

TITLE 326 AIR POLLUTION CONTROL BOARD**SECOND NOTICE OF COMMENT PERIOD
#02-54(APCB)****DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING CONTROL OF NITROGEN OXIDES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 10-3 and 326 IAC 10-4 concerning nitrogen oxide. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: March 1, 2002, Indiana Register (25 IR 2045).

CITATIONS AFFECTED: 326 IAC 10-3-1; 326 IAC 10-4-1; 326 IAC 10-4-2; 326 IAC 10-4-9; 326 IAC 10-4-10; 326 IAC 10-4-13; 326 IAC 10-4-15.

AUTHORITY: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

On September 24, 1998, U.S. EPA issued a rule (NO_x SIP Call) that required twenty-two (22) states in the eastern United States, including Indiana, to individually reduce their emissions of nitrogen oxides (NO_x). The federal rule established an overall cap on NO_x emissions for Indiana based on significant emissions reductions from electric utility boilers, large industrial boilers, cement kilns, and stationary internal combustion engines by 2007. The federal rule was promulgated to address the transport of ozone and ozone causing pollutants that occurred in this multi-state region. On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) upheld the majority of the NO_x SIP Call, but remanded the portion of the rule concerning stationary internal combustion engines to U.S. EPA for further notice and comment. In order to address the Court's decision and move the process forward, U.S. EPA divided the NO_x SIP Call into a Phase I and Phase II.

In response to U.S. EPA's NO_x SIP Call, the Air Pollution Control Board (board) final adopted rules on June 6, 2001, that became effective on September 16, 2001. The rules responded to Phase I of the NO_x SIP Call and were submitted and approved by U.S. EPA as an amendment to the Indiana state implementation plan (SIP) on November 8, 2001 (66 FR 56465). IDEM will address the Phase II rulemaking when U.S. EPA promulgates a final Phase II rule.

During the second public hearing, comments were received requesting amendments to the rule being considered for final adoption. Ispat Inland requested an amendment to remove their industrial boilers from 326 IAC 10-3 and add them to the NO_x trading program under 326 IAC 10-4. IDEM has developed draft rule language to accomplish this change as well as other changes that have been brought to our attention, including the following:

- (1) Changing the compliance date for certain electric generating units (EGUs) from May 1, 2004, to May 31, 2004, as agreed to by U.S. EPA in a memorandum titled "Deadlines for Electric Generating Units (EGUs) and Non-Electric Generating Units (non-EGUs) under the Section 126 Rule" and in a Direct Final Federal Register

on April 30, 2002 (67 FR 21522). This change harmonizes deadlines for all units subject to the rule.

- (2) The addition of Boilers 1, 2, and 3 at Purdue University as units to be controlled under 326 IAC 10-4-9. U.S. EPA originally included these boilers as small boilers in the non-EGU inventory, so they were not included in the NO_x rules final adopted on June 6, 2001. These three (3) boilers exceed two hundred fifty (250) MMBtu/hr design heat input and therefore meet the definition of "large affected unit". The draft rule adds to 326 IAC 10-4 the Purdue boilers and allowances calculated at sixty percent (60%) of their 2007 projected uncontrolled emissions.

- (3) The addition of two (2) new formulas for energy efficiency or renewable energy projects under 326 IAC 10-4-9(e)(3)(C).

- (4) Clarification of minor wording errors, as well as other technical changes to the existing rule that may be warranted.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from March 1, 2002, through April 1, 2002, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Indiana Electric Utility Air Work Group (IEUG)

Indiana Municipal Power Agency (IMPA)

Richmond Power and Light (RPL)

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

Comment: Change the monitoring deadline for sources subject to the original Section 126 rule from May 1, 2002, to May 31, 2003, to reflect the new compliance date for Section 126 sources. (RPL)(IMPA)(IEUG)

Response: The monitoring deadline of May 1, 2002, is a federal compliance date that U.S. EPA has changed to May 1, 2003, in a Direct Final Federal Register on April 30, 2002 (67 FR 21522). This date does not alter the compliance date in 326 IAC 10-3 or 326 IAC 10-4.

Comment: Modify the Indiana NO_x rule language affecting Section 126 sources so as to make the rule language align with the deadline for the nitrogen oxide State Implementation Plan Call (NO_x SIP Call) by establishing May 31, 2004, as the new compliance date.

Response: IDEM agrees and is proposing to delete the earlier compliance date for sources subject to the Section 126 rule (40 CFR 97).

Comment: Modify the rule language to harmonize the early reduction credit programs for both Section 126 and SIP Call affected sources to allow both types of sources to obtain credits for reductions made in 2003. (IEUG)(RPL)

Response: IDEM agrees and will make the necessary changes to the rule.

Comment: Take no action in this rulemaking that would reduce the size of the electric generating unit (EGU) allocations or compliance supplement pool that were adopted last June. Any attempts to reduce the size of the EGU allocation or early reduction credit pool would have significant and unjustified negative financial implications for utility companies in the state. (IEUG)

Response: IDEM is not changing any allocations for existing EGUs or the compliance supplement pool.

REQUEST FOR PUBLIC COMMENT

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

APCB #02-54(APCB), NO_x Corrections
 Kathryn A. Watson, Chief
 Air Programs Branch
 Office of Air Quality
 Indiana Department of Environmental Management
 P.O. Box 6015
 Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana, Monday through Friday, between 8:15 a.m. and 4:45 p.m.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, hand delivered, or faxed by August 30, 2002.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). Technical information regarding this action may be obtained from Roger Letterman, Compliance Branch, Office of Air Quality, (317) 232-8342 or (800) 451-6027, press 0, and ask for extension 2-8342 (in Indiana).

