TITLE 326 AIR POLLUTION CONTROL DIVISION

Proposed Rule
LSA Document #15-414

DIGEST

Adds 326 IAC 10-2 and amends 326 IAC 10-3-1 and 326 IAC 10-3-3, concerning nitrogen oxides (NO_x) emissions from large affected units. Repeals 326 IAC 10-4, 326 IAC 24-3-1, 326 IAC 24-3-2, 326 IAC 24-3-4, and 326 IAC 24-3-11. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: December 9, 2015, Indiana Register (DIN: 20151209-IR-326150414FNA).
Second Notice of Comment Period: July 5, 2017, Indiana Register (DIN: 20170705-IR-326150414SNA).
Notice of First Hearing: July 5, 2017, Indiana Register (DIN: 20170705-IR-326150414PHA).
Change in Notice of Public Hearing: November 1, 2017, Indiana Register (DIN: 20171101-IR-326150414CHA).
Date of First Hearing: January 10, 2018.

PUBLIC COMMENTS UNDER IC 13-14-9-4.5

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least 21 days long.

REQUEST FOR PUBLIC COMMENTS

Portions of this proposed rule are substantively different from the draft rule published on July 5, 2017, at DIN: 20170705-IR-326150414SNA. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule.

The United States Environmental Protection Agency (U.S. EPA) has indicated that the blast furnace gas-fired units that were formerly part of the NO_x budget trading program and Clean Air Interstate Rule (CAIR) rules do not need to be included in the replacement rule for large affected units. Therefore, blast furnace gas unit requirements were moved from 326 IAC 10-2 (NO_x Emissions from Large Affected Units) to 326 IAC 10-3 (Nitrogen Oxide Reduction for Specific Source Categories). U.S. EPA also requested additional language in 326 IAC 10-2-9 (Ozone Season NO_x Budget) of the proposed rule to show the ozone season NO_x budget, and to require the department to conduct an annual compliance review of actual NO_x emissions to ensure that the total emissions remain below the ozone season budget.

The following sections of the proposed rule are substantively different from the draft rule:
326 IAC 10-2-9
326 IAC 10-3-1
326 IAC 10-3-3

The section with specific requirements for blast furnace gas units appeared in the draft rule at 326 IAC 10-2-7, but was deleted from the proposed (preliminarily adopted) rule.

This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under IC 13-14-9-6. Comments on additional sections of the proposed rule that the commentor believes are substantively different from the draft rule may also be submitted for the consideration of the board. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:
LSA Document #15-414 NO_x Emissions from Large Affected Units
Jack Harmon
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Indianapolis, IN 46204-2251

(2) By facsimile to (317) 233-5970. Please confirm the timely receipt of your faxed comments by calling the Rules Development Branch at (317) 233-8903.

(3) By electronic mail to jaharmon@idem.in.gov. To confirm timely delivery of your comments, please request a document receipt when you send the electronic mail. **PLEASE NOTE: Electronic mail comments will**

NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking you are commenting on.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than February 21, 2018. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Jack Harmon, Rules Development Branch, Office of Legal Counsel, (317) 234-9535 or (800) 451-6027 (in Indiana).

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from July 5, 2017, through August 4, 2017, on IDEM's draft rule language. IDEM received comments from the following parties:

Citizens Energy Group (Citizens)

Alcoa Power Generating Inc. – Warrick Power Plant (WPP)

ArcelorMittal USA LLC (ArcelorMittal)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: IDEM's demonstration indicated that potential NO_x emissions from the large affected units are less than 6,400 tons per ozone season, significantly lower than the established budget. IDEM's methodology used in its demonstration of compliance for the potential NO_x emissions from the large affected units vastly overestimated the actual emissions. As sources convert from coal-fired operations to natural gas-fired operation, for example, actual emissions are significantly reduced. These factors are not reflected in the demonstration, resulting in a conservative bias as to the estimation of the actual versus budget comparison. The conservative bias of this approach supports the position that ozone season NO_x emissions from the large affected units will not exceed the budget established by the U.S. EPA. Commenters requested IDEM to update its compliance demonstration. (Citizens, WPP)

Comment: ArcelorMittal agrees with IDEM's conclusion that large affected units will not exceed the 9,777-ton ozone season NO_x budget in any future year. IDEM correctly concludes that new mass emission limits and control measures on large affected units are not necessary to meet the state's NO_x SIP Call obligation. (ArcelorMittal)

Response: IDEM must provide to U.S. EPA a demonstration showing that the NO_x emissions from the large affected units do not exceed the budget that was established through the NO_x Trading Program. The method of demonstration is not a part of this rulemaking. However, IDEM is preparing a new budget demonstration and will submit it separately to U.S. EPA for approval in the Indiana State Implementation Plan (SIP). Because the demonstration is a separate process, it will have a separate public comment period. Affected sources are invited to share their comments on the methodology during that comment period.

Comment: Adding emission limits or mandating control measures for individual sources after such a cooperative program has succeeded undermines these programs and creates disincentives that could jeopardize the success of future trading programs.

IDEM's proposed approach preserves the cap on total NO_x emissions from large affected units in accordance with its NO_x SIP Call obligations and provides the protection the SIP Call determined was necessary to address impacts on downwind states. This approach preserves both air quality and economic opportunity in Indiana. (ArcelorMittal)

Response: IDEM agrees that individual units do not need mass emission limits, and units still subject to the NO_x SIP Call are still subject to the overall emissions cap for demonstration of compliance to the SIP Call.

