> budget unit that is allocated NO<sub>x</sub> allowances under subsection (e) for an ozone control period, the U.S. EPA will deduct NO<sub>x</sub> 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<sub>x</sub> allowances remain in the allocation set-asides for the ozone control period. Any NO<sub>x</sub> 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; or

(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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> allowances in 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)

SECTION 4. 326 IAC 10-4-16 IS ADDED TO READ AS FOLLOWS:

### **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<sub>x</sub> allowances allocated under section 9 of this rule remain in effect for purposes of the Clean Air Interstate Rule (CAIR) NO<sub>x</sub> 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<sub>x</sub> 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)*

SECTION 5. 326 IAC 24 IS ADDED TO READ AS FOLLOWS:

## **ARTICLE 24. TRADING PROGRAMS: NITROGEN OXIDES (NO<sub>x</sub>) AND SULFUR DIOXIDE (SO<sub>2</sub>)**

### **Rule 1. Clean Air Interstate Rule Nitrogen Oxides Annual Trading Program**

#### **326 IAC 24-1-1 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 an annual NO<sub>x</sub> emissions budget and annual NO<sub>x</sub> trading program. The following units shall be clean air interstate rule (CAIR) NO<sub>x</sub> units, and any source that includes one (1) or more such units shall be a CAIR NO<sub>x</sub>**

source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

(1) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO<sub>x</sub> unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR NO<sub>x</sub> unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO<sub>x</sub> units as follows:

(1) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical, supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a) commencing operation before January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a) commencing operation on or after January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall

become a CAIR NO<sub>x</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Board; 326 IAC 24-1-1; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

## **326 IAC 24-1-2 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 number" means the identification number given by the U.S. EPA to each CAIR NO<sub>x</sub> allowance tracking system account.
- (2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.
- (3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78\*.
- (4) "Allocate" or "allocation" means, with regard to CAIR NO<sub>x</sub> allowances, the determination by a permitting authority or the U.S. EPA of the amount of such CAIR NO<sub>x</sub> allowances to be initially credited to a CAIR NO<sub>x</sub> unit, a new unit set-aside, an energy efficiency or renewable energy set-aside, or other entity.
- (5) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period, and is the deadline by which a CAIR NO<sub>x</sub> allowance transfer must be submitted for recordation in a CAIR NO<sub>x</sub> source's compliance account in order to be used to meet the source's CAIR NO<sub>x</sub> emissions limitation for such control period in accordance with section 9(i) and 9(j) of this rule.
- (6) "Alternate CAIR designated representative" means, for a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 through 12 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> source is also subject to the acid rain program,

then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NO<sub>x</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 11 of this rule, 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 section 11 of this rule.

(8) "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 medium.

(9) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(10) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 9, and 12 of this rule, to transfer and otherwise dispose of CAIR NO<sub>x</sub> allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(11) "CAIR designated representative" means, for a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 12 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NO<sub>x</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the mercury designated representative under the mercury budget trading program.

(12) "CAIR NO<sub>x</sub> allowance" means a limited authorization issued by a permitting authority or the U.S. EPA under provisions of a state implementation plan that are approved under 40 CFR 51.123(o)(1), 40 CFR 51.123(o)(2), or 40 CFR 51.123(p)\*, or under 40 CFR 97\*, to emit one (1) ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO<sub>x</sub> program. An authorization to emit nitrogen oxides that is not issued under provisions of a state implementation plan that are approved under 40 CFR 51.123(o)(1), 40 CFR 51.123(o)(2), or 40 CFR 51.123(p)\*, or under 40 CFR 97\* shall not be a CAIR NO<sub>x</sub> allowance.