DRAFT RULE

SECTION 1. 326 IAC 10-3-1, AS ADDED AT 25 IR 14, SECTION 4, 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) Ispat Inland Incorporated	280 & 281	Boiler #211
	282 & 283	Boiler #212
	284 & 285	Boiler #213
	330	Boiler #501
	330	Boiler #502
	330	Boiler #503
(C) LTV Steel Company	020	Boiler #4
	021	Boiler #5
	022	Boiler #6
	023	Boiler #7
	024	Boiler #8

(D) U.S. Steel Company—Gary Works	720	Boiler #1
	720	Boiler #2
	720	Boiler #3
	701	Boiler #1
	701	Boiler #2
	701	Boiler #3
	701	Boiler #5
	701	Boiler #6

(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.**

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

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

(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*)

SECTION 2. 326 IAC 10-4-1, AS ADDED AT 25 IR 18, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-1 Applicability

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

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

- (1) An electricity generating unit (EGU) as defined under section 2(16) of this rule.
- (2) A large affected unit as defined in section 2(27) of this rule.

(b) A unit described under subsection (a) shall not be a NO_x budget unit, if the unit has a federally enforceable permit that meets the requirements of subdivisions (1) through (3):

- (1) The federally enforceable permit includes terms and conditions that restrict the unit to burning only natural gas or fuel oil during the ozone control period in 2004 or the first year of operation for the source and each ozone control period thereafter.

(2) The federally enforceable permit includes terms and conditions that restrict the unit's potential NO_x mass emissions for the ozone control period to twenty-five (25) tons or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) is issued a federally enforceable permit under this subsection; or
(B) whose federally enforceable permit issued by the department under this subsection:

- (i) is revised to remove any restriction;
- (ii) includes any restriction that is no longer applicable; or
- (iii) does not comply with any restriction.

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

(A) The fuel use restriction under subdivision (3)(A) or the applicable restriction under subdivision (3)(B) is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable.

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

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

(6) A unit exempt under this subsection shall comply with the restriction in subdivision (3) during the ozone control period in each year.

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

- (A) the owners and operators of the unit must specify a general account, in which U.S. EPA will record the NO_x allowances; and
- (B) after U.S. EPA records the NO_x allowance allocation under section 9(d) of this rule, the U.S. EPA will deduct, from the general account in clause (A), NO_x allowances that are allocated for the same or a prior ozone control period as the NO_x allowances allocated under section 9(d) of this rule and that equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under this subsection is based. The NO_x authorized account representative shall ensure that the general account contains the NO_x allowances necessary for completion of the deduction.

~~(c) A unit subject to 40 CFR 97* shall be subject to the requirements of this rule on May 1, 2004. Allowances for such unit shall be allocated in accordance with section 9 of this rule for the 2004 ozone control period and thereafter. Allowances from the compliance supplement pool shall be allocated in accordance with section 15 of this rule and any banked allowances shall be available for use under this rule~~

~~beginning in 2004. A unit subject to 40 CFR 97* may petition the commissioner for an extension of the compliance date from May 1, 2004, to a date no later than May 31, 2004, and the commissioner shall grant the petition if but only if final U.S. EPA action, final federal legislation, or an order from a court of competent jurisdiction delays the compliance date under 40 CFR 97* beyond May 1, 2004.~~

*These documents are incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~ **20401** or are available for **review and copying** at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 10-4-1; filed Aug 17, 2001, 3:45 p.m.: 25 IR 18*)

SECTION 3. 326 IAC 10-4-2, AS ADDED AT 25 IR 19, SECTION 5, 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_x authorized account representative for a NO_x budget source or a group of identified NO_x budget sources who is authorized to represent the owners and operators of the source or sources and of the NO_x budget units at the source or sources with regard to matters under the NO_x budget trading program.
- (2) "Account number" means the identification number given by the U.S. EPA to each NO_x allowance tracking system account.
- (3) "Acid rain emissions limitation" means, as defined in 40 CFR 72.2*, a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program under Title IV of the Clean Air Act (CAA).
- (4) "Allocate" or "allocation" means the determination by the department or the U.S. EPA of the number of NO_x allowances to be initially credited to a NO_x budget unit or an allocation set-aside.
- (5) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under 40 CFR 75, Subpart H*, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by 40 CFR 75, Subpart H*.
- (6) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.
- (7) "Combined cycle system" means a system comprised of one (1) or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.
- (8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

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

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

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

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

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

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

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

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

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

(14) "Continuous emission monitoring system" or "CEMS" means the equipment required under 40 CFR 75, Subpart H* to sample, analyze, measure, and provide, by readings taken at least once every fifteen (15) minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for NO_x. The following systems are component parts included, consistent with 40 CFR 75*, in a continuous emission monitoring system:

- (A) Flow monitor.
- (B) Nitrogen oxides pollutant concentration monitors.
- (C) Diluent gas monitor, oxygen or carbon dioxide, when the monitoring is required by 40 CFR 75, Subpart H*.
- (D) A continuous moisture monitor when the monitoring is required by 40 CFR 75, Subpart H*.
- (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 that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a name-

plate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(B) For units that commenced operation 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 produced electricity for sale under a firm contract to the electric grid.

(C) For units that commenced operation 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.

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

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

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

(B) Highly efficient electricity 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.

(D) Energy efficiency projects generating electricity through the capture of methane gas from sanitary landfills, water treatment plants, or sewage treatment plants.

(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.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of

implementing this rule and does not apply in other contexts.

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

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

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

(A) Natural gas.

(B) Petroleum.

(C) Coal.

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

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

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

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

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

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

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

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

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

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

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

(27) "Large affected unit" means the following:

(A) For units that commenced operation 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.

(B) For units that commenced operation 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.

(C) For units that commence operation 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:

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

(ii) 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.