Comment: In its response to comments on the First Notice on this point, IDEM indicated that "Part 75 monitoring requirements must remain in place to ensure continued compliance with NO_x emission reduction requirements in the NO_x SIP Call rule," and ". . .keeping Part 75 monitoring in place is a federal mandate required for U.S. EPA approval of this rulemaking." We believe that IDEM is referring to 40 CFR 51.121 that contains the obligations for the NO_x Budget Trading Program and refers to monitoring pursuant to 40 CFR Part 75, Subpart H. (Citizens, WPP)

Comment: Given IDEM's own statement that maximum ozone season emissions from large affected units are below the budget, and the ongoing costs of monitoring, record keeping, and reporting under the Part 75 monitoring program as illustrated by U.S. EPA's Information Collection Request (ICR), we believe that it is in the best interest of the State of Indiana to find a way to implement this rule without continuing the requirement to operate Part 75 monitoring equipment on large affected units. (Citizens, WPP)

Response: In consultation with U.S. EPA, IDEM is proposing that the 40 CFR Part 75 (Part 75 monitoring) requirements remain in the draft rule proposed for preliminary adoption. It is IDEM's intent to adopt rule revisions

that will be approved by U.S. EPA into the Indiana SIP. The current requirements for Part 75 monitoring for large affected units are included in the state Clean Air Interstate Rules (CAIR) at 326 IAC 24-3 and are part of the Indiana SIP. If U.S. EPA does not approve a SIP revision removing these requirements for large affected units, the Part 75 requirements that currently apply to large affected units would still be federally enforceable. U.S. EPA has indicated that they are evaluating changes to 40 CFR 51.121. If U.S. EPA makes changes to those requirements, IDEM will reevaluate the state rules at that time. IDEM is willing to work with the affected sources to alleviate the burden of 40 CFR Part 75 monitoring, through mechanisms such as the low mass emissions (LME) provisions of Part 75.

U.S. EPA has reviewed Indiana's draft rule language and the comments provided by affected parties during the Second Notice of Public Comment Period. U.S. EPA states that under 40 CFR 51.121(i)(4), where the SIP adopted by a state to meet the requirements of the NO_x SIP Call imposes control measures on certain types of sources, including the types of sources comprising Indiana's large affected units, as a means of meeting the state's NO_x budget, then the SIP must require the sources to monitor and report ozone season NO_x emissions in accordance with 40 CFR Part 75. The monitoring and reporting requirement in 40 CFR 51.121(i)(4) is not linked to any specific form of enforceable control measure, but is triggered simply by Indiana's choice of the sources relied on to meet the state's NO_x budget in the state's original SIP addressing the NO_x SIP Call. As discussed above, the requirement for enforceable control measures does not lapse simply because the same measures are no longer used, and consequently the requirement for Part 75 monitoring and reporting does not lapse either. Like the original control measures, the replacement measures do not have to be source-specific mass emission caps or rate limits, but could be collective caps instead.

Comment: 40 CFR Part 96 (referenced in 40 CFR 51.121) contains model regulations that, if a state adopted substantially identical regulations, U.S. EPA could expedite the review and approval of the SIP submittal for the NO_x Budget Trading Program. The obligations related to Part 75 monitoring stem from 40 CFR 96.

This rulemaking, while intended to codify in state rules the ongoing obligations under 40 CFR 51.121 for large affected units, does not have to mirror 40 CFR 96. Because there is (appropriately) no allowance trading program for NO_x emissions for large affected units in Indiana, the need to require the stringent data obligations under Part 75 does not exist. Part 75 data was integral to allowance use, whether used by the owner when accounting for emissions or sold through the trading program to another user. (Citizens, WPP)

Response: While the draft rule language mirrors the model language in 40 CFR 96 in regards to the Part 75 monitoring requirements it does so because 40 CFR 51.121 at this time requires this type of monitoring whether or not the units are subject to a trading program and the 40 CFR 96 language provides an example for drafting the language in this rulemaking.

Comment: In the absence of a trading program for non-EGU units, IDEM is only required to assess whether the collective emissions from the large affected units exceed the overall NO_x SIP Call budget. IDEM has properly determined that the budget is 35 percent higher than the maximum ozone-season NO_x rate from all the large affected units combined. There is no need for minute-by-minute or even hour-by-hour NO_x emissions information when the relevant compliance measure is the collective emissions from all large affected units over the course of the ozone season. The new scheme that IDEM is implementing in this proposed rule does not warrant the significant burdens associated with Part 75 monitoring–which include some of the most rigorous testing and verification procedures for any monitoring devices under the Clean Air Act.

Part 75 penalizes a source for monitor downtime by requiring assumed NO_x emission rates that far exceed actual NO_x emission rates. See 40 CFR §§ 75.31(c), (d), 75.33(c), (d). ArcelorMittal is finding that older CEMS experience more downtime and, therefore, the Part 75 penalty for downtime is an increasingly significant component of the ozone-season NO_x calculation for its large affected units sources. This may have been justified as an incentive to properly monitor under a trading program when a source may purchase NO_x allowances to cover the elevated assumed gap-filling emission rates. However, now that trading is over for large affected units, this Part 75 assumption interferes with IDEM's obligation to accurately estimate ozone-season emissions for large affected units. We encourage IDEM to embrace this opportunity to remove burdensome monitoring requirements that are no longer needed or required to generate the information necessary to demonstrate compliance with the large affected units NO_x budget. (ArcelorMittal)

Response: Even though emissions information collected through Part 75 monitoring will overestimate emissions, Indiana is far enough below the budget that the sources as a group will still be able to meet the budget. The concern with resources required to monitor under 40 CFR 75 is addressed in the response to other comments.