(13) "CAIR NO<sub>x</sub> allowance deduction" or "deduct CAIR NO<sub>x</sub> allowances" means the permanent withdrawal of CAIR NO<sub>x</sub> allowances by the U.S. EPA from a

compliance account, for example, in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO<sub>x</sub> units at a CAIR NO<sub>x</sub> source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(14) "CAIR NO<sub>x</sub> allowances held" or "hold CAIR NO<sub>x</sub> allowances" means the CAIR NO<sub>x</sub> allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9, 10, and 12 of this rule, in a CAIR NO<sub>x</sub> allowance tracking system account.

(15) "CAIR NO<sub>x</sub> allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR NO<sub>x</sub> allowances under the CAIR NO<sub>x</sub> annual trading program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(16) "CAIR NO<sub>x</sub> allowance tracking system account" means an account in the CAIR NO<sub>x</sub> allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO<sub>x</sub> allowances.

(17) "CAIR NO<sub>x</sub> annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule, 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II\* and 40 CFR 51.123(p)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(18) "CAIR NO<sub>x</sub> emissions limitation" means, for a CAIR NO<sub>x</sub> source, the tonnage equivalent, in NO<sub>x</sub> emissions in a control period, of the CAIR NO<sub>x</sub> allowances available for deduction for the source under section 9(i) and 9(j)(1) of this rule for the control period.

(19) "CAIR NO<sub>x</sub> ozone season source" means a source that is subject to the CAIR NO<sub>x</sub> ozone season trading program.

(20) "CAIR NO<sub>x</sub> ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-3, 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII\* and 40 CFR 51.123(ee)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(21) "CAIR NO<sub>x</sub> source" means a source that is subject to the CAIR NO<sub>x</sub> annual trading program.

(22) "CAIR NO<sub>x</sub> unit" means a unit that is subject to the CAIR NO<sub>x</sub> annual trading program under section 1 of this rule and, except for purposes of sections 3 and 8 of this rule, a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule.

(23) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR NO<sub>x</sub> annual trading program requirements applicable to a CAIR NO<sub>x</sub> source, to each CAIR NO<sub>x</sub> unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(24) "CAIR SO<sub>2</sub> source" means a source that is subject to the CAIR SO<sub>2</sub> trading program.

(25) "CAIR SO<sub>2</sub> trading program" means a multistate sulfur dioxide air pollution

control and emission reduction program approved and administered by the U.S. EPA in accordance with 326 IAC 24-2, 40 CFR 96\*, and 40 CFR 51.124\* or established in accordance with 40 CFR 97, Subparts AAA through III and 40 CFR 51.124\* and 40 CFR 52.36\*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(26) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(27) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.

(28) "Coal-fired" means:

(A) except for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

(B) for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

(29) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

(B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:

(i) for a topping-cycle cogeneration unit:

(AA) useful thermal energy not less than five percent (5%) of total energy output; and

(BB) useful power that, when added to one-half (1/2) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.

(30) "Combustion turbine" means:

(A) an enclosed device comprising 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; and

(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

(31) "Commence commercial operation" means, with regard to a unit, the following:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 12(f)(10) of this rule, subject to the following:

(i) For a unit that is a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall

continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (A), as appropriate.

(32) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in section 12(f)(10) of this rule.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in clause (A), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate, except as provided in section 12(f)(10) of this rule.

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

(34) "Compliance account" means a CAIR NO<sub>x</sub> allowance tracking system account, established by the U.S. EPA for a CAIR NO<sub>x</sub> source under section 9 or 12 of this rule, in which any CAIR NO<sub>x</sub> allowance allocations for the CAIR NO<sub>x</sub> units at the source are initially recorded and in which are held any CAIR NO<sub>x</sub> allowances available for use for a control period in order to meet the source's CAIR NO<sub>x</sub> emissions limitation in accordance with section 9(i) and 9(j) of this rule.