Large affected unit 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 (CO₂) concentration, in percent of CO₂.
 - (ii) The minimum oxygen (O₂) concentration, in percent of O₂.

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

- (A) the emission rate of nitrogen oxides, in pounds per million British thermal units (lb/mmBtu);
- (B) calculated in accordance with 40 CFR 75, Appendix F, Section 3*;
- (C) using the maximum potential nitrogen oxides concentration as defined in 40 CFR 75, Appendix A, Section 2*; and
- (D) either the:
 - (i) maximum oxygen (O₂) concentration in percent of O₂; or
 - (ii) minimum carbon dioxide (CO₂) concentration in percent of CO₂;

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

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

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

- (A) A continuous emissions monitoring system.
- (B) An excepted monitoring system under 40 CFR 75.19* or 40 CFR 75, Appendix D or E*.
- (C) An alternative monitoring system.

(34) "Most stringent state or federal NO_x emissions limitation" means, with regard to a NO_x budget opt-in source, the lowest NO_x emissions limitation, in terms of pounds per million British thermal

units (lb/mmBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

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

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

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

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

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

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

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

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

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

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

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

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

- (A) To account for excess emissions for a prior ozone control period under section 10(k)(5) of this rule.
- (B) To account for withdrawal from the NO_x budget trading program.
- (C) For a change in regulatory status, for a NO_x budget opt-in source under section 13(g) through 13(i) of this rule.
- (45) "NO_x budget opt-in permit" means a NO_x budget permit covering a NO_x budget opt-in source.
- (46) "NO_x budget opt-in source" means a source that includes one (1) or more NO_x budget units:
- (A) that has elected to become a NO_x budget source under the NO_x budget trading program; and
- (B) whose NO_x budget opt-in permit has been issued and is in effect under section 13 of this rule.
- (47) "NO_x budget permit" means the legally binding and federally enforceable written document, or portion of the document:
- (A) issued by the department under this rule, including any permit revisions; and
- (B) specifying the NO_x budget trading program requirements applicable to the following:
- (i) A NO_x budget source.
- (ii) Each NO_x budget unit at the NO_x budget source.
- (iii) The owners and operators and the NO_x authorized account representative of the NO_x budget source and each NO_x budget unit.
- (48) "NO_x budget source" means a source that includes one (1) or more NO_x budget units.
- (49) "NO_x budget trading program" means a multistate nitrogen oxides air pollution control and emission reduction program established in accordance with this rule, 40 CFR 97*, and a state NO_x budget trading program established pursuant to 40 CFR 51.121* and approved and administered by the U.S. EPA, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.
- (50) "NO_x budget unit" means a unit that is subject to the NO_x budget trading program emissions limitation under section 1(a) or 13(a) of this rule.
- (51) "Operating" means, with regard to a unit under sections 7(c)(4)(B) and 13(a) of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO_x budget permit under section 13(d) of this rule.
- (52) "Operator" means any person who operates, controls, or supervises a NO_x budget unit, a NO_x budget source, or a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of a unit or source.
- (53) "Opt-in" means to elect to become a NO_x budget unit under the NO_x budget trading program through a final, effective NO_x budget opt-in permit under section 13 of this rule.
- (54) "Overdraft account" means the NO_x allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO_x budget source where there are two (2) or more NO_x budget units.
- (55) "Owner" means any of the following persons:
- (A) Any holder of any portion of the legal or equitable title in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.
- (B) Any holder of a leasehold interest in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

- (C) Any purchaser of power from a NO_x budget unit or from a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x budget unit or the unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.
- (D) With respect to any general account, any person who has an ownership interest with respect to the NO_x allowances held in the general account and who is subject to the binding agreement for the NO_x authorized account representative to represent that person's ownership interest with respect to NO_x allowances.
- (56) "Ozone control period" means the period as follows:
- (A) For 2004, ~~the following:~~
- (i) ~~For units not subject to 40 CFR 97*~~, beginning May 31 and ending on September 30, inclusive.
- (ii) ~~For units subject to 40 CFR 97*~~, ~~beginning May 1 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_x allowances, the movement of NO_x allowances by the U.S. EPA from one (1) NO_x allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

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

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

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

(65) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

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

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

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

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

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

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

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

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

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

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

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

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

(75) "Utilization" means the heat input, expressed in million British thermal units per unit of time, for a unit. The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be

based on the best available data reported to the 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. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW**, Washington, D.C. ~~20402~~ **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*)

SECTION 4. 326 IAC 10-4-9, AS ADDED AT 25 IR 32, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-9 NO_x allowance allocations

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

Affected: IC 13-15; IC 13-17

Sec. 9. (a) The trading program budget allocated by the department under subsections (d) through (f) for each ozone control period shall equal the total number of tons of NO_x emissions apportioned to the NO_x budget units under section 1 of this rule for the ozone control period, as determined by the procedures in this section. The total number of tons of NO_x emissions that are available for each ozone control period for allocation as NO_x allowances under this rule are ~~fifty-three thousand nine hundred sixty (53,960)~~ **fifty-five thousand one hundred sixty-three (55,163)** 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) ~~six thousand eight hundred forty-nine (6,849)~~ **eight thousand sixteen (8,016)** tons for large affected units;

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

(2) For new unit allocation set-asides:

- (A) two thousand two hundred ninety-eight (2,298) tons for electricity generating units in 2004 through 2009, and nine hundred nineteen (919) tons thereafter; and
- (B) ~~eighty (80)~~ **ninety-two (92)** tons for large affected units in 2004 and each year thereafter.

(3) For the energy efficiency and renewable energy allocation set-aside, ~~one thousand seventy-nine (1,079)~~ **one thousand one hundred three (1,103)** tons.

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

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

- (A) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods in 2004, 2005, and 2006.