Comment: IDEM has the opportunity to provide relief, in addition to the requirements proposed for the steel mills blast furnace gas units, from the significant Part 75 costs that similar sources in other states are not required to pay, and to extend relief from these costs to all large affected units no longer subject to NO_x control measures. IDEM should offer large affected units a choice among approved monitoring alternatives. Even if IDEM believes there is a risk that control measures will be required in the future, the decision to continue Part 75 monitoring or choose a less costly alternative until a control measure is imposed is a decision that should be left to each affected source in the absence of a legal mandate.

IDEM could offer large affected units the option of shifting to a reliable monitoring methodology that is less burdensome and costly than Part 75 monitoring currently required in Section 3 of the proposed rules. Additionally, IDEM may offer an additional exception that allows a source that is no longer subject to a trading program, or a source that is not subject to a NO_x control measure to monitor NO_x emissions during the ozone season to use an approved alternate monitoring method other than Part 75. (Arcelor Mittal)

Comment: We would encourage IDEM to consider an approach to monitoring that provides options to the owners/operators that produce data needed to provide the ongoing assurances but allows the owners and operators of large affected units a way to reduce operational and maintenance expenses. IDEM could propose as an alternative monitoring approach the use of an emission factor based on historic CEMs data with fuel to develop a mass emission rate. We believe that such an approach would be defensible to U.S. EPA but also addresses the significant costs of Part 75 monitoring, allowing limited resources to be focused where they provide a greater benefit than monitoring for the sake of monitoring. (Citizens)

Response: Removing Part 75 monitoring is not an option allowed by U.S. EPA at this time; therefore, in order to have a rule revision that is approvable by U.S. EPA, no changes to these requirements have been made.

Comment: Data produced through the suggested alternative approach would be of sufficient quality to ensure that emissions from large affected units do not exceed the budget, while at the same time minimizing the compliance cost burden for Indiana sources. The alternative that IDEM is being asked to provide is nearly identical to what IDEM has proposed in this draft rule for boilers fired primarily by blast furnace gas. (Citizens, WPP)

Comment: IDEM should reconsider the Part 75 requirement to submit electronic reports to the U.S. EPA through the Emissions Collection and Monitoring Plan System (ECMPS) required by Part 75. Because Indiana's large affected units are not participating in the allowance trading program, there is no need for the types of data that is required to be reported through ECMPS, especially on an hour by hour basis. IDEM needs sufficient data to demonstrate the ongoing validity of the demonstration. This can be accomplished through a periodic report to IDEM and this report will be an ozone season summary report that should be submitted no later than November 1st each calendar year. (Citizens, WPP)

Response: The blast furnace gas units are treated differently than the other large affected units that were in the trading program because emissions from the blast furnace gas units were not used in the emission reductions needed for the NO_x SIP Call. Using emission estimates for units that are not fired primarily by blast furnace gas to show compliance with the NO_x ozone season budget is not an option allowed by U.S. EPA.

Comment: ArcelorMittal agrees that federal rules do not require Part 75 monitoring for blast furnace gas-fired units and supports IDEM's exemption in 326 IAC 10-2-7 as proposed. ArcelorMittal supports using common language for 326 IAC 10-3 and 326 IAC 10-2-7 so that blast furnace gas-fired units are treated similarly whether or not they participated in the trading program. IDEM appropriately excludes temporary blast furnace gas interruptions, startups and malfunctions from the obligation to ensure that an exempt unit meets the 50% blast furnace gas threshold. These are circumstances when natural gas may be needed to temporarily sustain steam flow. The cost and burden of Part 75 monitoring (discussed more completely below) should not be imposed based on these periods outside of normal boiler operating conditions and when blast furnace gas supply is temporarily interrupted. ArcelorMittal supports IDEM's choice to apply a consistent monitoring approach across all blast furnace gas-fired units recognizing that Part 75 monitoring is not required for these non-fossil fuel-fired units.

Federal rules direct that each state's SIP revision submitted under 40 CFR 51.121(a) to comply with the "Good Neighbor" provisions at section 110(a)(2)(D)(i)(I) of the Clean Air Act must require Part 75 monitoring for fossil fuel-fired NO_x sources subject to control measures under the SIP revision. Blast furnace gas is not a fossil fuel. Blast furnace gas is a product of a chemical reaction involving iron oxide in a blast furnace used to convert iron ore into molten iron. Importantly, blast furnace gas has significantly lower NO_x emissions than fossil fuels. See The Making, Shaping and Treating of Steel (10th ed.), at 577 (presenting blast furnace operational reaction equation nos. (3)–(8)); see also Letter from George R. Stevens, Acting Chief Compliance Monitoring Branch, DSSE, EPA to Bruce Miller, Technical Advisor, Air Engineering Branch, Region IV, EPA (June 16, 1976) (finding that blast furnace gas is not a fossil fuel). (ArcelorMittal)

Response: IDEM appreciates the support for consistent regulations for all blast furnace gas units. U.S. EPA does not agree that blast furnace gas is not considered a fossil fuel. The definition of fossil fuel within the NO_x Budget Trading Program rules includes not only natural gas, petroleum, and coal, but also "any form of solid, liquid, or gaseous fuel derived from such material." U.S. EPA concludes that blast furnace gas is derived from coal and meets the relevant definition of "fossil fuel." U.S. EPA has historically treated blast furnace gas-fired units as NO_x Budget Trading Program sources. In Indiana's initial SIP submission addressing the NO_x SIP Call, these units were included in the trading program. Subsequent changes removed some of these units from the trading program, and regulated them as units with individual emission limits. SIP approval of either the trading program rule or the individual emission limit rule was based on whether or not these units were used to meet the budget caps, and not based on whether they were or were not considered to be a fossil fuel-fired unit.