**(35) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 11 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75\*. The following systems are the principal types of continuous emission monitoring systems required under section 11 of this rule:**

**(A) a flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);**

**(B) a nitrogen oxides concentration monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> emissions, in parts per million (ppm);**

**(C) a nitrogen oxides emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million (ppm), diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>, and NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu);**

**(D) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)\* and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;**

**(E) a carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and**

**(F) an oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.**

**(36) "Control period" means the period beginning January 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on December 31 of the same year, inclusive. For the purposes of section 8(h) of this rule, control period means January 1 through April 30 and October 1 through December 31 of the same calendar year.**

**(37) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and as determined by the U.S. EPA in accordance with section 11 of this rule.**

**(38) "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 one (1) of 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, solar, 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, including gas reburning projects that reduce NO<sub>x</sub> emissions.

(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<sub>x</sub> 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.

(39) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO<sub>x</sub> units at a CAIR NO<sub>x</sub> source during a control period that exceeds the CAIR NO<sub>x</sub> emissions limitation for the source.

(40) "FESOP" means a federally enforceable state operating permit issued under 326 IAC 2-8.

(41) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(42) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(43) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum byproducts used as a fuel whether in a liquid, solid, or gaseous state.

(44) "General account" means a CAIR NO<sub>x</sub> allowance tracking system account, established under section 9 of this rule, that is not a compliance account.

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

(46) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process. This process may include, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(47) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 11 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(48) "Heat input rate" means the amount of heat input, in million British thermal units (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 million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.

(49) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such 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 no less 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.

(50) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(51) "Mercury (Hg) budget trading program" means a multistate Hg air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 40 CFR 60, Subpart HHHH\* and 40 CFR 60.24(h)(6)\*, or established by the U.S. EPA under the Clean Air Act, Section 111, as a means of reducing national mercury emissions.

(52) "Monitoring system" means any monitoring system that meets the requirements of section 11 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75\*.

(53) "Most stringent state or federal NO<sub>x</sub> emissions limitation" means, with regard to a unit, the lowest NO<sub>x</sub> 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.

(54) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.

(55) "Oil-fired" means, for the purposes of section 8 of this rule, combusting fuel oil for more than fifteen percent (15%) of the annual heat input in a specified year and not qualifying as coal-fired.

(56) "Operator" means any person who operates, controls, or supervises a CAIR NO<sub>x</sub> unit or a CAIR NO<sub>x</sub> source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

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

(A) with regard to a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit at a source, respectively:

(i) any holder of any portion of the legal or equitable title in a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit;

(ii) any holder of a leasehold interest in a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit; or

(iii) any purchaser of power from a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR NO<sub>x</sub> unit; or

(B) with regard to any general account, any person who has an ownership interest with respect to the CAIR NO<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO<sub>x</sub> allowances.

(58) "Permitting authority" means the state air pollution control agency, local agency, other state agency, or other agency authorized by the U.S. EPA to issue or revise permits to meet the requirements of the CAIR NO<sub>x</sub> annual trading program in accordance with section 7 of this rule or, if no such agency has been so authorized, the U.S. EPA.

(59) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty

(8,760) hours/year.

(60) "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:

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

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.

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

(62) "Recordation", "record", or "recorded" means, with regard to CAIR NO<sub>x</sub> allowances, the movement of CAIR NO<sub>x</sub> allowances by the U.S. EPA into or between CAIR NO<sub>x</sub> allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(63) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22\*.

(64) "Replacement", "replace", or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(65) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:

(A) atmospheric or pressurized fluidized bed combustion;

(B) integrated gasification combined cycle;

(C) magnetohydrodynamics;

(D) direct and indirect coal-fired turbines;

(E) integrated gasification fuel cells; or

(F) as determined by the U.S. EPA in consultation with the Secretary of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(66) "Sequential use of energy" means:

(A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or  
(B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(67) "Serial number" means, for a CAIR NO<sub>x</sub> allowance, the unique identification number assigned to each CAIR NO<sub>x</sub> allowance by the U.S. EPA.

(68) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration unit as defined in the Clean Air Act, Section 129(g)(1).

(69) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.

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

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

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

(71) "Title V operating permit" or "Part 70 operating permit" means a permit issued under 326 IAC 2-7.