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

(C) By December 31, 2006, the department shall submit to the

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

(4) The department shall make available for review to the public the NO_x 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 shall provide a thirty (30) day opportunity for submission of objections to the NO_x allowance allocations. Objections shall be limited to addressing whether the NO_x allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section. Any revised NO_x allowance allocations shall be submitted to the U.S. EPA for recordation by the following April 1.

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

(1) For a NO_x allowance allocation under 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.

(2) For a NO_x allowance allocation under 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_x allocation is being calculated. For the purpose of this subdivision, the ozone control period for the year 2004 shall be from May 1 through September 30.

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

(A) For a NO_x budget unit 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) For a NO_x budget unit 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) For a NO_x budget unit with one (1) year of ozone control period heat input, the actual ozone control period heat input for that year.

(4) For a NO_x allowance allocation under subsection (b)(1)(B), (b)(1)(C), and (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_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the

year, or shall be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year. The owner or operator of a NO_x budget unit shall submit heat input data within thirty (30) days if requested by the department.

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

(1) The department shall allocate NO_x allowances to each electricity generating unit in an amount equaling fifteen-hundredths (**0.15**) pound per million British thermal units (~~0.15 lb/mmBtu~~) 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, multiplied by the heat input determined under subsection (c) **and divided by two thousand (2,000) pounds per ton**, rounded to the nearest whole NO_x allowance, as appropriate.

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

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

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

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

<u>Source</u>	<u>Unit</u>	<u>Allowances</u>
(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	154
	212	154
	213	155
	401	255
	402	255
	403	257
	404	257
	405	344
	501	192
	502	192
	503	193
(G) National Steel	+	0
(H) (G) New Energy	003	238
(I) (H) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34
(J) (I) Purdue University	1	52
	2	67
	3	8
	5	72

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

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

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

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

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

(ii) For large affected units, ~~eighty (80)~~ **ninety-two (92)** tons (one percent (1%) of the large affected unit budget) in 2004 and each year thereafter.

(B) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to ~~one thousand seventy-nine (1,079)~~ **one thousand one hundred three (1,103)** tons (two percent (2%) of overall trading budget).

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

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

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

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

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

(A) For an electricity generating unit, multiplying the following:

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

(ii) The NO_x budget unit's maximum design heat input, in million British thermal units per hour as follows:

(aa) 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 not a simple cycle system, seventy-five percent (75%) of the maximum design heat input.

(bb) For a unit that is 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.

(cc) For a unit that is 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.

(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 by two thousand (2,000) pounds per ton.** The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(B) For a large affected unit **multiplying:**

(i) seventeen-hundredths (0.17) 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;

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

(iii) ~~multiplied by~~ 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 by two thousand (2,000) pounds per ton. The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(C) For energy efficiency or renewable energy projects:

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

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

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

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

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

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

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.

NRate = NO_x produced during the consumption of energy, measured in pounds per million (+,000,000) British thermal units.

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

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

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

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NRate} / \text{NPt2} \times (\text{NPt1}/\text{NPt2}) \times 0.25) / 2000$$

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.

NRate = NO_x produced during the consumption of energy, measured in pounds per million (+,000,000) British thermal units.

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

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

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

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

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

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_x = The amount of NO_x produced during the generation of electricity, measures 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:

$$\text{Allow} = ((\text{BtuIn} \times \text{Efficiency})/3,412) \times (0.0015) - (\text{NO}_x\text{Rate}/\text{EnRate})/2000$$

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

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.

Efficiency = The effective net efficiency of a combined heat and power system, calculated as (kWG x 3,412)/ (BtuIn-HeatOut).

Where: kWG = The number of net kilowatt hours of electricity generated during an ozone 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 an ozone control period by the project divided by eight-tenths (0.8).

NO_xRate = NO_x emitted, measured in pounds per hour of normal system operation.

EnRate = The amount of energy measured in British thermal units (Btu) of electricity generated and heat or steam effectively used for space, water, or industrial process heat per hour of normal system operation, divided by three thousand four hundred twelve (3,412).

(vii) 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.

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

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

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

Et1 = The emission rate in pounds per megawatt hour of NO_x of the unit before improvement or replacement.

Et2 = The emission rate in pounds per megawatt hour of NO_x of the unit after improvement or replacement.

h = The number of megawatt hours of operation during the ozone control period.

Allowances will be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department will consult the Indiana department of commerce concerning verification and certification. (4) The department shall review, and allocate NO_x allowances pursuant to, each NO_x allowance allocation request by December 31 of each year as follows:

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

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

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

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

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

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

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

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

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

(D) If the energy efficiency and renewable energy allocation set-

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

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

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

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

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

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

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

- (1) For the EGU new unit set-aside, ~~three thousand three hundred and seventy-seven (3,377)~~ **three thousand four hundred one (3,401)** tons for each year in 2004 through 2009 and ~~one thousand nine hundred ninety-eight (1,998)~~ **two thousand twenty-two (2,022)** tons each year thereafter.

(2) For the large affected ~~new unit set-aside, one thousand one hundred fifty-nine (1,159)~~ **one thousand one hundred ninety-five (1,195)** tons in 2004 and each year thereafter.

(3) For energy efficiency and renewable energy set-aside, ~~two thousand one hundred fifty-eight (2,158)~~ **two thousand two hundred six (2,206)** tons in 2004 and each year thereafter.

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

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

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402~~ **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*)

SECTION 5. 326 IAC 10-4-10, AS ADDED AT 25 IR 38, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-10 NO_x allowance tracking system

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

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

- (1) Allocations of NO_x allowances pursuant to section 9 or 13(i) of this rule.
- (2) Deductions or transfers of NO_x allowances pursuant to one (1) of the following:
 - (A) Section 8(d), 8(e), 11, 13, or 14 of this rule.
 - (B) Subsection (j), (k), or (m).