As stated early in this rulemaking, IDEM committed to working with U.S. EPA to obtain feedback on the proposed rule language for blast furnace gas units. U.S. EPA has stated that they agree that the SIP provisions

initially submitted by Indiana to address the state's obligations under the NO_x SIP Call did not rely on emission reductions from any of the state's blast furnace gas-fired units to meet the state's overall emission reduction requirements. Their emissions were explicitly represented at projected uncontrolled emission levels in the state's overall NO_x SIP Call budget, that is, the budget consisting of NO_x budget trading program and non-NO_x budget program emissions combined. U.S. EPA acknowledged Indiana's unique treatment of blast furnace gas-fired units in the proposed and final SIP approvals. In the subsequent SIP revision where Indiana brought some of the blast furnace gas-fired units into the NO_x Budget Trading Program, the approved adjustment to the NOx trading program budget was similarly computed based on the state's allocated shares to those units of the projected uncontrolled emissions of all the blast furnace gas-fired units. As a result, the state did not rely on emission reductions from these blast furnace gas-fired units in the approved SIP provisions adopted to meet its NO_x SIP Call obligations; therefore, U.S. EPA agrees that ongoing enforceable control measures for these units are not required under 40 CFR 51.121(f)(2).

U.S. EPA has also stated that if Indiana is going to exclude these units and meet the ongoing NO_x SIP Call requirements for the remaining large affected units through the use of a collective cap, the cap for the remaining units would need to be adjusted to reflect the removal of the blast furnace gas-fired units, reversing the increase in the NO_x budget trading program budget that was implemented when Indiana added those blast furnace gas-fired units to the NO_x budget trading program. IDEM is revising the budget demonstration and will share it with affected sources when it is available.

Since U.S. EPA has provided feedback that the blast furnace gas-fired units do not need to be included in the replacement rule for large affected units that were formerly part of the NO_x budget trading program and CAIR rules, IDEM is proposing changes to the rule proposed for preliminary adoption. IDEM is proposing that all blast furnace gas units be regulated by 326 IAC 10-3. This reduces the need to regulate the same type of units by both 326 IAC 10-2 and 326 IAC 10-3. However, with the inclusion of all units in 326 IAC 10-3, all units will be subject to a NO_x ozone season emission limit of 0.17 pounds (lbs) NO_x/MMBtu using an emission factor to calculate compliance. As part of the Third Comment Period for this rulemaking, IDEM will ask for comment on whether the compliance mechanisms for the emission factor within 326 IAC 10-3 should include the data that was obtained when these units were subject to Part 75 monitoring.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On January 10, 2018, the Environmental Rules Board (board) conducted the first public hearing/board meeting concerning the development of a new rule at 326 IAC 10-2, amendments to 326 IAC 10-3-1 and 326 IAC 10-3-3, and the repeal of 326 IAC 10-4, 326 IAC 24-3-1, 326 IAC 24-3-2, 326 IAC 24-3-4, and 326 IAC 24-3-11. No comments were made at the first hearing.

326 IAC 10-2; 326 IAC 10-3-1; 326 IAC 10-3-3; 326 IAC 10-4; 326 IAC 24-3-1; 326 IAC 24-3-2; 326 IAC 24-3-4; 326 IAC 24-3-11

SECTION 1. 326 IAC 10-2 IS ADDED TO READ AS FOLLOWS:

Rule 2. NO_x Emissions from Large Affected Units

326 IAC 10-2-1 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) The owner or operator of a unit, as defined in section 2 of this rule, that meets the applicability requirements in subsection (b) shall comply with the nitrogen oxide (NO_x) monitoring, record keeping, and reporting requirements in sections 3 through 8 of this rule, unless the unit is subject to:

(1) the CSAPR NO_x Ozone Season Group 2 Trading Program established under 40 CFR 97, Subpart EEEEE;

(2) an equivalent trading program established under regulations approved as a state implementation plan revision under 40 CFR 52.38(b)(9);

(3) 326 IAC 10-3-1(a)(2); or

(4) 326 IAC 10-3-1(a)(3).

(b) This rule applies to the owner or operator of a unit that meets the following criteria:

(1) For a cogeneration unit that has a maximum design heat input capacity of greater than two hundred fifty (250) million British thermal units (MMBtu) per hour, the following:

(A) For a unit commencing operation before January 1, 1997, a unit that qualified as an unaffected

unit under the acid rain program, in 40 CFR 72.6(b)(4), for 1995 and 1996.

(B) For a unit commencing operation on or after January 1, 1997, and before January 1, 1999, a unit that qualified as an unaffected unit under the acid rain program, in 40 CFR 72.6(b)(4), for 1997 and 1998.

(C) For a unit commencing operation on or after January 1, 1999, a unit qualifying as an unaffected unit under the acid rain program, in 40 CFR 72.6(b)(4), for each year beginning 1999.

(2) For a unit that is not a cogeneration unit and that has a maximum design heat input capacity of greater than two hundred fifty (250) MMBtu per hour, the following:

(A) For a unit commencing operation before January 1, 1997, a unit that did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1995 or 1996.

(B) For a unit commencing operation on or after January 1, 1997, and before January 1, 1999, a unit that did not serve a generator producing electricity for sale under a firm contract to the electric grid during 1997 or 1998.

(C) For a unit commencing operation on or after January 1, 1999, a unit that at:

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

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

(3) For a cogeneration unit serving a generator with a nameplate capacity greater than twenty-five (25) MWe, the following:

(A) For a unit commencing operation before January 1, 1997, a unit that failed to qualify as an unaffected unit under the acid rain program, in 40 CFR 72.6(b)(4), for 1995 and 1996.

(B) For a unit commencing operation on or after January 1, 1997, and before January 1, 1999, a unit that failed to qualify as an unaffected unit under the acid rain program, in 40 CFR 72.6(b)(4), for 1997 and 1998.