(72) "Title V operating permit regulations" or "Part 70 operating permit regulations" means the rules under 326 IAC 2-7.

(73) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR NO<sub>x</sub> emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

(74) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(75) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(76) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(77) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

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

(79) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(80) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site

emission controls.

(81) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

- (A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;
- (B) used in a heating application (for example, space heating or domestic hot water heating); or
- (C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

(82) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

\*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 24-1-2; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)

### **326 IAC 24-1-3 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 CAIR NO<sub>x</sub> unit, other than a NO<sub>x</sub> opt-in source, that is permanently retired.**

**(b) Any CAIR NO<sub>x</sub> unit that is permanently retired and is not a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule shall be exempt from the CAIR NO<sub>x</sub> annual trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.**

**(c) The exemption under this section shall become effective the day on which the CAIR NO<sub>x</sub> unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).**

**(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule 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 department shall allocate CAIR NO<sub>x</sub> allowances under section 8 of this rule to the unit.
- (3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.
- (4) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR NO<sub>x</sub> annual trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.
- (5) 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 or a FESOP under 326 IAC 2-8, the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2009, or the date on which the unit resumes operation.
- (6) A unit exempt under this section shall lose its exemption on the earlier of the following dates:
  - (A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (5).
  - (B) The date on which the CAIR designated representative is required under subdivision (5) to submit a CAIR permit application for the unit.
  - (C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.
- (7) For the purpose of applying monitoring, reporting, and record keeping requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

*(Air Pollution Control Board; 326 IAC 24-1-3; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

## **326 IAC 24-1-4 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 and operators, and CAIR designated representative of each CAIR NO<sub>x</sub> source shall comply with the following permit requirements:**

- (1) The CAIR designated representative of each CAIR NO<sub>x</sub> source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit required to have a

federally enforceable permit at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule 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 CAIR permit application in a timely manner and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR NO<sub>x</sub> source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit required to have a federally enforceable permit at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO<sub>x</sub> source that is not otherwise required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO<sub>x</sub> source and such CAIR NO<sub>x</sub> unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> source and CAIR NO<sub>x</sub> unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 11 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO<sub>x</sub> source with the CAIR NO<sub>x</sub> emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> source and CAIR NO<sub>x</sub> unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall hold, in the source's compliance account, CAIR NO<sub>x</sub> allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO<sub>x</sub> units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO<sub>x</sub> unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), or 11(c)(5) of this rule and for each control period thereafter.

(3) A CAIR NO<sub>x</sub> allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO<sub>x</sub> allowance was allocated.

(4) CAIR NO<sub>x</sub> allowances shall be held in, deducted from, or transferred into or among CAIR NO<sub>x</sub> allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO<sub>x</sub> allowance is a limited authorization to emit one (1) ton of

nitrogen oxides in accordance with the CAIR NO<sub>x</sub> annual trading program. No provision of the CAIR NO<sub>x</sub> annual trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the state of Indiana or the United States to terminate or limit such authorization.

(6) A CAIR NO<sub>x</sub> allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 8, 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from a CAIR NO<sub>x</sub> source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) The owners and operators of a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source that emits nitrogen oxides during any control period in excess of the CAIR NO<sub>x</sub> emissions limitation shall do the following:

(1) Surrender the CAIR NO<sub>x</sub> allowances required for deduction under section 9(j)

(4) of this rule.

(2) Pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law.

Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this section, the Clean Air Act, and applicable state law.

(e) Owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA, as follows:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR NO<sub>x</sub> unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 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 CAIR NO<sub>x</sub> annual trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO<sub>x</sub> annual trading program or to demonstrate compliance with the requirements of the CAIR NO<sub>x</sub> annual trading program.

(2) The CAIR designated representative of a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall submit the reports required under the CAIR NO<sub>x</sub> annual trading program, including those under section 11 of this rule.

(f) The owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall be liable as follows:

(1) Each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall meet the requirements of the CAIR NO<sub>x</sub> annual trading program.