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

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

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

(d) Any person may apply to open a general account for the purpose

of holding and transferring allowances. The establishment of a general account shall be subject to the following:

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

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

- (i) Name.
- (ii) Mailing address.
- (iii) E-mail address, if any.
- (iv) Telephone number.
- (v) Facsimile transmission number, if any.

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

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

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

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

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

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

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

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

(C) Each submission concerning the general account shall be submitted, signed, and certified by the NO_x authorized account representative or any alternate NO_x authorized account representative for the persons having an ownership interest with respect to NO_x allowances held in the general account. Each submission

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

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

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

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

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

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

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

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

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

(E) In the event a new person having an ownership interest with respect to NO_x allowances in the general account is not included in the list of persons having an ownership interest with respect to the NO_x allowances in the account certificate of representation, the new person shall be deemed to be subject to and bound by the

account certificate of representation, the representation, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the U.S. EPA, as if the new person were included in the list.

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

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

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

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

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

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

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

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

(i) When allocating NO_x allowances to and recording them in an

account, the U.S. EPA will assign each NO_x allowance a unique identification number that shall include digits identifying the year for which the NO_x allowance is allocated.

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

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

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

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

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

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

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

- (A) the number of NO_x allowances deducted for the ozone control period equals the number of tons of NO_x emissions, determined in accordance with 40 CFR 75, Subpart H*, from the unit for the ozone control period for which compliance is being determined; or
- (B) no more NO_x allowances available under subsection (j) remain in the respective account.

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

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

- (A) Those NO_x allowances that were allocated for the ozone control period to the unit under section 9 or 13 of this rule.
- (B) Those NO_x allowances that were allocated for the ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) The NO_x authorized account representative of a general account may instruct the U.S. EPA to close the account by submitting a statement requesting deletion of the account from the NO_x allowance

tracking system and by correctly submitting for recordation under section 11(a) of this rule, an allowance transfer of all NO_x allowances in the account to one (1) or more other NO_x allowance tracking system accounts.

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

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW**, Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 10-4-10; filed Aug 17, 2001, 3:45 p.m.: 25 IR 38; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184*)

SECTION 6. 326 IAC 10-4-13, AS ADDED AT 25 IR 48, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-13 Individual opt-ins

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

Affected: IC 13-15; IC 13-17

Sec. 13. (a) A unit may qualify to become a NO_x budget opt-in source under this section if the unit meets the following requirements:

(1) Is not a NO_x budget unit under section 1 of this rule.

(2) Has all of its emissions vented to a stack.

(3) Is currently operating.

A unit that is a NO_x budget unit, is covered by an exemption under section 1(b) of this rule or a retired unit exemption under section 3 of this rule, or is not operating is not eligible to become a NO_x budget opt-in source.

(b) Except otherwise as provided in this rule, a NO_x budget opt-in source shall be treated as a NO_x budget unit for purposes of applying sections 1 through 12 and 14 of this rule.

(c) A unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, or a NO_x budget opt-in source, located at the same source as one (1) or more NO_x budget units, shall have the same NO_x authorized account representative as the NO_x budget units.

(d) In order to apply for an initial NO_x budget opt-in permit, the NO_x authorized account representative of a unit qualified under subsection (a) may submit an application to the department at any time, except as provided under subsection (g), that includes the following:

(1) A complete NO_x budget permit application under section 7(c) of this rule.

(2) A monitoring plan submitted in accordance with section 12 of this rule.

(3) A copy of the complete account certificate of representation submitted to U.S. EPA under section 6(h) of this rule, if no NO_x authorized account representative has been previously designated for the unit.

The NO_x authorized account representative of a NO_x budget opt-in source shall submit a complete NO_x budget permit application under section 7(c) of this rule to renew the NO_x budget opt-in permit in accordance with section 7(b)(1)(C) and 7(b)(2)(C) of this rule and, if applicable, an updated monitoring plan in accordance with section 12 of this rule.

(e) The department shall issue or deny a NO_x budget opt-in permit for a unit for which an initial application for a NO_x budget opt-in permit under subsection (d) is submitted, in accordance with section 7(a) of this rule and the following:

(1) The department shall determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x budget opt-in permit under subsection (d). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with section 12 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(2) If the department determines that the unit's monitoring plan is sufficient under subdivision (1) and after completion of monitoring system certification under 40 CFR 75, Subpart H* and section 12 of this rule, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with 40 CFR 75, Subpart H* and section 12 of this rule for one (1) full ozone control period during which percent monitor data availability is not less than ninety percent (90%) and during which the unit is in full compliance with any applicable state or federal NO_x emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a NO_x budget unit prior to issuance of a NO_x budget opt-in permit covering the unit.

(3) Based on the information monitored and reported under subdivision (2), the unit's baseline heat rate shall be calculated as the unit's total heat input, in million British thermal units, for the ozone control period and the unit's baseline NO_x emissions rate shall be calculated as the unit's total NO_x mass emissions, in pounds, for the ozone control period divided by the unit's baseline heat rate.

(4) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivision (3), the department shall serve a draft NO_x budget opt-in permit on the NO_x authorized account representative of the unit.

(5) Within twenty (20) days after the issuance of the draft NO_x budget opt-in permit, the NO_x authorized account representative of the unit must submit to the department a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_x budget opt-in permit under subsection (d). The department shall treat the failure to make a timely submission as a withdrawal of the NO_x budget opt-in permit application.

(6) If the NO_x authorized account representative confirms the intention to opt in the unit under subdivision (5), the department shall issue the draft NO_x budget opt-in permit in accordance with section 7(a) of this rule.