(C) For a unit commencing operation on or after January 1, 1999, a unit failing to qualify as an unaffected unit under the acid rain program, in 40 CFR 72.6(b)(4), for any year.

(4) For a unit that is not a cogeneration unit serving a generator with a nameplate capacity greater than twenty-five (25) MWe, the following:

(A) For a unit commencing operation before January 1, 1997, a unit that served a generator during 1995 or 1996 that produced electricity for sale under a firm contract to the electric grid.

(B) For a unit commencing operation on or after January 1, 1997, and before January 1, 1999, a unit that served a generator during 1997 or 1998 that produced electricity for sale under a firm contract to the electric grid.

(C) For a unit commencing operation on or after January 1, 1999, a unit serving a generator at any time that produced electricity for sale.

(5) For purposes of this rule, "electricity for sale under a firm contract to the electric 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.

(c) Any provision of this rule that applies to the designated representative of a large affected unit also applies to the owners or operators of the unit.

(Air Pollution Control Division; 326 IAC 10-2-1)

326 IAC 10-2-2 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. (a) For purposes of complying with the requirements of this rule, the definitions in this rule and 40 CFR 72.2* apply and take precedence in any conflict between these definitions and 326 IAC 1-2.

(b) The term "affected unit" in 40 CFR 75* is replaced by the term "large affected unit" as defined in this section.

(c) In addition to the definitions in IC 13-11-2, 326 IAC 1-2, and 40 CFR 72.2*, the following definitions apply throughout this rule:

(1) "Boiler" means an enclosed combustion device used to produce heat and to transfer heat to

recirculating water, steam, or other medium.

(2) "Cogeneration unit" means a unit that has equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes, through the sequential use of energy, where "sequential use of energy" means the use of reject heat from:

(A) electricity production in a useful thermal energy application or process; or

(B) a useful thermal energy application or process in electricity production.

(3) "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.

(4) "Combustion turbine" means:

(A) an enclosed device comprising a compressor, a combustor, and a turbine, in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

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

(5) "Commencing commercial operation" means, with regards 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) For a unit that is a large affected unit, on the date the unit commences commercial operation, the date remains the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) For a unit that is not a large affected unit, on the date the unit commences commercial operation, the date that the unit becomes a large affected unit, as defined under subdivision 11, is the unit's date of commencement of commercial operation.

(C) Except as provided in clauses (A) and (B), for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation is the unit's date of commencement of commercial operation.

(6) "Commencing operation" means the following:

(A) A unit commences operation on either the date:

(i) of commencement of any mechanical, chemical, or electronic process, including start-up of a unit's combustion chamber; or

(ii) a unit meets the applicability criteria in section 1 of this rule, if the unit was in operation prior to the date on which it met the applicability criteria in section 1 of this rule.

(B) A unit that undergoes a physical change after the date the unit commences operation, other than replacement of the unit by a unit at the same source, retains the unit's date of commencement of operation, and is treated as the same unit.

(C) A unit that is replaced by a unit at the same source, such as repowered, after the date the unit commences operation retains the replaced unit's date of commencement, and the replacement unit is treated as a separate unit with a separate date for commencement of operation.

(7) "Designated representative" means the person who is authorized by the owner or operator of the unit to represent and legally bind the owner or operator in matters pertaining to this rule, following the procedures for authorization and the responsibilities of the designated representative in 40 CFR 72, Subpart B*, including the authorization of an alternate designated representative.

(8) "Fossil fuel" means natural gas, petroleum, coal, or any solid, liquid, or gaseous fuel derived from these materials.

(9) "Fossil fuel-fired" means the following:

(A) Except as provided in clause (B), the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(i) The 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 in 1995, then during the last year of operation of the unit prior to 1995.

(ii) The 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 is fossil fuel-fired as of the date during the year that the unit begins combusting fossil fuel.

(B) For the purposes of determining applicability in section 1(b)(3) and 1(b)(4) of this rule, combusting any amount of fossil fuel in any calendar year.

(10) "Heat input" means the product, expressed in Btu per unit of time (Btu/hr), of the following:

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

(B) The fuel feed rate into a combustion device, expressed in mass of fuel per unit of time (lb/hr), as measured, recorded, and reported 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.
(11) "Large affected unit" means a unit that meets the applicability criteria in section 1 of this rule.
(12) "Maximum design heat input" means the maximum amount of fuel per hour, in million British thermal units per hour (MMBtu/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.
(13) "Nameplate capacity" means the maximum electrical generating output, expressed in megawatt electrical (MWe) output, 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.
(14) "Operator" means any person who operates, controls, or supervises the operation of a unit, including any holding company, utility system, or plant manager of the unit.
(15) "Owner" means any of the following persons:
(A) The holder of:
(i) any portion of the legal or equitable title; or
(ii) a leasehold interest;
in a unit.
(B) Any purchaser of power from a unit under a life-of-the-unit, firm power contractual arrangement, except that, unless expressly provided for in a leasehold agreement, owner does 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, on the revenues or income from the large affected unit.
(16) "Ozone control period" means the inclusive period:
(A) beginning either:
(i) May 1 of a calendar year; or
(ii) on the deadline for meeting the unit's monitor certification requirements under section 4(a) of this rule; and
(B) ending on September 30 of the same year.
(17) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input.
(18) "Replacement", "replace", or "replaced" means the demolition of, or the permanent shutdown and permanent disabling of, a unit, and the construction of another unit, to be used instead of the demolished or shutdown unit.
(19) "Repowered" means 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.
(F) As determined by 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.
(20) "Unit" means a fossil fuel-fired stationary boiler, combustion turbine, or a combined cycle system.
(21) "Unit operating day" means a calendar day in which a unit combusts any fuel.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-2)

326 IAC 10-2-3 Monitoring provisions

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) The owner or operator of a large affected unit subject to this rule, and to the extent

applicable, the designated representative, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H*. The owner or operator of a unit that is not a large affected unit, but that is required to monitor under 40 CFR 75.72(b)(2)(ii)*, shall comply with the same monitoring, record keeping, and reporting requirements as a large affected unit.