(2) Any provision of the CAIR NO<sub>x</sub> annual trading program that applies to a CAIR NO<sub>x</sub> source or the CAIR designated representative of a CAIR NO<sub>x</sub> source shall also apply to the owners and operators of such source and of the CAIR NO<sub>x</sub> units at the source.

(3) Any provision of the CAIR NO<sub>x</sub> annual trading program that applies to a CAIR NO<sub>x</sub> unit or the CAIR designated representative of a CAIR NO<sub>x</sub> unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR NO<sub>x</sub> annual trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO<sub>x</sub> source or CAIR NO<sub>x</sub> unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

*(Air Pollution Control Board; 326 IAC 24-1-4; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)*

## **326 IAC 24-1-5 Computation of time and appeal procedures**

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 CAIR NO<sub>x</sub> annual 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 CAIR NO<sub>x</sub> annual 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, under the CAIR NO<sub>x</sub> annual trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.**

**(d) The appeal procedures for decisions of the U.S. EPA under the CAIR NO<sub>x</sub> annual trading program will follow those procedures set forth in 40 CFR 78\*.**

**\*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 24-1-5; filed Jan 26, 2007, 10:25 a.m.: 20070221-IR-326050117FRA)**

## **326 IAC 24-1-6 CAIR designated representative for CAIR NO<sub>x</sub> 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 CAIR NO<sub>x</sub> source, including all CAIR NO<sub>x</sub> units at the source, shall have one (1) and only one (1) CAIR designated representative, with regard to all matters under the CAIR NO<sub>x</sub> annual trading program concerning the source or any CAIR NO<sub>x</sub> unit at the source.**

**(b) The CAIR designated representative of the CAIR NO<sub>x</sub> source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO<sub>x</sub> units at the source and shall act in accordance with the certification statement in subsection (h)(4).**

**(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO<sub>x</sub> source represented and each CAIR NO<sub>x</sub> unit at the source in all matters pertaining to the CAIR NO<sub>x</sub> annual trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.**

**(d) No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO<sub>x</sub> allowance tracking system account will be established for a CAIR NO<sub>x</sub> unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR NO<sub>x</sub> units at the source.**

**(e) The following shall apply to submissions made under the CAIR NO<sub>x</sub> annual trading program:**

**(1) Each submission under the CAIR NO<sub>x</sub> annual trading program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO<sub>x</sub> source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR**

**designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or 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 U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> 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 CAIR NO<sub>x</sub> source choose to designate an alternate CAIR designated representative:**

**(1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.**

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

**(3) Except in this subsection and subsections (a), (d), (g), (h), and (j), and sections 2, 9(a) through 9(c), and 12(d) of this rule, whenever the term "CAIR designated representative" is used in this rule, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.**

**(g) The following shall apply when changing the CAIR designated representative, the alternate CAIR designated representative, or when there are changes in the owners or operators:**

**(1) The CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source.**

**(2) The alternate CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source.**

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

**(A) In the event an owner or operator of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.**

**(B) Within thirty (30) days following any change in the owners and operators of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.**

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

**(1) Identification of the CAIR NO<sub>x</sub> source, and each CAIR NO<sub>x</sub> unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.**

**(2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the CAIR designated representative and any alternate CAIR designated representative.**

**(3) A list of the owners and operators of the CAIR NO<sub>x</sub> source and of each CAIR NO<sub>x</sub> unit at the source.**

**(4) The following certification statement by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO<sub>x</sub> unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> annual trading program on behalf of the owners and operators of the source and of each CAIR NO<sub>x</sub> unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each CAIR NO<sub>x</sub> unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO<sub>x</sub> unit, or where a utility or industrial customer purchases power from a CAIR NO<sub>x</sub> unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO<sub>x</sub> unit at the source; and CAIR NO<sub>x</sub> allowances and proceeds of transactions involving CAIR NO<sub>x</sub> allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO<sub>x</sub> allowances by**

contract, CAIR NO<sub>x</sub> allowances and proceeds of transactions involving CAIR NO<sub>x</sub> allowances will be deemed to be held or distributed in accordance with the contract."