(7) Notwithstanding subdivisions (1) through (6), if at any time before issuance of a draft NO_x budget opt-in permit for the unit, the department determines that the unit does not qualify as a NO_x budget opt-in source under subsection (a), the department shall issue a draft denial of a NO_x budget opt-in permit for the unit in accordance with section 7(a) of this rule.

(8) A NO_x authorized account representative of a unit may withdraw its application for a NO_x budget opt-in permit under subsection (d) at any time prior to the issuance of the final NO_x budget opt-in permit. Once the application for a NO_x budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply must submit a new application for a NO_x budget permit under subsection (d).

(9) The effective date of the initial NO_x budget opt-in permit shall be May 1 of the first ozone control period starting after the issuance of the initial NO_x budget opt-in permit by the department. The unit shall be a NO_x budget opt-in source and a NO_x budget unit as of the effective date of the initial NO_x budget opt-in permit.

(f) The following shall apply to the content of a NO_x budget opt-in permit:

(1) Each NO_x budget opt-in permit, including any draft or proposed NO_x budget opt-in permit, if applicable, shall contain all elements required for a complete NO_x budget opt-in permit application under section 7(c) of this rule.

(2) Each NO_x budget opt-in permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 10 and 11 of this rule, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x budget opt-in source covered by the NO_x budget opt-in permit or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located.

(g) The following requirements must be satisfied in order to withdraw an opt-in unit from the NO_x budget trading program:

(1) The NO_x authorized account representative of a NO_x budget opt-in source shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.

(2) Before a NO_x budget opt-in source covered by a request under subdivision (1) may withdraw from the NO_x budget trading program and the NO_x budget opt-in permit may be terminated under subdivision (6), the following conditions must be met:

(A) For the ozone control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report in accordance with section 8 of this rule.

(B) If the NO_x budget opt-in source has excess emissions for the ozone control period immediately before the withdrawal is to be effective, the U.S. EPA will deduct or have deducted from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, the full amount required under section 10(k)(5) through 10(k)(7) of this rule for the ozone control period.

(C) After the requirements for withdrawal under this subdivision and subdivision (1) are met, the U.S. EPA will deduct from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as any NO_x allowances allocated to that source under subsection (i) for any ozone control period for which the withdrawal is to be effective. The U.S. EPA will close the NO_x budget opt-in source's compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners and operators

of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(3) A NO_x budget opt-in source that withdraws from the NO_x budget trading program shall comply with all requirements under the NO_x budget trading program concerning all years for which the NO_x budget opt-in source was a NO_x budget opt-in source, even if the requirements arise or must be complied with after the withdrawal takes effect.

(4) After the requirements for withdrawal under subdivisions (1) and (2) are met, including deduction of the full amount of NO_x allowances required, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source of the acceptance of the withdrawal of the NO_x budget opt-in source as of a specified effective date that is after the requirements have been met and that is prior to May 1 or after September 30.

(5) If the requirements for withdrawal under subdivisions (1) and (2) are not met, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source that the NO_x budget opt-in source's request to withdraw is denied. If the NO_x budget opt-in source's request to withdraw is denied, the NO_x budget opt-in source shall remain subject to the requirements for a NO_x budget opt-in source.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the NO_x budget permit covering the NO_x budget opt-in source to terminate the NO_x budget opt-in permit as of the effective date specified under subdivision (1). A NO_x budget opt-in source shall continue to be a NO_x budget opt-in source until the effective date of the termination.

(7) If the department denies the NO_x budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with subdivisions (1) and (2). Once a NO_x budget opt-in source withdraws from the NO_x budget trading program and its NO_x budget opt-in permit is terminated under this section, the NO_x authorized account representative may not submit another application for a NO_x budget opt-in permit under subsection (d) for the unit prior to the date that is four (4) years after the date on which the terminated NO_x budget opt-in permit became effective.

(h) When a NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the NO_x authorized account representative shall notify the department and the U.S. EPA in writing of the change in the NO_x budget opt-in source's regulatory status, within thirty (30) days of the change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning a NO_x budget opt-in source:

(1) When the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the department shall revise the NO_x budget opt-in source's NO_x budget opt-in permit to meet the requirements of a NO_x budget permit under section 7(d) and 7(e) of this rule as of an effective date that is the date on which the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account for the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as follows:

(A) Any NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for any ozone control period after the last ozone control period during which the unit's NO_x budget opt-in permit was effective.

(B) If the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(3) The NO_x authorized account representative shall ensure that the compliance account of the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under subdivision (2). If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(4) For every ozone control period during which the NO_x budget permit revised under subdivision (1) is effective, the following shall apply:

(A) The NO_x budget unit under subdivision (1) shall be treated, solely for the purposes of NO_x allowance allocations under section 9(c) through 9(e) of this rule, as a unit that commenced operation on the effective date of the NO_x budget permit revision under subdivision (1) and shall be allocated NO_x allowances under section 9(c) through 9(e) of this rule.

(B) Notwithstanding clause (A), if the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the following number of NO_x allowances shall be allocated to the NO_x budget unit. The number of NO_x allowances otherwise allocated to the NO_x budget unit under section 9(c) through 9(e) of this rule for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(5) When the NO_x authorized account representative of a NO_x budget opt-in source does not renew its NO_x budget opt-in permit under subsection (d), the U.S. EPA will deduct from the NO_x budget opt-in unit's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior ozone control period as any NO_x allowances allocated to the NO_x budget opt-in source under subsection (i) for any ozone control period after the last ozone control period for which the NO_x budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x budget opt-in source's compliance account or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located includes the NO_x allowances necessary for completion of the deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(6) After the deduction under subdivision (5) is completed, the U.S. EPA will close the NO_x budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of the deduction and any deduction under section 10(j) and 10(k) of this rule, the U.S. EPA will close the NO_x budget opt-in source's compliance account and will establish, and transfer any remaining allowances to a new general account for the owners and operators of the NO_x budget opt-in source. The NO_x authorized

account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(i) The department shall allocate NO_x allowances to NO_x budget opt-in sources as follows:

(1) By December 31 immediately before the first ozone control period for which the NO_x budget opt-in permit is effective, the department shall allocate NO_x allowances to the NO_x budget opt-in source and submit to the U.S. EPA the allocation for the ozone control period in accordance with subdivision (3).