(b) The owner or operator of each large affected unit shall do the following:
(1) Install all monitoring systems required under this section for monitoring NO_x ozone season mass emissions and individual unit heat input. This includes all systems required to monitor the following operating parameters in accordance with 40 CFR 75.71* and 40 CFR 75.72*, as applicable:
(A) NO_x emission rate.
(B) NO_x concentration.
(C) Stack gas moisture content.
(D) Stack gas flow rate.
(E) Carbon dioxide (CO_2) or ozone (O_2) concentration.
(F) Fuel flow rate.
(2) Complete all certification tests required under section 5(b) of this rule and meet all other requirements of this section and 40 CFR 75* applicable to the monitoring systems under subdivision (1).
(3) Record, report, and quality assure the data from the monitoring systems under subdivision (1).

(c) The designated representative for a large affected unit shall submit written notice to the department and U.S. EPA in accordance with 40 CFR 75.61*.

(d) The owner or operator of a large affected unit is subject to the applicable provisions of 40 CFR 75* concerning units in long term cold storage.

(e) The prohibitions in 40 CFR 75.70(c)* apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a continuous emissions monitoring system required under this rule.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-3)

326 IAC 10-2-4 Compliance dates for monitoring

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) Except as provided in section 3(d) of this rule, the owner or operator shall meet the monitoring system certification and other requirements of section 3(b) of this rule on or before the applicable dates in this section. The owner or operator shall record, report, and quality assure the data from the monitoring systems under section 3(b)(1) of this rule on and after the following dates:
(1) For units that commenced operation before the effective date of this rule, the effective date of this rule.
(2) For the owner or operator of a large affected unit that commences operation after the effective date of this rule, and that reports on an annual basis under section 8(b) of this rule, by one hundred eighty (180) calendar days after the date on which the unit commences commercial operation.
(3) For the owner or operator of a large affected unit that commences operation after the effective date of this rule, and that reports on a control period basis under section 8(b) of this rule, by the later of the following dates:
(A) One hundred eighty (180) calendar days after the date on which the unit commences commercial operation.
(B) If the compliance date under clause (A) is not during a control period, then by May 1 immediately following the compliance date under clause (A).

(4) For the owner or operator of a large affected unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the effective date of this rule, and that reports on an annual basis under section 8(b) of this rule, by the earlier of the following dates:
(A) One hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.
(B) Ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.
(5) For the owner or operator of a large affected unit for which construction of a new stack or flue or installation of add-on NO_x emission controls is completed after the effective date of this rule and that reports on a control period basis under section 8(b) of this rule, by the later of the following dates:
(A) The earlier of:
(i) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls; or
(ii) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO_x emissions controls.
(B) If the compliance date under clause (A) is not during a control period, May 1 immediately following the compliance date under clause (A).

(b) The owner or operator of a large affected unit that does not meet the applicable compliance date set forth in subsection (a) for any monitoring system under section 3 of this rule shall, for each monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for the following:
(1) NO_x emission rate.
(2) NO_x concentration.
(3) Stack gas moisture content.
(4) Stack gas flow rate.
(5) Fuel flow rate.
(6) Any other parameters required to determine NO_x mass emissions and heat input in accordance with the following, as applicable:
(A) 40 CFR 75.31(b)(2)*.
(B) 40 CFR 75.31(c)(3)*.
(C) 40 CFR 75, Appendix D, Section 2.4*.
(D) 40 CFR 75, Appendix E, Section 2.5*.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-4)

326 IAC 10-2-5 Certification and recertification

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) The owner or operator of a large affected unit is exempt from the initial certification requirements of this section for a monitoring system under section 3 of this rule if the following conditions are met:
(1) The monitoring system has been previously certified in accordance with 40 CFR 75*.
(2) The applicable quality assurance and quality control requirements of 40 CFR 75.21*, 40 CFR 75, Appendix B*, 40 CFR 75, Appendix D*, and 40 CFR 75, Appendix E* are fully met for the certified monitoring system described in subdivision (1).

(b) The recertification provisions of this section apply to a monitoring system that is exempt from initial certification requirements under this section.

(c) Except as provided in subsection (a), the owner or operator of a large affected unit shall comply with the initial certification and recertification procedures in 40 CFR 75.20* for a continuous monitoring

system (a continuous emission monitoring system or an excepted monitoring system under 40 CFR 75, Appendix D* or 40 CFR 75, Appendix E*). The owner or operator of a unit that qualifies to use the low mass emissions (LME) excepted monitoring methodology under 40 CFR 75.19* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (d) or section 7(b) of this rule, respectively.