(5) The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

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

(i) The following shall apply to objections concerning CAIR designated representatives:

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

(2) Except as provided in subsection (g)(1) or (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 CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the department or the U.S. EPA under the CAIR NO<sub>x</sub> annual 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 CAIR designated representative, including private legal disputes concerning the proceeds of CAIR NO<sub>x</sub> allowance transfers.

(j) The following shall apply to delegation by CAIR designated representative and alternate CAIR designated representative:

(1) A CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.

(2) An alternate CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.

(3) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with subdivision (1) or (2), the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

(A) The name, address, e-mail address, telephone number, and facsimile transmission number, if any, of the following:

(i) The CAIR designated representative or alternate CAIR designated representative.

(ii) The natural person, referred to as an "agent".

(B) For each such natural person, a list of the type or types of electronic submissions under subdivision (1) or (2) for which authority is delegated to him or her.

(C) The following certification statements by such CAIR designated representative or alternate CAIR designated representative:

(i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under 326 IAC 24-1-6(j)(4) shall be deemed to be an electronic submission by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under 326 IAC 24-1-6(j)(4), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under 326 IAC 24-1-6(j) is terminated."

(4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(5) Any electronic submission covered by the certification in subdivision (3)(C)(i) and made in accordance with a notice of delegation effective under subdivision (4) shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

*(Air Pollution Control Board; 326 IAC 24-1-6; filed Jan 26, 2007, 10:25 a.m.:  
20070221-IR-326050117FRA)*

## **326 IAC 24-1-7 Permit requirements**

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

**Sec. 7. (a)** For each CAIR NO<sub>x</sub> source required to have a federally enforceable permit, the permit shall include a CAIR permit administered by the department as follows:

(1) For CAIR NO<sub>x</sub> sources required to have a Part 70 operating permit under 326 IAC 2-7, the CAIR portion of the Part 70 operating permit shall be administered in accordance with 326 IAC 2-7, except as provided otherwise by this section and sections 3 and 12 of this rule.

(2) For CAIR NO<sub>x</sub> sources required to have a FESOP under 326 IAC 2-8, the CAIR portion of the FESOP shall be administered in accordance with 326 IAC 2-8, except as provided otherwise by this section and sections 3 and 12 of this rule.

(3) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source covered by the CAIR permit, all applicable CAIR NO<sub>x</sub> annual trading program, CAIR NO<sub>x</sub> ozone season trading program, and CAIR SO<sub>2</sub> trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

**(b) Requirements for the submission of CAIR permit applications are as follows:**

**(1) The CAIR designated representative of any CAIR NO<sub>x</sub> source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> unit at the source at least two hundred seventy (270) days before the later of January 1, 2009, or the date on which the CAIR NO<sub>x</sub> unit commences commercial operation, except as provided in section 12(e) of this rule.**

**(2) For a CAIR NO<sub>x</sub> source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> unit at the source to renew the CAIR permit in accordance with 326 IAC 2-7-4(a)(1)(D) or 326 IAC 2-8-3(h), as applicable, except as provided in section 12(e) of this rule.**

**(c) In addition to the requirements of 326 IAC 2-7-4(c) or 326 IAC 2-8-3(c), a complete CAIR permit application shall include the following elements concerning the CAIR NO<sub>x</sub> source for which the application is submitted:**

**(1) Identification of the CAIR NO<sub>x</sub> source.**

**(2) Identification of each CAIR NO<sub>x</sub> unit at the CAIR NO<sub>x</sub> source.**

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

**(d) In addition to the requirements under 326 IAC 2-7 or 326 IAC 2-8, each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).**

**(e) Each CAIR 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 8, 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from the compliance account of the CAIR NO<sub>x</sub> source covered by the permit.**