(2) By no later than December 31, after the first ozone control period for which the NO_x budget opt-in permit is in effect, and December 31 of each year thereafter, the department shall allocate NO_x allowances to the NO_x budget opt-in source, and submit to the U.S. EPA allocations for the next ozone control period, in accordance with subdivision (3).

(3) For each ozone control period for which the NO_x budget opt-in source has an approved NO_x budget opt-in permit, the NO_x budget opt-in source shall be allocated NO_x allowances according to the following procedures:

(A) The heat input, in million British thermal units, used for calculating NO_x allowance allocations shall be the lesser of the following:

(i) The NO_x budget opt-in source's baseline heat input determined pursuant to subsection (e)(3).

(ii) The NO_x budget opt-in source's heat input, as determined in accordance with section 12 of this rule, for the ozone control period in the year prior to the year of the ozone control period for which the NO_x allocations are being calculated.

(B) The department shall allocate NO_x allowances to the NO_x budget opt-in source in an amount equaling the heat input, in million British thermal units, determined under clause (A) multiplied by the lesser of the following, **then divided by two thousand (2,000) pounds per ton:**

(i) The NO_x budget opt-in source's baseline NO_x emissions rate, in pounds per million British thermal units, determined pursuant to subsection (e)(3).

(ii) The most stringent state or federal NO_x emissions limitation applicable to the NO_x budget opt-in source during the ozone control period.

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW**, Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 10-4-13; filed Aug 17, 2001, 3:45 p.m.; 25 IR 48; errata filed Nov 29, 2001, 12:20 p.m.; 25 IR 1184*)

SECTION 7. 326 IAC 10-4-15, AS ADDED AT 25 IR 53, SECTION 5, IS AMENDED TO READ AS FOLLOWS:

326 IAC 10-4-15 Compliance supplement pool

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

Sec. 15. (a) The department may allow sources required to implement NO_x emission control measures by May 31, 2004, and subject to this rule, to demonstrate compliance in the 2004 and 2005 ozone control periods using credit issued from a compliance supplement pool

in accordance with this section. A source may not use credit from the compliance supplement pool to demonstrate compliance after the 2005 ozone control period.

(b) The department may distribute NO_x allocations from the compliance supplement pool to NO_x budget units that are required to implement control measures using one (1) or both of the following mechanisms:

(1) The department may issue credits to NO_x budget units that implement emissions reductions beyond all applicable requirements from May 1 through and including September 30 in any year in 2001 through 2003 according to the following provisions:

(A) The department shall complete the issuance process **no later than March 31**, the year after the control measures were implemented, **as follows:**

(i) ~~For sources subject to 40 CFR 97*, no later than March 31, 2003:~~

(ii) ~~For sources not subject to 40 CFR 97*, no later than March 31, 2004:~~

(B) The emissions reduction may not be required by Indiana's state implementation plan (SIP), state law or rule, or be otherwise required by the Clean Air Act (CAA).

(C) The emissions reduction must be verified by the source as actually having occurred from May 1 through and including September 30 in any year in 2001 through 2003.

(D) Each NO_x budget unit for which the owner or operator requests any early reduction credits under this section shall monitor NO_x emissions in accordance with 40 CFR 75, Subpart H* starting in the ozone control period prior to the ozone control period for which the early reduction credits are requested and for each ozone control period for which the early reduction credits are requested. The unit's percent monitor data availability shall be not less than ninety percent (90%) during the ozone control period prior to the ozone control period for which the early reduction credits are requested, and the unit must be in compliance with any applicable state or federal NO_x emissions or emissions-related requirements during the ozone control period for which the early reduction credits are requested.

(E) The emissions reduction must be quantified according to procedures set forth in 40 CFR 75, Subpart H*.

(F) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of clauses (B) through (D) may submit to the department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the ozone control period for any year in 2001 through 2003. The request shall include the following:

(i) In the early reduction credit request, the NO_x authorized account may request early reduction credits for the ozone control period in an amount equal to the unit's heat input for the ozone control period **in which the early reductions occurred** multiplied by the difference between:

(AA) the unit's actual average NO_x emission rate in the ozone control period prior to the first ozone control period for which the early reduction credits are requested;

(BB) the unit's NO_x emission rate for the ozone control period in which the early reductions occurred; divided by two thousand (2,000) pounds per ton, and rounded to the nearest ton.

(ii) The early reduction credit request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions on which the request is based are made or a later date approved by the department.

(G) The department shall allocate NO_x allowances from the compliance supplement pool, to NO_x budget units meeting the requirements of this subdivision, in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the department shall accept the request only if the requirements of clauses (B) through (D) and (F)(ii) are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of clauses (B) through (D).

(ii) If the compliance supplement pool has an amount of NO_x allowances equal to or greater than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate to each NO_x budget unit covered by the accepted requests one (1) allowance for each early reduction credit requested, as adjusted under item (i).