(d) The owner or operator of a unit qualified under 40 CFR 75.19* to use the LME excepted methodology shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2)* and 40 CFR 75.20(h)*. If the owner or operator of the unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall meet the certification and recertification requirements in 40 CFR 75.20(g)*.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-5)

326 IAC 10-2-6 Data substitution

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

Sec. 6. If a monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR 75*, data must be substituted using the applicable missing data procedures from one (1) of the following:
(1) 40 CFR 75, Subpart D*.
(2) 40 CFR 75, Subpart H*.
(3) 40 CFR 75, Appendix D*.
(4) 40 CFR 75, Appendix E*.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-6)

326 IAC 10-2-7 Petition for approval of alternatives

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) A petition under 40 CFR 75.66* requesting approval of alternatives to any requirement of section 3, 4, 5, 6, or 8 of this rule may be made as follows:
(1) Except as provided in subdivision (3), the designated representative of a large affected unit that is subject to an acid rain emissions limitation may submit a petition to U.S. EPA requesting approval to apply an alternative to any requirement of section 3, 4, 5, 6, or 8 of this rule. The designated representative may not use the alternative unless the alternative is approved in writing by U.S. EPA.
(2) The designated representative of a large affected unit that is not subject to an acid rain limitation may submit a petition to both the department and U.S. EPA requesting approval to apply an alternative to any requirement of section 3, 4, 5, 6, or 8 of this rule. The designated representative may not use the alternative unless the alternative is approved in writing by both the department and U.S. EPA.
(3) The designated representative of a large affected unit that is subject to an acid rain emissions limitation may submit a petition to both the department and U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72*. The designated representative may not use the alternative unless the alternative is approved in writing by both the department and U.S. EPA.

(b) The designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E*, shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)*.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-7)

326 IAC 10-2-8 Record keeping and reporting

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

Sec. 8. (a) The designated representative of a large affected unit shall comply with all applicable record keeping and reporting requirements in this section and 40 CFR 75.73*, as follows:
(1) The owner or operator of a large affected unit shall comply with requirements of both:
(A) 40 CFR 75.73(c)*; and
(B) 40 CFR 75.73(e)*.
(2) The designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under section 5 of this rule, including the information required under 40 CFR 75.63*.

(b) The designated representative shall submit quarterly reports as follows:
(1) If the large affected unit is subject to an acid rain emissions limitation or if the owner or operator of the unit chooses to report on an annual basis under this section, the designated representative shall:
(A) meet the requirements of 40 CFR 75, Subpart H* for the entire year; and
(B) report the NO_x mass emissions data and heat input data in an electronic quarterly report in a format prescribed by U.S. EPA, for each calendar quarter corresponding to the earlier of:
(i) the date of provisional certification; or
(ii) for a unit that commences commercial operation on or after the effective date of this rule, the calendar quarter corresponding to the earlier of:
(AA) the date of provisional certification; or
(BB) the applicable deadline for initial certification under section 4(a) of this rule.
(2) If the large affected unit is not subject to an acid rain emissions limitation, the designated representative shall meet either of the following requirements:
(A) If the owner or operator chooses to report on an annual basis, both of the following:
(i) Meet the requirements of 40 CFR 75, Subpart H* for the entire year.
(ii) Report the NO_x mass emissions data and heat input data for the unit in accordance with this clause.
(B) If the owner or operator does not choose to report on an annual basis, both of the following:
(i) Meet the requirements of 40 CFR 75, Subpart H* for the control period.
(ii) Report NO_x mass emissions data and heat input data for the control period in an electronic quarterly report in a format prescribed by U.S. EPA, for each calendar year beginning with:
(AA) the effective date of this rule; or
(BB) for a unit that commences commercial operation on or after the effective date of this rule, the calendar quarter corresponding to the earlier of:
(aa) if it falls during the control period, the date of provisional certification;
(bb) if it falls during the control period, the applicable deadline for initial certification under section 4(a) of this rule; or
(cc) if neither subitem (aa) nor (bb) fall during the control period, the quarter that includes May 1 through June 20 of the first control period after the date of provisional certification or the applicable deadline for initial certification under section 4(a) of this rule.
(3) For large affected units that are also subject to an acid rain emissions limitation or another annual trading program, quarterly reports must include the following:
(A) Applicable data and information required by 40 CFR 75, Subparts F through H* as applicable.

(B) NO_x mass emission data, heat input data, and other information required by this rule.

(c) The designated representative shall submit to U.S. EPA a compliance certification, in a format prescribed by U.S. EPA, in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification must state that:

(1) the monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75*, including the quality assurance procedures and specifications;

(2) for a unit with add-on NO_x ozone season emission controls and for all hours where NO_x data are substituted in accordance with 40 CFR 75.34(a)(1)*, the add-on emission controls were operating within the range of parameters listed in the quality assurance and quality control program under 40 CFR 75, Appendix B* and the substitute data values do not systematically underestimate NO_x emissions; and

(3) for a unit that is reporting on a control period basis under subsection (b)(2)(B), the NO_x mass emission rate and NO_x concentration values substituted for missing data under 40 CFR 75, Subpart D* are calculated using only values from a control period and do not systematically underestimate NO_x emissions.

(d) Owners and operators of each large affected unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of each large affected unit at the source shall keep on site each of the following documents:

(A) The current certificate of representation for the designated representative for each large affected unit, and all documents that demonstrate the truth of the statements in the certificate of representation.

(B) All emissions monitoring information, in accordance with section 3 of this rule, with retention for a minimum of three (3) years.

(C) Copies of all reports and other submissions and all records made or required under this rule for a period of five (5) years from the date the document was created.

(2) The designated representative of each large affected unit at the source shall submit the reports required under this rule.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; 326 IAC 10-2-8)

326 IAC 10-2-9 Ozone season NO_x budget

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 ozone season budget for all large affected units meeting the applicability criteria in section 1(b)(1) and 1(b)(2) of this rule is eight thousand eight (8,008) tons of NO_x for each control period, as defined in section 2 of this rule. The sum of the total number of tons of NO_x emitted from each large affected unit under section 1(b)(1) and 1(b)(2) of this rule must be less than or equal to the ozone season budget for large affected units.

(b) By May 1 of each year, the department shall conduct an annual review of actual NO_x emissions during the previous control period from all large affected units under section 1(b)(1) and 1(b)(2) of this rule, including any new units, to ensure that the total emissions remain below the ozone season budget.