**(f) The initial CAIR permit covering a CAIR unit for which a complete CAIR permit application is timely submitted under subsection (b) shall become effective upon issuance.**

**(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO<sub>x</sub> source's Part 70 operating permit or FESOP.**

**(h) Except as provided in subsection (e), the department shall revise the CAIR permit, as necessary, in accordance with the following:**

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

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

*(Air Pollution Control Board; 326 IAC 24-1-7; filed Jan 26, 2007, 10:25 a.m.:  
20070221-IR-326050117FRA)*

## **326 IAC 24-1-8 CAIR NO<sub>x</sub> 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. 8. (a)** The trading program budget allocated by the department under subsections (d) through (h) for each control period shall equal the CAIR NO<sub>x</sub> allowances apportioned to the CAIR NO<sub>x</sub> units under section 1 of this rule, as determined by the procedures in this section. The total number of CAIR NO<sub>x</sub> allowances that are available for each control period for annual allocations of CAIR NO<sub>x</sub> allowances under this rule are one hundred eight thousand nine hundred thirty-five (108,935) tons in 2009 through 2014 and ninety thousand seven hundred seventy-nine (90,779) in 2015 and thereafter, apportioned as follows:

(1) For existing units (that is, units that have a baseline heat input, as determined under subsection (c)(1)):

(A) one hundred three thousand four hundred eighty-eight (103,488) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and

(B) eighty-eight thousand fifty-five (88,055) tons for CAIR NO<sub>x</sub> units in 2015 and thereafter.

(2) For new unit allocation set-asides:

(A) four thousand nine hundred two (4,902) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and

(B) two thousand two hundred seventy (2,270) tons for CAIR NO<sub>x</sub> units in 2015 and thereafter.

(3) For the energy efficiency and renewable energy allocation set-asides:

(A) five hundred forty-five (545) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and

(B) four hundred fifty-four (454) tons for CAIR NO<sub>x</sub> units in 2015 and thereafter.

(b) The department shall allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> units according to the following schedule:

(1) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014.

(2) By October 31, 2008, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(3) By October 31, 2009, and October 31 of each year thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (e), and (f), for the control period in the year of the applicable deadline for submission under this rule.

(4) The department shall make available for review to the public the CAIR NO<sub>x</sub> allowance allocations under subdivision (2) on July 31 of each year allocations

are made and shall provide a thirty (30) day opportunity for submission of objections to the CAIR NO<sub>x</sub> allowance allocations. Objections shall be limited to addressing whether the CAIR NO<sub>x</sub> 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.

(c) The baseline heat input, in million British thermal units (MMBtu) used with respect to CAIR NO<sub>x</sub> allowance allocations under subsection (d) for each CAIR NO<sub>x</sub> unit shall be as follows:

(1) For units commencing operation before January 1, 2001:

(A) For a CAIR NO<sub>x</sub> allowance allocation under subsection (b)(1), the average of the three (3) highest amounts of the unit's adjusted control period heat input for 1998 through 2005, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(B) For a CAIR NO<sub>x</sub> allowance allocation under subsection (b)(2), the average of the three (3) highest amounts of the unit's adjusted control period heat input for the eight (8) years before when the CAIR NO<sub>x</sub> allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, the average of the three (3) highest amounts of the unit's total converted control period heat input for the years before when the CAIR NO<sub>x</sub> allocation is being calculated, not to exceed (8).

(3) A unit's control period heat input, and a unit's status as coal-fired or not coal-fired, for a calendar year under subdivision (1), and a unit's total tons of NO<sub>x</sub> emissions during a control period in calendar year under subsection (e), shall be determined in accordance with 40 CFR 75\*, to the extent the 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, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75\* for the year.

(4) A unit's converted control period heat input for a calendar year under subdivision (2) equals one (1) of the following:

(A) The control period gross electrical output of the generator or generators served by the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) for coal-fired units or seven thousand six hundred (7,600) British thermal units per kilowatt hour