(iii) If the compliance supplement pool has an amount of NO_x allowances less than the number of early reduction credits in all accepted early reduction credit requests for any year in 2001 through 2003, as adjusted under item (i), the department shall allocate NO_x allowances to each NO_x budget unit covered by the accepted requests according to the formula, A NO_x budget unit's allocated early reduction credits = ((NO_x budget unit's adjusted early reduction credits) ÷ (total adjusted early reduction credits requested by all NO_x budget units)) × (available NO_x allowances from the compliance supplement pool) where:

(AA) A NO_x budget unit's adjusted early reduction credits is the number of early reduction credits for the unit for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(BB) Total adjusted early reduction credits requested by all NO_x budget units is the number of early reduction credits for all NO_x budget units for any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(CC) Available NO_x allowances from the compliance supplement pool is the number of NO_x allowances in the compliance supplement pool and available for early reduction credits for 2001 through 2003.

(H) By March 31 of the year following the request, the department shall submit to the U.S. EPA the allocations of NO_x allowances determined under clause (G). The U.S. EPA will record the allocations to the extent that they are consistent with the requirements of clauses (B) through (G).

(I) NO_x allowances recorded under clause (H) may be deducted for compliance under section 10(k) of this rule for the ozone control periods in ~~2003~~ 2004 through 2005. ~~except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003.~~ Notwithstanding section 14(a) of this rule, the U.S. EPA will deduct as retired any NO_x allowance that is recorded under clause (G) and is not deducted for compliance in accordance with section 10(k) of this rule for the ozone control period in 2004 or 2005.

(J) NO_x allowances recorded under clause (G) are treated as banked allowances in 2005 for the purposes of section 14(a) and 14(b) of this rule.

(K) Sources that receive credit according to the requirements of this section may trade the credit to other sources or persons according to the provisions in this rule.

(2) The department may issue to NO_x budget units that demonstrate a need for an extension of the May 31, 2004, compliance deadline according to the following provisions:

(A) The department shall initiate the issuance process by the later date of September 30, 2002, or after the department issues credit according to the procedures in subdivision (1).

(B) The department shall complete the issuance process by no later than May 31, 2004.

(C) The department shall issue credit to a source only if the source demonstrates the following:

(i) For electricity generating units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the reliability of the electricity supply. This demonstration must include a showing that it would not be feasible to import electricity from other electricity generation systems during the installation of control technologies necessary to comply with this rule.

(ii) For large affected units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in item (i).

(iii) For a unit subject to this rule and subdivision (1) that allows for early reduction credits, it was not possible for the source to comply with applicable control measures by generating early reduction credits or acquiring early reduction credits from other sources.

(iv) For a unit subject to an approved emissions trading program under this rule, it was not possible to comply with applicable control measures by acquiring sufficient credit from other sources or persons subject to the emissions trading program.

(D) The department shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of allocating compliance supplement pool credits to a NO_x budget unit under clause (C).

(c) The total number of NO_x allowances available from the compliance supplement pool shall not exceed nineteen thousand nine hundred fifteen (19,915) tons of NO_x, except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003. No more than fifty percent (50%) of the compliance supplement pool shall be allocated in 2003 for early reductions implemented in 2001 and 2002. The remainder of the compliance supplement pool shall be allocated in 2004 for early reductions implemented in 2003 and any demonstrations of need. Any NO_x allowances that remain in the compliance supplement pool after the 2005 ozone control period shall be retired.

~~*These documents are~~ ***This document is** incorporated by reference. ~~and~~ Copies may be obtained from the Government Printing Office, **732 North Capitol Avenue NW**, Washington, D.C. ~~20402~~ **20401** or are available for **review and** copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 10-4-15; filed Aug 17, 2001, 3:45 p.m.: 25 IR 53; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1184*)

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on November 6, 2002 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 10-3-1, 326 IAC 10-4-1, 326 IAC 10-4-2, 326 IAC 10-4-9, 326 IAC 10-4-10, 326 IAC 10-4-13, and 326 IAC 10-4-15.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027, press 0, and ask for extension 2-8229 (in Indiana). Technical information may be obtained from Roger Letterman, Compliance Branch, Office of Air Quality, (317)232-8342 or (800) 451-6027, press 0, and ask for extension 2-8342 (in Indiana).

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

*Attn: ADA Coordinator
Indiana Department of Environmental Management
100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015*

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers also may contact the agency via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.

TITLE 328 UNDERGROUND STORAGE TANK FINANCIAL ASSURANCE BOARD**FIRST NOTICE OF COMMENT PERIOD**
#02-204(FAB)**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE UNDERGROUND STORAGE TANK LIABILITY TRUST FUND****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules of the Financial Assurance Board at 328 IAC 1 and 328 IAC 2. This rule's intent is to provide consistency with the RISC closure options allowed by the statute at IC 13-12-3-2, the Underground Storage Tank Rules and the allowance for payments under the excess liability trust fund (ELTF) rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 328 that may be affected by this rulemaking.

CITATIONS AFFECTED: 328 IAC 1; 328 IAC 2.

AUTHORITY: IC 13-23-8-1; IC 13-23-8-4.5; IC 13-23-8-5; IC 13-23-11-7.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

The risk integrated system of closure (RISC) guidance, required under IC 13-12-3-2 is now effective and the RISC provisions are being added to the underground storage tank (UST) rules at 329 IAC 9 for

tank closures. Because the ELTF rules reference the UST rules, IDEM has determined that the ELTF rules would benefit from clarification as to what costs are reimbursable allowing for the use of the RISC provisions. Clarification will expedite payment to eligible parties required to use RISC for tank closures.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#02-204(FAB) [ELTF Change Rule]
Marjorie Samuel
Rules, Planning and Outreach Section
Office of Land Quality
Indiana Department of Environmental Management
P.O. Box 6015
Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Office of Land Quality's Rules, Outreach and Planning Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked or hand delivered by September 6, 2002.

Additional information regarding this action may be obtained from Lynn West, Rules, Outreach and Planning Section, Office of Land Quality, (317) 232-3593 or (800) 451-6027 (in Indiana).

Bruce Palin
Deputy Assistant Commissioner
Office of Land Quality