(Air Pollution Control Division; 326 IAC 10-2-9)

SECTION 2. 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) **A** Portland cement kiln with process rates equal to or greater than **the following:**
(A) **For** long dry kilns, ~~of~~ twelve (12) tons per hour (tph).
(B) **For** long wet kilns, ~~of~~ ten (10) tph.
(C) **For** preheater kilns, ~~of~~ sixteen (16) tph. ~~or~~
(D) **For** 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~~ **ArcelorMittal Burns Harbor**	075	Boiler #7
	076	Boiler #8
	077	Boiler #9
	078	Boiler #10
	079	Boiler #11
	080	Boiler #12
(B) ~~LTV Steel Company~~ **ArcelorMittal Indiana Harbor**	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.~~ **defined as a large affected unit under 326 IAC 10-2-2(c)(11).**

(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~~ **must** 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~~ **is** deemed to be compliance with the emission limits in 326 IAC 10-1-4(b)(1) during the ozone control period, and ~~such~~ **the** limits ~~shall~~ supersede those in 326 IAC 10-1-4(b)(1) during the ozone control period.

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

~~(d)~~ **(c)** 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)~~ **(d)** During periods of blast furnace reline, startup, and ~~period~~ **periods** of malfunction, the affected boilers ~~shall~~ **are** not ~~be~~ required to meet the requirement ~~to derive~~ **of greater than** fifty percent (50%) of the heat input from blast furnace gas.

(Air Pollution Control Division; 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 3. 326 IAC 10-3-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-3-3 Emission limits

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

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

(1) Operation of the kiln with one (1) of the following:
(A) Low-NO_x burners.
(B) Mid-kiln firing.
(2) A limit on the amount of NO_x emitted when averaged over the ozone control period as follows:
(A) For long wet kilns, six (6) pounds of NO_x per ton of clinker produced.
(B) For long dry kilns, five and one-tenth (5.1) pounds of NO_x per ton of clinker produced.
(C) For preheater kilns, three and eight-tenths (3.8) pounds of NO_x per ton of clinker produced.
(D) For precalciner and combined preheater and precalciner kilns, two and eight-tenths (2.8) pounds of NO_x per ton of clinker produced.
(3) Installation and use of alternative control techniques that may include kiln system modifications, such as conversions to semi-dry precalciner kiln processing, subject to department and U.S. EPA approval that achieve a thirty percent (30%) emissions decrease from baseline ozone control period emissions. Baseline emissions ~~shall~~ **must** be the average of the sum of ozone control period emissions for the two (2) highest emitting years from 1995 through 2000 determined in accordance with subsection (d)(1).

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

(c) The owner or operator of any affected boiler subject to this rule shall limit NO_x emissions to seventeen-hundredths (0.17) pound of NO_x per million Btus (lb/MMBtu) of heat input averaged over the ozone control period and ensure that greater than fifty percent (50%) of the heat input ~~shall be~~ **is** derived from blast furnace gas averaged over an ozone control period. By May 1, 2003, **or by May 1 of the year the affected boiler becomes subject to this rule,** the owner or operator of an affected boiler shall submit to the department a compliance plan for approval by the department and U.S. EPA including the following:
(1) Baseline stack test data, or proposed testing, for establishment of fuel specific emission factors, or the emission factors for the type of boiler from the Compilation of Air Pollutant Emission Factors (AP-42), as defined at 326 IAC 1-1-3.5, for each fuel to be combusted. The fuel specific emission factor ~~shall~~ **must** be developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7*, 7A*, 7C*, 7D*, or 7E*, **or 40 CFR 75*,** based on a range of typical operating conditions. The owner or operator must:
(A) establish that these operating conditions are representative, subject to approval by the department; and
(B) ~~must~~ certify that the emissions testing is being conducted under representative conditions.
(2) Anticipated fuel usage and combination of fuels.
(3) If desired by the source, a proposal for averaging the emission limit and fuel allocation among commonly owned units, including the proposed methodology for determining compliance.

(d) Baseline ozone control period emissions ~~shall~~ **must** be determined using one (1) of the following methods:
(1) The average of the emission factors for the type of kiln from the Compilation of Air Pollutant Emission Factors (AP-42), Fifth Edition, January 1995*, Supplements A through G, December 2000* and the NO_x Control Technologies for the Cement Industry, Final Report, September 19, 2000*.
(2) The site-specific emission factor developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7*, 7A*, 7C*, 7D*, or 7E*, **or 40 CFR 75*,** based on a range of typical operating conditions. The owner or operator must:
(A) establish that these operating conditions are representative, subject to approval by the department; and
(B) certify that the emissions testing is being conducted under representative conditions.
(3) An alternate method for establishing the ~~emissions~~ **emission** factors, when submitted with supporting data to substantiate ~~such emissions~~ **the emission** factors and approved by the department and U.S. EPA as set forth in subsection (b).
(4) For affected boilers, as outlined in the site-specific compliance plan submitted under subsection (c).

*These documents are incorporated by reference and may be obtained from the Government ~~Printing~~ **Publishing** Office, ~~732 North Capitol Street NW, Washington, D.C. 20402~~ **www.gpo.gov,** or are available for ~~copying~~ **review** at the Indiana Department of Environmental Management, Office of ~~Air Quality~~ **Legal Counsel,** Indiana Government Center North, ~~Tenth~~ **Thirteenth** Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Division; 326 IAC 10-3-3; filed Aug 17, 2001, 3:45 p.m.: 25 IR 16; errata filed Dec 12, 2002, 3:35 p.m.: 26 IR 1569; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1876)

SECTION 4. THE FOLLOWING ARE REPEALED: 326 IAC 10-4; 326 IAC 24-3-1; 326 IAC 24-3-2; 326 IAC 24-3-4; 326 IAC 24-3-11.

Notice of Public Hearing

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